

# CAPITOL INSIGHT

GOVERNMENT AFFAIRS COMMITTEE REPORT



November 2011

Greater Manchester Chamber of Commerce

## WELCOME TO CAPITOL INSIGHT

Welcome to the Greater Manchester Chamber of Commerce Capitol Insight, a recap of the 2011 legislative session. This report is designed to give you a recap of the major issues that were debated in Concord and at the local level that impact your business. The Chamber is proud to be once again on the front line fighting for your business interests. Of course, the Chamber's efforts would not be possible without the Chamber's Government Affairs Committee (GAC). The GAC is a dedicated group of Chamber volunteers who serve as a "watchdog" on legislative

issues that impact your bottom line. The GAC is part of an entire department at the GMCC dedicated to improving economic opportunities within the greater Manchester region, and advocating on behalf of your interests to policymakers at the federal, state and local levels.

As you will see, a lot of key issues were at stake for the business community in 2011. We hope you find this report informative and please be sure to read the weekly Capitol Insight legislative e-bulletin sent to all members from January to July.

I am stepping down from my position as Chairman of GAC and I am passing the torch to John Weaver of McLane, Graf, Raulerson & Middleton. The GAC is always on the lookout for new volunteers interested in protecting the interests of the business community. It also needs your guidance and input on what issues are important to you and your business. The Chamber's number one priority is to ensure its advocacy work is in line with the concerns and interests of the Chamber's membership. You will be in good hands with John chairing the committee going forward and

a Will Stewart to reach out to should you want to volunteer on the GAC or just to voice your concerns on pending business issues. You do not have to have government or political experience. A strong committee represents knowledge and leadership across many industries. It's been a pleasure to serve as Chairman of this committee and I wish John all the best as the new Chairman.

Sean Owen, *Wedu*  
Chairman,  
Government Affairs  
Committee



## CHAMBER WELCOMES NEW VICE PRESIDENT OF ECONOMIC DEVELOPMENT & ADVOCACY

The Chamber is pleased to welcome Will Stewart to its staff as the Vice President of Economic Development and Advocacy. Stewart joined the Chamber in August. As the Vice President of Economic Development and Advocacy, he oversees all economic development initiatives for the Chamber and represents the organization at City Hall and the State House on legislative issues. Prior to joining the Chamber, Stewart worked for NeighborWorks Greater

Manchester, where he assisted residents in identifying and addressing quality of life concerns in their neighborhoods and across the city. Stewart sits on the Friends of CHaD Board of Directors and serves as captain of the Oak Park Neighborhood Watch. You can contact him at [wills@manchester-chamber.org](mailto:wills@manchester-chamber.org) or at 603.792.4107.



Will Stewart

## CHAMBER WELCOMES NEW GAC CHAIRMAN

The Greater Manchester Chamber of Commerce is pleased to announce that John Weaver has been selected as the 2011-2012 Chairman of the Chamber's Government Affairs Committee.

Weaver is a member of McLane Law Firm's corporate department where he assists business clients in a wide variety of corporate law matters including real estate, land use and telecommunications. He joined the firm in September of 2008. Weaver received his J.D.,

cum laude, from Boston College Law School and his B.A., magna cum laude, from Georgetown University.

Weaver is a member of the Pro Portsmouth Board of Directors, an interviewer for the Georgetown University Alumni Admissions Department and a Judge for *We the People*, a high school civics competition.



John Weaver

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## REASONABLE COMPENSATION CROSSES THE FINISH LINE

One of the side effects of the “LLC tax” debate of previous legislative sessions was increased attention on the issue of reasonable compensation, or how much profit a business owner can count as compensation. The Chamber and several other business organizations made reasonable compensation reform a top priority in 2011 as reform would be a positive step to maintaining New Hampshire’s business

friendly status.

Optimism was high coming into the 2011 legislative session as multiple reasonable compensation reform bills were filed in the House and Senate. After deliberation on the issue in both the House and Senate, SB 125 was passed after a committee of conference and became law without the Governor’s signature. The final version of the bill, among

other changes, shifted the burden of proof from business owners to the Department of Revenue Administration when dealing with reviews of compensation deductions by a business. This key change was undoubtedly one of the highlights for the business community during the 2011 legislative session and will benefit small businesses immediately.

## HOUSE CONSIDERS BIOMETRIC DATA

Sometimes a piece of legislation is just a bad idea. During the 2011 legislative session, HB 244 was just that – a bad idea. HB 244 sought to prohibit government agencies and private entities (i.e. businesses) from collecting or requiring employees to submit biometric data (finger prints, voice prints, iris scans). Amazingly, the sponsor of HB 244 did not specify any specific motive for HB 244 or existing

problem it hoped to solve other than his concern about personal information privacy.

The Chamber, along with representatives from a variety of industries (aviation, manufacturing, and banking), all testified to the incredibly negative impact this regulation would have on the business community’s ability to operate

in New Hampshire. Based on the significant and unified opposition to this bill at the public hearing, HB 244 should have been dispatched quickly by the committee. Surprisingly, the committee ultimately opted to retain the bill, work on it over the fall, and revisit the issue in 2012. The Chamber will be watching this issue closely in 2012 to ensure this bad idea doesn’t get serious consideration.

## BUSINESS REGULATIONS IN FOCUS

HB 248 sought to establish a state commission to study business regulations and recommend potential reforms that will improve the state’s overall business environment. The Chamber along with the Business and Industry Association and the Nashua Chamber helped craft HB 248 as it’s been years (if ever) since the state took a good, hard look at its regulatory environment and strategized on ways to streamline, simplify and improve the system.

HB 248 was one of the good stories of the 2011 legislative session and enjoyed a relatively smooth ride through the legislative process. The commission plans to specifically focus on labor and environmental regulation as areas ripe for streamlining and reform. The commission is hard at work this fall and will report its findings to the legislature in time for the 2012 legislative session.

All Chamber businesses were invited to submit, via email and an online survey, any regulatory changes they wished to see made. These suggested changes, along with those suggested by members of other business organizations represented on the Commission, were then studied by the Commission’s two subcommittees.

These subcommittees (one studying labor/workforce regulations, the other studying environmental and construction/permitting regulations) were first tasked with identifying any “low-hanging fruit,” i.e. those regulations which can be addressed relatively simply. These quick fixes will be introduced via bills in the New Hampshire House of Representatives in January, 2012. The Chamber’s Will Stewart has been named the Chair of the Labor/Workforce Regulation subcommittee.

The Chamber’s Government Affairs Committee meets monthly on the first Friday of the month from 7:30-8:30 a.m. at 54 Hanover Street. The committee meets from September to June. To get involved or to learn more, contact Will Stewart at 603.792.4107 or at [advocacy@manchester-chamber.org](mailto:advocacy@manchester-chamber.org)

# AN ECONOMIC CATALYST...

## RAIL ADVOCACY EFFORTS CONTINUE

As members know, one of the Chamber's key strategic goals is advocating for the restoration of passenger rail in New Hampshire.

The Chamber views rail not only as a safe and efficient form of transportation, but also as a proven economic catalyst that will create jobs and new economic development opportunities. Entering this year, rail advocacy efforts did not require any additional legislation or funding as private sector support had allowed the NH Rail Transit Authority to secure \$4.1 million in federal funds. These funds are being used to study the feasibility of rail and complete preliminary engineering and environmental work needed for the NH Capitol Corridor project, a line running from Boston to Concord with stops in Nashua and Manchester.

Despite this ongoing work, a small group of legislators filed HB 218, intended to repeal the NH Rail Transit Authority. Sponsors of the legislation stated during the initial public hearing that they saw no need for the authority to exist as they believed efforts to restore passenger rail were wrong for New Hampshire.

Given the Chamber's support

for rail, we disagreed with the sponsor's conclusions that rail was wrong for New Hampshire. This, however, was not the Chamber's main opposition to HB 218. Rather, the Chamber opposed HB 218 because it would represent a lack of foresight and poor public policy by the legislature. In passing HB 218, the Chamber argued, the legislature would be ignoring an opportunity to adequately study the feasibility of rail and squander resources to complete the study made possible by donations from the private sector. In sum, the Chamber believes the legislature should always seek to make policy decisions based on sound data and information and HB 218 represented a significant departure from that.

Without a doubt HB 218 experienced one of the most interesting legislative rides during the 2011 session. The bill began its journey in the House Transportation Committee, where there was early cause for optimism during the initial public hearing as overwhelming testimony was given in opposition to HB 218 from business groups, planning agencies, and members of the public. Despite this input, the committee ultimately voted to recommend HB 218 for passage,

thanks in part to support from House Republican Leadership for the bill.

After passage in the House, HB 218 next visited the State Senate. Here the debate shifted dramatically to discussion of compromise. Senate Transportation members signaled a willingness to amend HB 218 to allow the Rail Authority to continue in exchange for significantly paring back some powers of the Authority. The Greater Manchester Chamber, along with the Nashua Chamber, a close ally on rail issues, took the lead in negotiating a compromise with Senator David Boutin. While significant progress was made, ultimately a final compromise that all parties could agree to was not reached. While the Senate version of HB 218 technically preserved the Rail Authority, it essentially turned the authority into a study committee and unnecessarily removed its powers. The Chamber felt these significant changes to the authority would impact the State's ability to effectively utilize the federal grant funds that have been secured to study the feasibility of rail.

The Senate eventually passed its amended version of the HB

218 and rather than opt for a committee of conference, HB 218 next headed to the Governor's desk as the House concurred with the Senate version of the bill. After careful consideration, Governor Lynch vetoed HB 218 and cited the unnecessary harm the bill would do to efforts to study and restore rail to New Hampshire.

While the fate of HB 218 is still unknown and efforts to stop the bill outright in the legislature were not successful, the Chamber and its allies were extremely effective in advocating on this issue on behalf of the business community. Thanks to the efforts and pressure the Chamber applied to the legislature on this issue, HB 218 evolved from an outright repeal effort to a proposal to amend the existing rail authority. This issue will surely continue to be debated in Concord and the Chamber will be there once again to represent the interests of the business community.

## GREATER MANCHESTER CHAMBER OF COMMERCE

It is the mission of the Greater Manchester Chamber of Commerce to be a member-focused organization that drives the greater Manchester business environment and the economic health and vitality of the region by supporting business growth, professional development, and networking opportunities, while advocating for our membership.

## BUSINESS COMMUNITY SUPPORTS WORKFORCE HOUSING

Two years ago the legislature passed a landmark workforce housing law that codified previous case law and required municipalities to allow for a reasonable opportunity for workforce housing to exist. The law struck a good balance between competing interests and enjoyed support not only from housing advocates but from the municipal association. Since its passage, municipalities have responded and taken proactive steps to ensure they are in compliance.

Fast forward to the 2011 legislative session, HB 368 was filed to essentially repeal the workforce housing law. While not a strict repeal, the bill would allow municipalities the ability to opt into the workforce housing law. Testimony against HB 368 in the House was overwhelming as a variety of business groups, housing advocates, and others all showed up in opposition. Other than the prime sponsor no one else testified in support. The committee wisely took the results of the public hearing to heart and quickly voted to kill the bill by a

vote of 14-1 later in the day. While the committee vote should have been the end of HB 368, the full House of Representatives shocked everyone a few weeks later by overturning the committee recommendation and passing HB 368 on to the Senate.

Thankfully, the Senate finished off HB 368 relatively quickly after once again a strong showing from the business community overwhelmed those in support of the bill during the Senate public hearing.



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## NOT THE LEGISLATURE'S DOMAIN

Two of the most well-attended and tension-filled hearings of 2011 were the House and Senate public hearings on HB 648, which prohibits public utilities to use eminent domain for transmission projects. The Chamber attended both hearings and testified in opposition to HB 648.

Before discussing the merits of HB 648, a little background is in order. HB 648 was filed late in the 2011 legislative session (mid February) in direct response to the Northern Pass energy project. As you may know, the Northern Pass project seeks to bring new renewable energy from Canada to the New England electrical grid through New Hampshire. The 180 mile long transmission project utilizes 140 miles of existing right of way owned by Public Service of New Hampshire. The other 40 miles (near the Canadian border) will require new rights of way to be established.

The Chamber has not taken a position on the Northern Pass project. Recognizing that the approval process for this project will span multiple years, the

Chamber is interested in learning about all potential benefits and impacts of the project before publicly weighing in. HB 648, however, was a different story. There are several issues with HB 648 that the Chamber found highly problematic, most notably of which is its impact on the stability and integrity of New Hampshire's regulatory environment. A rundown of the key issues the Chamber saw in HB 648 is below...

First, the language of HB 648 stipulated that a public utility cannot use eminent domain for a transmission project, unless the project is needed for system reliability. While that language may sound straightforward, public hearings on HB 648 revealed a major issue with the term "system reliability." Officials from the Public Utilities Commission, who ostensibly helped craft this language, admitted that it is difficult and perhaps impossible to define exactly what "system reliability" really means. Needless to say, not being able to define this key term is highly problematic and several members of the

Senate Judiciary committee agreed during the Senate public hearing, as questions regarding "system reliability" were raised throughout the several hours of testimony.

Second, the Chamber was very concerned with the impact of HB 648 on the stability of New Hampshire's regulatory environment. The business community needs consistent policies to effectively evaluate risk and make reasonable business decisions about investing in and operating in a our state. Certainly the legislature is within its bounds to change the state's regulatory environment, but it must take care when doing so it does not send the wrong message to those looking to invest in New Hampshire.

Finally, and most concerning, was the timing of the significant change included in HB 648. Legislation that targets a project already in motion sets a terrible precedent for New Hampshire. The legislature's role is to craft policy and create a stable regulatory process that effectively

reviews projects such as this. Supporting legislation that targets a specific project for the sole purpose of halting it is a major overstep in legislature's role and again sends a terrible message to those looking to invest in New Hampshire. Supporters of HB 648 claimed that the legislation does not target the Northern Pass project and is merely a necessary improvement of our state's eminent domain laws. The reality, of course, is that HB 648 would not exist if not for the Northern Pass project. HB 648 was filed in direct response to the project and is supported entirely by those who oppose the project.

Thankfully, the concerns of the Chamber along with several other business organizations won the day on HB 648. The Senate ultimately chose to re-refer HB 648 back to the Judiciary committee for further study. The Senate will revisit the bill in the fall and ultimately will have to render a final decision on whether to pass, amend, or kill the bill during the 2012 legislative session.

## WARN ACT GETS A TUNE UP

Another great highlight of the 2011 legislative session was the passage of SB 121, which sought to bring the employee threshold for the state's Worker's Adjustment Retraining and Notification (WARN) Act in line with the federal standard of 100 employees or

more. The current state WARN act holds that employers of 75 or more employees must provide warning when making a mass layoff. The Chamber supported this bill as New Hampshire was the only state in the northeast to have a mass layoff provision with

an employee threshold lower than 100 employees. This hurt our position as a business friendly state and is counted against New Hampshire by site selectors when making decisions about bringing new businesses to the state.

SB 121 enjoyed broad support from Senate and House and cruised to the Governor's desk where it was promptly signed. The new provision will go into effect on January 1, 2012.