



Action Minutes

September 16, 2022

Members Present: Senators Reagan, Gray, Prentiss, and Ward, and Representatives Bershtein, Hatch, Lang, McGuire, Schmidt, and Schuett*. (*) Indicates alternate member.

(**) Part 1, Article 28-a of the N.H. Constitution was not an issue in the Committee's discussions or decisions in this meeting.

1. The meeting was convened at 8:57 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Senators Reagan, were Senators Prentiss and Ward, and Representatives Bershtein, Hatch, Lang, McGuire, and Schmidt.

2. The Committee discussed the minutes of the Committee meeting on August 18, 2022.

Rep. Schmidt moved that the minutes be approved.

Rep. Lang seconded.

Adopted.

3. The Committee discussed the following items on the Consent Agenda:

CONSENT AGENDA

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| FP 2022-78 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Low Level Radioactive Waste Management Fund |
| FP 2022-95 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Deemed Income for Financial Assistance |
| FP 2022-126 | DEPARTMENT OF EMPLOYMENT SECURITY
Appeal from Denial of Continued Eligibility for Benefits |
| EXRF 2022-8 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Expedited Revision to the NH Physician Assistant Licensure Survey |
| FP 2022-15 | OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
NH Board of Pharmacy
Automated Pharmacy Systems |
| FP 2022-20 | LIQUOR COMMISSION
Rules Relating to Particular Licensees |

- FP 2022-48** OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
Board of Acupuncture Licensing
Responsibilities of Licensees and Ethical Professional Standards
- FP 2022-85** DEPARTMENT OF REVENUE ADMINISTRATION
Relative to Computation of Gross Business Profits, Technical Corrections on
Specific Industry Apportionment for Financial Institutions, Single Sales
Factor Apportionment, and Treatment of Overpayments
- FP 2022-105** DEPARTMENT OF REVENUE ADMINISTRATION
Education Tax Credit Program
- FP 2022-129** FISH AND GAME DEPARTMENT
Threatened and Endangered Species Compensatory Mitigation

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve Final Proposals 2022-78, 2022-95, 2022-126, and EXRF 2022-8 and conditionally approve Final Proposals 2022-15, 2022-48, 2022-105, and 2022-129 based on the agencies' conditional approval requests and Final Proposal 2022-20 and 2022-85 based on the agency's amended conditional approval request.

Rep. McGuire seconded.

Adopted.

4. Rep. McGuire moved to postpone the following items from the September 16, 2022 agenda to the Committee's continued meeting on October 6, 2022 and to request a waiver from the Director of the Office of Legislative Services for the Committee's deadline to act on Item #3(c):
- Item #3(c) regarding Final Proposal 2022-91 from the Department of Transportation (Aircraft, Commercial Aviation Operator, and Aircraft Dealer Registration);
 - Item #3(d) regarding Final Proposal 2022-50 from the Department of Health and Human Services (Former Division of Public Health Services, Use of Radionuclides in the Healing Arts);
 - Item #3(e) regarding Final Proposal 2022-92 from the NH Prescription Drug Affordability Board (Prescription Drug Affordability Rules);
 - Item #3(f) regarding Final Proposal 2022-93 from the Department of Agriculture, Markets, and Food (Feeding Garbage to Swine);
 - Item #3(g) regarding Final Proposal 2022-96 from the Department of Environmental Services (Recovery of Gasoline Vapors);
 - Item #3(i) regarding Final Proposal 2022-121 from the Department of Military Affairs and Veterans' Services (NH National Guard Enlistment Incentive Program);
 - Item #3(j) regarding Final Proposal 2022-122 from the Fish and Game Department (Voluntary Hike Safe Card); and
 - Item #3(k) regarding Interim Rule 2022-6 from the Department of Business and Economic Affairs (Broadband Matching Grant Initiative); and

In the same motion, Rep. McGuire moved to postpone the following items from the September 16, 2022, agenda to the Committee's regular meeting on October 20, 2022 and to request a waiver from the Director of the Office of Legislative Services for the Committee's deadline to act on Item #3(a) and (b):

- Item #3(a) regarding Final Proposal 2022-79 from the Midwifery Council (Definitions and Reporting Significant Morbidity and Mortality);
- Item #3(b) regarding Final Proposal 2022-104 from the Department of Revenue Administration (Financial Accounting for Cities and Towns); and

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- Item #3(h) regarding Final Proposal 2022-115 from the Department of Revenue Administration (Equalization of Assessment for Cities, Towns, Unincorporated Towns and Unorganized Places).

Rep. Lang seconded.

Adopted.

Senator Gray joined the meeting following the vote on the items to be postponed.

5. The Committee discussed Final Proposal 2022-3 from the Office of Professional Licensure and Certification (Executive Director, Electrologists). Tina Kelley and Douglas Osterhoudt testified for the Office of Professional Licensure and Certification.

Rep. McGuire moved that the Committee preliminarily object to Final Proposal 2022-3 based on Committee staff's annotations to the proposal. Rep. McGuire also indicated that the Office of Professional Licensure and Certification should provide a report to the Committee on the mechanisms used to fund activities during the time of the rules' expiration.

Rep. Lang seconded.

Adopted.

Rep. Schuett joined the meeting after the vote on Final Proposal 2022-3. Sen. Reagan appointed her to sit for Sen. Whitley.

6. The Committee discussed Final Proposal 2022-75 from the Board of Licensing for Alcohol and Other Drug Use Professionals (Procedural Rules). Tina Kelley and Douglas Osterhoudt of the Office of Professional Licensure and Certification testified for the Board.

The Board of Licensing for Alcohol and Other Drug Use Professionals had submitted a conditional approval request in rules dated September 7, 2022.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2022-75 based on the request.

Rep. Schmidt seconded.

Adopted. Rep. Lang, Rep. McGuire, and Rep. Schuett voted "NO".

7. The Committee discussed Final Proposals 2022-89 (Practice of Veterinary Medicine), 2022-90 (Ethical Standards), and 2022-102 (Veterinary Medical Records), all from the Board of Veterinary Medicine. Tina Kelley and Douglas Osterhoudt of the Office of Professional Licensure and Certification testified for the Board.

The Board of Veterinary Medicine had submitted a conditional approval request for Final Proposal 2022-90 in rules dated August 10, 2022.

Rep. McGuire, with one motion, moved that the Committee approve Final Proposal 2022-89 and Final Proposal 102, and conditionally approve Final Proposal 2022-90 based on the request.

Rep. Hatch seconded.

Adopted.

8. The Committee discussed the objection response to Final Proposal 2022-28 from the NH Real Estate Commission (License Renewal and Continuing Education Requirements). Tina Kelley and Douglas Osterhoudt of the Office of Professional Licensure and Certification testified for the Board.

Rep. McGuire moved that the Committee approve Final Proposal 2022-28 based on the objection response.

Rep. Lang seconded.

Adopted.

9. The Committee discussed Final Proposal 2022-114 from the Department of Revenue Administration (RIMS Rollout III and Legislative Changes). Keen Meng Wong testified for the Department of Revenue Administration.

The Department of Revenue Administration had submitted a conditional approval request for Final Proposal 2022-114 in rules dated September 14, 2022.

Rep. Lang moved that the Committee approve the Department's request to accept the late-filed conditional approval request.

Rep. Schmidt seconded.

Adopted.

After further discussion, the Committee postponed action on Final Proposal 2022-114 until its regularly scheduled meeting on October 20, 2022.

10. The Committee discussed Final Proposal 2022-81 from the Insurance Department (Recognition of the 2011 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits). Heather Silverstein testified for the Insurance Department.

Rep. McGuire moved that the Committee preliminarily object to Final Proposal 2022-81 based on Committee staff's annotations to the proposal.

Rep. Hatch seconded.

Adopted.

11. The Committee discussed Final Proposal 2022-29 from the Department of Justice (Charitable Trusts). Diane Quinlan testified for the Department of Justice.

The Department of Justice had submitted a conditional approval request for Final Proposal 2022-29 in rules dated September 7, 2022 and submitted amendments to the request at the meeting.

Rep. Lang moved that the Committee approve the Department's request to accept the late-filed amendments to the conditional approval request.

Sen. Gray seconded.

Adopted.

Rep. Lang moved that the Committee conditionally approve Final Proposal 2022-75 based on the amended request.

Sen. Gray seconded.

Adopted.

12. The Committee discussed Final Proposal 2022-14 from the Public Utilities Commission (Municipal and County Aggregation Rules). Eric Wind testified for the Public Utilities Commission.

The Public Utilities Commission had submitted a conditional approval request for Final Proposal 2022-14 in rules dated September 7, 2022.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2022-14 based on the request.

Rep. Hatch seconded.

Adopted.

13. The Committee discussed the objection response to Final Proposal 2022-7 from the Department of Safety (Commissioner, Ignition Interlock Program). Marta Modigliani and Michael Todd testified for the Department of Safety.

Rep. McGuire moved that the Committee accept the objection response and approve Final Proposal 2022-7. Rep. McGuire also recommended that the Department seek legislation to give the Department specific authority to establish a set point level that differs from the statutory violation point.

Rep. Hatch seconded.

The Committee held a roll call vote as follows:

- Sen. Gray – NO
- Sen. Prentiss – YES
- Sen. Ward – NO
- Sen. Reagan – YES
- Rep. McGuire – YES
- Rep. Hatch – YES
- Rep. Schmidt – YES
- Rep. Lang – NO
- Rep. Bershtein – NO
- Rep. Schuett – YES

Adopted by a 6 to 4 vote.

14. The Committee discussed Final Proposal 2022-94 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Process for Involuntary Emergency Admission). Allyson Raadmae testified for the Department of Health and Human Services and Steven Bunker testified for the NH Hospital.

The Department of Health and Human Services had submitted a conditional approval request for Final Proposal 2022-94 in rules dated September 14, 2022. The Department had been granted a waiver by the Director of Legislative Services for the late filing of its conditional approval request.

Kathy Bizarro Thunberg, representing the NH Hospital Association, and Gilles Bissonnette, representing the American Civil Liberties Union of New Hampshire testified. They had previously provided written testimony prior to the meeting.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2022-94 based on the request. Rep. McGuire also recommended that the Department of Health and Human Services begin new rulemaking immediately to address remaining concerns.

Rep. Schmidt second.

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Adopted.

Senators Reagan and Ward left the meeting after the vote on Final Proposal 2022-94 and Rep. McGuire chaired the remainder of the meeting.

15. The Committee discussed Interim Rule INT 2022-5 from the Department of Health and Human Services (Former Division of Public Health Services, Immunization Registry). Allyson Raadmae, Abby Rogers, and Ann Marie Mercuri testified for the Department of Health and Human Services.

The Department of Health and Human Services had submitted a conditional approval request for Interim Rule INT 2022-5 in rules dated September 9, 2022.

Rep. Leah Cushman, representing herself, testified in opposition to the rule.

Rep. Lang moved that the Committee preliminarily object to Interim Rule INT 2022-5 based on lack of authority.

Rep. Bershtein seconded.

After further discussion, including the possibility of a conditional approval to remove portions of the rules, the Committee tabled further discussion of the motion for a preliminary objection until its continued meeting on October 6, 2022.

11. The Committee discussed the recess of this meeting to October 6, 2022.

The Committee recessed at the call of the Chair at 9:32 a.m.