

GREATER NASHUA CHAMBER OF COMMERCE

# THE CHAMBER

## THE "BOTTOM LINE" LEGISLATIVE REPORT

A Weekly Report From the Chamber on Issues Affecting You in the State Capital

February 6, 2006

Issue #3

### THE WEEK JUST PAST...

#### REGULATORY CONCERNS

##### MAINTAINING COMPUTERIZED PERSONAL INFO AND SECURITY BREAKS

There are a number of bills presently in the House Commerce Committee which have implication for entities (both public and private) maintaining computerized personal information on clients, customers, and consumers. The bills would impose an obligation on those entities to promptly notify affected individuals when a security breach is detected which would compromise the integrity of the information maintained. There was no testimony against the concept of notice.

There has been significant discussion generated around the definition of "breach of security", the timing of notice, and the sanctions/penalties for failure to provide notice. Additionally, there was discussion of deference to the functional regulators (insurance, banks and securities) as alternative oversight if the regulatory framework is as stringent as the framework in the proposed legislation. At present, the Consumer Protection Division of the Attorney General's Office is looking for imposition of criminal sanctions, though willing to add language that would require "knowing and willful" violation before imposition of such sanctions. The measure also provides for a private right of action and recovery of costs and attorneys fees.

Because the proposed application of the legislation is very broad, there are implications for all businesses holding unencrypted computerized personal information. The Chamber prefers legislation similar to **Representative Stephen Stepanek's HB 1404**.

The bill recognizes that the scope of an information breach is an important consideration when determining how to respond. Both of these pieces of legislation allow businesses to use a substitute notice when the cost of notifying every effected customer would be prohibitive. Many small businesses maintain large lists of customer payment information. Dry Cleaners, Restaurants, Florists, Retailers all could easily have thousands of records and notifying each of them individually could be financially disastrous for the small business. The Chamber is recommending giving the small business owner the option of using the mass media or the internet to inform customers of a breech when the number of effected customers reaches a threshold for which direct notification

would be too costly. Both Maine and Vermont have similar threshold notification laws, their economies are similar to New Hampshire's in that the majority of businesses are small businesses.

## **ECONOMIC DEVELOPMENT**

### **DOWNTOWN REVITALIZATION INCENTIVE PASSES HOUSE (HB 657)**

The House Municipal & County Government Committee passed **HB 657** promoting community revitalization 20-0. It was on the House consent calendar (no debate) for a vote. The conservative Republicans, led by Representative Neal Kurk, pulled the bill off of the consent calendar and waged quite a debate on the floor of the House, trying to kill the bill. They charged the bill pits town against town, cost shifts the tax base, and is unconstitutional. None of the arguments held, as the bill passed 219-111. The legislation only enables communities to offer short-term stable, current property tax rates to those who rehab costly old downtown structures. It is one more tool for a town to use to fight sprawl and create economic development opportunities. A similar law was responsible for the tremendous revitalization of downtown Philadelphia. Hopefully, **HB 657** will have the similar affect in many of our downtowns in New Hampshire. On to the Senate...

### **EMINENT DOMAIN (HB 1511 - REPLACEMENT COST FOR TAKINGS)**

This bill was involved with a strange kind of event this week. The House Judiciary Committee scheduled a subcommittee work session for Tuesday afternoon, in order to work on this bill and the other eminent domain bills. However, prior to that scheduled work session, the full Judiciary Committee without any warning voted on the bill and decided to send it to interim study. Prime sponsor Representative Fran Wendelboe made plain to the subcommittee her feelings about that action, and she also took the matter up with the Chair of the Judiciary Committee. It appears that this bill probably will come back before the Committee for another vote. This will probably happen early next week, given legislative deadlines. From what we can tell, it appears that the vote on this bill was based more on a desire to dispose of as many bills as possible as quickly as possible. That is a common theme these days in Concord, given how front-end loaded the scheduling of bills has been. As a result, a lot of bills are being hustled along more quickly than might ordinarily have been the case. So we shall see...

### **THE WEEKS AHEAD...**

February 6, 2006    **HB 1404** (breach of security of computerized personal information) -  
Subcommittee Work Session - 10:00 a.m., LOB 302  
<http://gencourt.state.nh.us/legislation/2006/HB1404.html>

**HB 1414** (protection of personal information by mandatory notice of security breach) - Subcommittee Work Session - 10:00 a.m., LOB 302  
<http://gencourt.state.nh.us/legislation/2006/HB1414.html>

Please contact Teresa Rosenberger, Devine, Millimet - (603) 410-1705, or Chris Hodgdon, Greater Nashua Chamber of Commerce - (603) 881-8333, if you have any questions.