



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES
ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

NOVEMBER 20, 2014

Members Present: Senators Reagan, Cataldo, and Watters, and Reps. Schmidt, McGuire, Ladd, and Barry*. (*) Indicates alternate member.

(**) Indicates where Part 1, Article 28-a of the N.H. Constitution was an issue in the Committee's discussion. (See Item #11. However, that item was approved.)

1. The meeting was convened at 9:00 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sens. Cataldo and Watters, and Reps. Schmidt, McGuire, and Ladd.

Sen. Reagan designated Rep. Barry as an alternate for Rep. MacKay once Rep. Barry arrived, since Rep. MacKay was absent. Similarly, Rep. Hatch and Rep. Kidder were designated as the alternates for Rep. Sad and Sen. Rausch, respectively, if Rep. Hatch and Rep. Kidder arrived, since Rep. Sad and Sen. Rausch were also absent.

2. The Committee discussed the minutes of the Committee meeting on November 6, 2014.

Sen. Watters moved that the minutes be approved.

Sen. Cataldo seconded.

Adopted.

3. The Committee discussed the following Final Proposals (Consent Agenda – Final Proposals):

- | | |
|-------------|--|
| FP 2014-11 | BOARD OF MENTAL HEALTH PRACTICE
Practice and Procedure |
| FP 2014-94 | FISH AND GAME DEPARTMENT
Marine Rules: Cod, Haddock, Berry Brook |
| FP 2014-108 | DEPARTMENT OF SAFETY
Rafting Prohibition on Round Cove, Fish Cove and Flag Cove on Lake Winnepesaukee
in the Town of Meredith |
| FP 2014-120 | DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Compliance Schedules in NPDES Permits |
| FP 2014-126 | DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Emission Standards Applicable to Tangential-Firing, Dry-Bottom Boilers |

- FP 2014-133 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Electronic Notification and Electronic Account Access
- FP 2014-134 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Adopted Children Age 18 to Age 22 Residing with a Birthparent
- FP 2014-141 FISH AND GAME DEPARTMENT
Tri-State Snowmobile Reciprocity Weekend

Sen. Watters moved that the Committee approve the Final Proposals.

Rep. McGuire seconded.

Adopted.

4. The Committee discussed the following Final Proposals for which the agencies had submitted requests for conditional approvals (Consent Agenda – Conditional Approvals):

- FP 2014-85 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
VOC Limits for Architectural and Industrial Maintenance Coatings
- FP 2014-116 DEPARTMENT OF ENVIRONMENTAL SERVICES
Hazardous Waste Programs
Hazardous Waste Wipes and Tanks

Rep. Schmidt moved that the Committee accept the conditional approval requests and conditionally approve the Final Proposals based on the requests.

Sen. Cataldo seconded.

Adopted.

Rep. Barry arrived in the meeting at this time.

5. The Committee discussed whether to postpone action on certain items to another meeting.

Rep. McGuire moved that the Committee postpone action on the following item:

8. DEPARTMENT OF SAFETY

- (b) OR 2013-222 Commissioner
Readoption of Marketing, Sales, and Possession of Fireworks Rules
(JLCAR Deadline January 20, 2015.)
(Response not yet received. Response due by December 1, 2014.)

Rep. Schmidt seconded.

After further discussion, Rep McGuire amended her motion to include the following additional item in the motions to postpone:

16. INSURANCE DEPARTMENT

- (b) OR 2014-91 Long-Term Care Insurance
(JLCAR Deadline January 20, 2015.)
(Response not yet received. Response due by December 1, 2014.)

Rep. Schmidt amended his second.

The motion as amended was adopted.

6. The Committee discussed Final Proposal 2014-12 from the Board of Mental Health Practice (License Requirements, Applications, and Fees). Jane Power Kilcoyne, Dr. H. Alan Goodman, and Joe Nadeau represented the Board but did not testify.

The Board had submitted a conditional approval request in a letter and amended rule dated November 12, 2014.

Written testimony had been submitted prior to the meeting from the following persons:

Jacqui Abikoff, representing Horizons Counseling Center of Gilford, N.H.

Nicholas Hunt-Bull, representing Southern New Hampshire University.

Annamarie T. Cioffari, representing Southern New Hampshire University, who also submitted written testimony for the following persons:

Jan Arsenault, representing New England College.

Ed Mahoney, representing Springfield College in Manchester, N.H.

Carol Langelier, representing Rivier University.

Robert Walrath, representing Rivier University.

John R. Dunn.

Sharon Lamb, representing the University of Massachusetts in Boston, Mass.

Eleonora Bartoli, representing Arcadia University of Glenside, P.A.

Diane Pepin, representing the N.H. Alcohol and Drug Abuse Counselors Association.

Jill Ritchie, representing Lesley University of Cambridge, Mass.

David P. McAllister, representing the Boston University School of Education.

Courtney E. Gasser, representing the University of Baltimore.

Debra Mollen, representing Texas Women's University.

Laurel B. Watson, representing the University of Missouri – Kansas City

Johanna Nilsson, representing the University of Missouri – Kansas City.

Peggy Brady-Amoon, representing Seton Hall University.

Sabina Widner, representing Georgia Regents University.

Leela Howard.

Dorothy Bach.

Carol Ann Robinson.

Sally D. Stabb, representing Texas Women's University.

Sidney M. Trantham, representing Lesley University of Cambridge, Mass.

Tim Balke, representing the University of St. Thomas.
Ruth B. Palmer and Susan Edgar-Smith, representing Eastern University of St. Davids, Penn.
Chris Brown, representing the University of Missouri – Kansas City.
A. Michael Hutchins.
Nancy L. Murdock, representing the University of Missouri – Kansas City.
David R. Olson, representing the Kentucky Psychological Association.

The following persons submitted written testimony in the meeting:

Stephen C. Cole, representing Dartmouth-Hitchcock.
Dr. Daniel Potenza, representing the Suicide Prevention Council of Concord, N.H.

The following persons submitted testimony cards indicating their opposition to the Final Proposal:

Debbie Robinson, representing the Suicide Prevention Council of Concord, N.H.
Ken Norton, representing the Suicide Prevention Council of Concord, N.H.
Dr. Daniel Potenza representing the Suicide Prevention Council of Concord, N.H.
Annamarie T. Cioffari, Nicholas Hunt-Bull, and Michael Eakin, Ph.D., representing Southern N.H. University
Jan Arsenaault, representing New England College.
Ed Mahoney, representing Springfield College in Manchester, N.H.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2014-12 on the grounds that the Final Proposal is contrary to legislative intent and contrary to the public interest, based on public testimony and the Committee staff's annotations to the Final Proposal.

Rep. Ladd seconded.

Adopted.

Rep. McGuire left the meeting at this time.

7. The Committee discussed Final Proposal 2014-13 from the Board of Mental Health Practice (License Renewal, Continuing Education, Collaboration, and Reinstatement). Jane Kilcoyne and Peggy Lynch testified for the Board.

Rep. McGuire returned to the meeting during the discussion of this item.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2014-13 on the condition that the words "shall be approved" be inserted after "the following groups" in the introductory sentence for Mhp 402.02 (b).

Sen. Cataldo seconded.

Adopted.

8. The Committee discussed Final Proposal 2014-14 from the Board of Mental Health Practice (Ethical and Professional Standards, Responsibilities of Licensees). Jane Kilcoyne and Peggy Lynch testified for the Board.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2014-14 on the grounds as outlined in the annotations to the Final Proposal by Committee staff.

Sen. Watters seconded.

Adopted.

9. The Committee discussed Final Proposal 2014-56 from the Department of Safety (Commissioner, Vessel Registration Rules). David Hilts testified for the Department.

Sen. Watters moved that the Committee approve Final Proposal 2014-56 with the recommendation that the Department seek legislation clarifying the authority for the \$15 fee in Saf-C 2302.09(b) for replacement of a vessel registration.

Rep. Schmidt seconded.

Adopted.

Sen. Reagan noted for the record that Rep. McGuire and Rep. Ladd voted "no".

10. The Committee discussed Final Proposal 2014-89 from the Department of Environmental Services (Water Quality and Quantity Programs, Amendments to Youth Recreation Camps Rules). Peter Demas testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2014-89.

Sen. Watters seconded.

Adopted.

- **11. The Committee discussed Final Proposal 2014-90 from the Department of Environmental Services (Water Quality and Quantity Programs, Certification Required for Youth Skill Camps). Peter Demas and Sarah Pillsbury testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated November 19, 2014.

Sen. Watters moved that the Committee approve Final Proposal 2014-90.

Rep. Schmidt seconded.

After further discussion, Sen. Watters amended his motion to accept the Department's conditional approval request and conditionally approve Final proposal 2014-90 based on the request, with the further amendment in Env-A 909.05(b) to insert the word "written" between "2" and "references."

Rep. Schmidt amended his second.

The motion as amended was adopted.

12. The Committee discussed Final Proposal 2014-70 from the Liquor Commission (Rules Governing Alcohol Consultant Licensee Operations).

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2014-70 on the grounds that the Final Proposal was contrary to the public interest as outlined in the annotations to the Final Proposal by Committee staff.

Rep. Ladd seconded.

Adopted.

13. The Committee discussed Final Proposal 2014-74 from the Public Utilities Commission (Renewable Portfolio Standards). Michael Sheehan and Elizabeth Nixon testified for the Commission.

The Committee took no action at this time and took up the next item.

14. The Committee discussed Final Proposal 2014-87 from the Department of Agriculture, Markets and Food (Maple Syrup).

The Department had submitted a conditional approval request in a letter and amended rule dated November 18, 2014.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-87 based on the request.

Sen. Watters seconded.

Adopted.

15. The Committee discussed Final Proposal 2014-103 from the Department of Administrative Services (Cost Containment Rules). Thomas Kehr and Kathy Gallagher testified for the Department.

Rep. McGuire moved that the Committee approve Final Proposal 2014-103.

Rep. Schmidt seconded.

Adopted.

16. The Committee resumed discussion of Final Proposal 2014-74 from the Public Utilities Commission (Renewable Portfolio Standard). Michael Sheehan testified for the Commission.

Sen. Watters moved that the Committee approve Final Proposal 2014-74.

Rep. Schmidt seconded.

Adopted.

17. The Committee discussed again Final Proposal 2014-70 from the Liquor Commission (Rules Governing Alcohol Consultant Licensee Operations). James Wilson and Ivan Bass testified for the Commission.

Rep. Schmidt moved that the Committee reconsider its earlier vote to make a preliminary objection to Final Proposal 2014-70.

Sen. Watters seconded.

Adopted.

Since the effect of adopting the motion to reconsider was to cancel the earlier vote to make a preliminary objection, Rep. Schmidt moved that the Committee approve Final Proposal 2014-70.

Rep. McGuire seconded.

Adopted.

18. The Committee discussed Final Proposal 2014-129 from the Department of Revenue Administration (Business Profits Tax). Kathy Sher testified for the Department.

No action was taken at this time.

19. After a break, with Sens. Reagan, Cataldo, and Watters, and Reps. Schmidt, McGuire, Ladd, and Barry present, the Committee resumed discussion of Final Proposal 2014-129 from the Department of Revenue Administration (Business Profits Tax). Caroline Delaney and Kathy Sher testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2014-129.

Sen. Watters seconded.

Adopted.

20. The Committee discussed Final Proposal 2014-140 from the Department of Health and Human Services (Commissioner, Therapeutic Cannabis Program – Alternative Treatment Centers). Michael Holt, John Martin, and Mary Castelli testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated November 19, 2014.

The following persons also testified:

Scott Bartlett, representing the Town of Goffstown, N.H., who also had provided written testimony prior to the meeting.

Carlos Baia, representing the City of Concord, N.H., who had also submitted written testimony prior to the meeting.

Sen. Watters moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-140 based on the request, with the understanding that there is proposed legislation that may impact the rules.

Rep. Schmidt seconded.

Adopted.

21. The Committee discussed Final Proposal 2014-135 from the Insurance Department (Medical Professional Liability Insurance). Deborah O'Loughlin testified for the Department.

Rep. Barry moved that the Committee approve Final Proposal 2014-135.

Rep. McGuire seconded.

Adopted.

22. The Committee discussed whether to cancel the continued Committee meeting scheduled for December 4, 2014.

Deborah O'Loughlin of the Insurance Department testified on the status of the Department's response to the Committee's preliminary objection to Final Proposal 2014-91 (Long-Term Care Insurance).

It was the consensus of the Committee to cancel the continued meeting.

23. The Committee adjourned by consensus at 11:20 a.m.