

Assessing Standards Board
Regular Board Meeting

Approved as written

DATE: April 22, 2022

TIME: 12:00 p.m.

LOCATION: Department of Revenue – Training Room, 109 Pleasant Street, Concord

BOARD MEMBERS

(A) Not in attendance.

Senator James Gray	<i>Vacant</i> , Municipal Official, Towns >3,000
Senator Kevin Cavanaugh (A)	<i>Vacant</i> , Municipal Official, <3,000
Representative Peter Schmidt	David Marazoff, NHAAO, At-Large Member
Representative Tony Piemonte (A)	Loren Martin, NHAAO, Towns, <3,000
Betsy Patten, Public Member, Chair	Joe Lessard, NHAAO, Towns >3,000
Robert Gagne, NHAAO, City Official	<i>Vacant</i> , Public Member
James Gerry, NHDRA Commissioner, Designee	Thomas Thomson, Public Member
Jim Wheeler, Municipal Official, City, Designee	

MEMBERS of the PUBLIC

Phil Bodwell, DRA	Lisa Mudge, DRA
Scott Bartlett, Goffstown	Todd Haywood, GHMS
Charles Reese, Portsmouth	Sam Greene, DRA
Chris Ruel, Salem	Peter Roth, DRA

Chair Patten convened the meeting at 12:10 p.m.

Introductions of the Board followed.

Minutes

Mr. Gagne *motioned to accept the minutes of the April 1, 2022, regular board meeting*; Senator Gray *seconded the motion*. Chair Patten called the motion to approve the minutes of April 1, 2022, as written. Mr. Gerry abstained; all others approved. *Motion passed.*

Amendment to House Bill 1552-FN

Senator Gray began by stating the RSA 91-A does not allow him to work independently with a quorum of any group or committee. At a certain point in the legislative process, he took over as the sponsor of this amendment and anything that was negotiated was negotiated directly with him and not a quorum of this Board.

The draft amendment includes the following Board requested changes:

- Page 2, Line 30 – certified assessing “~~personnel~~” was changed to certified assessing “*persons*” by OLS

- Page 9, Line 3 – Clarify when the DRA stops doing the certification and when the ACB begins
- Page 9, Line 8 – ***12 Extension to Complete continuing Education Requirements***

In this process, there were a couple of things the Department of Revenue Administration (DRA) wanted including a clear delineation of rules between DRA and the Office of Professional Licensing and Certification (OPLC). Attorney Roth explained the idea was to make the transition smooth, without interruption to the certification and discipline processes. The amendment allows for the Asb rules to remain in place for use by the Assessing Certificate Board (ACB) until amended or revoked by the ASB or by rules superseding it by the ACB.

There is one place where the transition does not work properly and will require additional changes to the amendment at some point. It appears that there is concurrent jurisdiction, indefinitely, for the DRA and the ACB going forward, which was not intended. A suggested fix was to add “***and discipline***” to the sentence on Page 9, Line 4 –

11 Certification of Assessing Officials. The department of revenue administration shall continue to issue certifications ***and discipline*** until the governor and council have approved, basically seated, four members.”

Senator Gray explained the committee voted in favor of the amendment but then voted to interim study the bill to make sure that the OPLC agreed with it. After speaking with Ms. Courtney, who was initially hesitant due to the OPLC looking to make several changes to the boards they “manage,” she accepts the amendment.

A suggestion was made to change the following to be consistent with the term on page two.

- Page 9, Line 3 – 11 Certification of Assessing ~~Officials~~ ***Persons***

The change to the make-up of the board was questioned and Senator Gray stated it was felt the board should not have a majority of assessors; he made a unilateral decision to reduce the number from seven to five and that was followed by a discussion to determine who the five people should be.

Ms. Martin expressed frustration with the lack of transparency. The Board’s direction was not followed, and changes were made that were not intended. It has become a bill the DRA may support but not necessarily this full Board. Despite the changes, prompted by a 7-year-old Supreme Court case, she believes professionals should be a part of this process and removing them has done a disservice to this bill.

Senator Gray reiterated that once their name is on a bill, they are representing the people of New Hampshire. Based on his knowledge and experience, he used his best judgement and did what he felt was necessary to get the bill through. It will still require a floor amendment, the concurrence of 13 Senators including Committee Chair Senator Carson and the OPLC.

Mr. Thomson explained his part in the amendment to the bill; that he organized a meeting with himself, Chair Patten, Vice-Chair Patten, Commissioner Stepp, Attorney Roth and Senator Gray to try and come to an agreement to be able to move this bill forward. After his years and experience on the board, he understands you never get 100% of what you want but, getting 75% is better than nothing at

all. Once it gets through, it can be refined and improved but not coming together now will result in no change.

Scott Bartlett, an assessor in Goffstown, first stated that he does not represent the Assessor's Association. In his testimony before the House, he made it clear he did not support or oppose the bill however he now opposes it based on the changes to the composition of the board. Unless there is an amendment to make the composition more in-line with the other state boards, which are composed of a majority of professionals with the exception of the Real Estate Appraisal Board, he believes it should be killed. Passing it with the current composition would make it the only board in the State of NH to have more members of the public than professionals.

He expressed anger and frustration with the change to the composition of the board stating it displays mistrust of assessors and he takes it personally. The impact a board can have on an industry they do not fully understand is real and terrifying and can take away a person's livelihood. To put an assessor in a position where a complaint is filed, with mostly public members making that decision, will impact this industry in a very negative manner and does not allow for a fair hearing before peers.

Chair Patten addressed the feeling of a perceived lack of trust in assessors by saying the ASB has been a buffer between DRA and the assessors, and it has worked well for a long time. The perception of mistrust she has heard about needs to be discussed and repaired so that the assessing community, both DRA employees and outside contractors and municipal assessors, can get back to working together.

Mr. Gagne added we all have more in common than we have differences, and our common goal should be to ensure that the property tax system is functioning properly in the state. He agrees the current proposed composition of the Board is scary.

Attorney Roth offered that this board is not simply five people off the street, there will be at least three members who have significant knowledge of assessing; it will not be dominated by the public. He added the hearing process will run through the OPLC and all hearing officers are governed by constitutional requirements of due process and fair dealings; there is also an appeal process so there are multiple layers of protection against bias. It will protect against the kind of mischief the assessing community might be worried about in terms of bias against assessors.

Chris Ruel, an assessor and nationally certified Uniform Standards of Professional Appraisal Practice (USPAP) instructor, explained assessors are bound by USPAP and apply it daily. It is the guidance that develops the judgement to discern and understand what an assessor does and why. Understanding USPAP; having the experience and judgement necessary to improve the system and goals of this board; and having the common sense to make the relevant decisions, is important and necessary.

Mr. Thomson *motioned to support amendment 2022-1666s of HB 1552, currently in interim study, with the changes discussed*; Mr. Lessard *seconded the motion*.

Attorney Roth offered the full proposed amendment to Section 11, below.

11 Certification of Assessing ~~Officials~~ **Persons**. The department of revenue administration shall continue to issue certifications *and discipline certified assessing personnel pursuant to RSA 21-J:14-f and RSA 21-J:14-g* until the governor and council have confirmed 4 members of the assessing certification board established pursuant to RSA 310-C as inserted by this act. Upon confirmation of 4

members of the board, the authority of the department of revenue administration to issue certifications of assessing officials shall expire.

A recess was requested at 1:13 p.m. Copies of the draft amendment with proposed language from Attorney Roth were distributed during the recess.

Meeting reconvened.

Mr. Gagne, Ms. Martin and Mr. Marazoff stated they were unable to support the amendment. With the change in the composition of the board, despite the various levels of protection, bias may exist creating potential loss of a person's livelihood and significant personal expenses. The potential of having a majority of members on the board making determinations without having a full understanding of assessing, violations and USPAP is not acceptable.

Mr. Lessard and Mr. Thomson stated they would support the amendment stating it is a better starting point to move forward with than not having one at all.

Senator Gray requested to postpone the discussion until Attorney Roth returned from meeting with Commissioner Stepp.

Legislative Update

Senate Bill 53, relating to making certification records public, unanimously passed the House ED&A Committee as ought to pass and is on the Consent Calendar.

Senate Bill 312, relating to RSA 75:8, correcting errors, unanimously passed the House Municipal and County Committee as ought to pass.

Relating to the Supreme Court decision that was distributed to the Board from Attorney Haley, Chair Patten read his comment into the record: "Here is the opinion. The holding is a little bit more subtle than an outright requirement on the makeup of boards. Essentially, if a board is made up of a majority of market participants, i.e., certified assessors, then it must be subject to active state supervision or else it loses state action immunity from anti-trust laws." Chair Patten was unsure if the OPLC was considered having state supervision.

HB 411 Study Commission on Equalization - Update

Mr. Wheeler was voted chair of the commission. He reported they have held an organizational meeting and the next meeting, scheduled for April 29, 2022, will begin getting into the issue.

RSA 21-J:11-a Assessment Report

Chair Patten mentioned that the Board has not received these reports in several years. Mr. Gerry stated he had the Assessment Reports for 2018 and 2019 prepared for this meeting. Chair Patten asked the Board to review for discussion at the next meeting. Mr. Lessard requested the previous cycle reports as well to see if and where improvements have occurred, or changes might be needed.

RSA 21-J:14-b Powers and Duties of the Board

After a brief discussion about the requirement in I.(b) of the establishment of standards for monitoring of local assessment practices for audit of municipalities by the Department; it was clarified they are called the Standards for Monitoring of Local Assessment Practices by the Department of Revenue Administration, last updated and adopted by the Board on May 11, 2018; also called the Assessment Review Standards.

It was pointed out that statute requires these to be reviewed annually by the Board however they have been previously reviewed and updated on a 5-year cycle so that all municipalities are held to the same standards. There were a couple of suggestions about complying with this requirement including annual approval or proposal of a statutory change to require a Board review every 5-years.

Amendment Continued

After a meeting with Commissioner Stepp, Attorney Roth and Mr. Gerry, Senator Gray read the following proposed changes to amendment 2022-1666s relating to the board make-up:

310-C:1 Assessing Certification Board

I. There is established an independent assessing certification board within the office of professional licensure and certification. The board shall be composed of the commissioner of the department of revenue administration, or designee, and the following additional members, appointed by the governor with consent of council:

- (a) ~~One~~ **Two** certified assessor supervisors, who ~~is~~ **are** certified for municipal property taxation purposes with a minimum of 5 years' experience.
- (b) ~~Two~~ **One** member of the general public, who ~~are~~ **is** not associated with assessing or any related industry.
- (c) One member representing municipalities who shall be a municipal governing body official who shall not be an assessor.

Mr. Thomson *withdrew his motion to support amendment 2022-1666s of HB 1552, currently in interim study, with the changes discussed*; Mr. Lessard *rescinded his second*.

Mr. Thomson *motioned to support the following changes in amendment 2022-1666, as represented above*:

- Page 1, Line 12 - ~~One~~ certified assessor supervisor to **two**
- Page 1 Line 14 - ~~Two~~ members of the public to **one**
- Page 9 Lines, Section 11, Lines 3-7

11 Certification of Assessing ~~Officials~~ **Persons**. The department of revenue administration shall continue to issue certifications **and discipline certified assessing personnel pursuant to RSA 21-J:14-f and RSA 21-J:14-g** until the governor and council have confirmed 4 members of the assessing certification board established pursuant to RSA 310-C as inserted by this act. Upon confirmation of 4 members of the board, the authority of the department of revenue administration to issue certifications of assessing officials shall expire.

Mr. Lessard *seconded the motion*. No further discussion. Chair Patten called the vote by roll call. Senator Gray, abstained, Mr. Thomson, yes, Mr. Marazoff, yes, Ms. Martin, yes, Mr. Gagne, yes, Representative Schmidt, abstained, Mr. Lessard, yes, Mr. Wheeler, yes, Mr. Gerry, yes, Ms. Patten, yes. *Motion passed with an 8-0 vote and two abstentions.*

Mass Appraisal Review Report – USPAP Compliance Checklist

The DRA was tasked with creating this checklist for use in its review of the ASB Standards. The Board has reviewed it but has never formally adopted it and there was some discussion if approval was necessary. Chair Patten requested it be added to the task list.

Public Correspondence

Correspondence was received from Mr. Goglia relating to the Board’s discussion of private roads. He requested his letter be part of the public record and will be added as an addendum to the April 22, 2022, minutes.

It appears the issue is that the road maintenance costs are hidden and there was a suggestion to consider changing the condominium legislation to include road maintenance in their monthly fees to make the costs transparent versus lowering taxes.

Next Meeting

At the call of the Chair

Chair Patten adjourned the meeting at 2:23 p.m.

Respectfully submitted,

Stephanie Martel, ASB Clerk
Municipal and Property Division
NH Department of Revenue Administration

All meetings are recorded and available upon request.

Documentation relative to the Assessing Standards Board may be submitted, requested or reviewed by:

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