



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

Action Minutes

FEBRUARY 15, 2013

Members Present: Senators Reagan, Rausch, Lasky, and Watters, and Representatives Schmidt, McGuire, Sad, Ladd, Kidder*, and Barry*. (*) 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 9:00 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sens. Rausch, Lasky, and Watters, and Reps. Schmidt, McGuire, Sad, Ladd, Kidder, and Barry.

2. The Committee discussed the minutes of the Committee meeting on January 18, 2013.

Sen. Rausch moved that the minutes be approved.

Rep. McGuire seconded.

Sen. Reagan designated Rep. Barry as an alternate for Rep. MacKay, and Rep. Kidder as an alternate for Sen. Cataldo, who were absent.

The motion to approve the minutes was then adopted.

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

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|-------------|--|
| FP 2012-115 | PESTICIDE CONTROL BOARD
Restrictions on the Application of Pesticides |
| FP 2012-133 | BOARD OF MANUFACTURED HOUSING
Board of Manufactured Housing Organizational Rules |
| FP 2012-134 | BOARD OF MANUFACTURED HOUSING
Board of Manufactured Housing Rules of Practice and Procedure |
| FP 2012-135 | BOARD OF MANUFACTURED HOUSING
Board of Manufactured Housing Rules Regarding Fees and Forms |
| FP 2012-136 | PUBLIC UTILITIES COMMISSION
Alternative Regulation |
| FP 2012-137 | PUBLIC UTILITIES COMMISSION
Rules for Steam Utilities |

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- FP 2012-150 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Medicaid to Schools Program
- FP 2012-159 BOARD OF NURSING
Licensing Requirements
- FP 2012-160 BOARD OF NURSING
Continued Status
- FP 2012-165 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Hot Mix Asphalt Plants
- FP 2012-166 GOVERNING BOARD OF OCCUPATIONAL THERAPISTS
Pre-Hearing Disclosure of Witnesses and Exhibits
- FP 2012-167 GOVERNING BOARD OF OCCUPATIONAL THERAPISTS
Required Documents
- FP 2012-168 GOVERNING BOARD OF OCCUPATIONAL THERAPISTS
Definition of American Occupational Therapy Association, Inc. (AOTA) and Ethical
Standards
- FP 2012-169 GOVERNING BOARD OF OCCUPATIONAL THERAPISTS
Renewal Application Form, Continuing Competence, and Administrative Obligations
- FP 2012-171 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Expiring Rules Related to Qualified Aliens, New Hampshire Employment Program (NHEP),
Family Assistance Program (FAP), and Food Stamps
- FP 2012-179* ARCHITECTURAL BARRIER-FREE DESIGN COMMITTEE
Governor's Commission on Disability
Procedural Rules on Advice, Assistance, Complaints, Orders, Alternative Dispute Resolution,
and Explanation of Adopted Rules
**The only substantive issue with this final proposal is that the agency continued to operate
under expired rules as noted in the fiscal impact statement.*
- FP 2012-203 FISH AND GAME DEPARTMENT
Fish and Game Rules Relative to Atlantic Salmon Broodstock Fishing, Bait Fish, Zebra
Mussels, Fishing Tournaments, and Fish Importation
(JLCAR Deadline March 18, 2013.)

Rep. McGuire moved that the Committee approve the Final Proposals.

Rep. Schmidt seconded.

Adopted.

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4. The Committee discussed the status of agency responses to the following conditional approvals made by the Committee:

Conditionally Approved January 18, 2013:

- FP 2012-138 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Laboratory and Laboratory Services
(Response received 1-24-13 and confirmed 1-24-13.)
- FP 2012-123 BOARD OF EDUCATION
Business Administrator, Career and Technical Education Director, English for Speakers of Other Languages (ESOL), and Library Media Coordinator (LMC) Supervisor
(Response not yet received.)

No further action was taken.

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

No action to postpone was taken at this time.

It was the consensus of the Committee that Committee staff check with the Committee Chair about having a work room available for agency staff who are waiting for Committee review and action on their agency's rules.

6. The Committee discussed Final Proposal 2012-172 from the Department of Revenue Administration (Equalization Rules). Kathryn Skouteris and Steven Hamilton testified for the Department.

The Department had submitted a conditional approval request in a letter dated February 5, 2013 and amended rule dated February 4, 2013.

Sen. Rausch moved that the Committee approve the incorporation by reference of the *Equalization Manual* in Rev 2802.01(a).

Sen. Watters seconded.

Adopted.

The Committee resumed discussion of the rest of Final Proposal 2012-172.

Sen. Lasky moved that the Committee accept the conditional approval request with a further amendment to Rev 2803.03(d), and conditionally approve Final Proposal 2012-172 based on the request, as amended. Rev 2803.03(d) would be amended to read: "(d) If the weighted mean ratio does not accurately represent a municipality's level of assessment, the department shall determine an alternate ratio in accordance with the manual."

Sen. Watters seconded.

Adopted.

Sen. Watters left at this time. Sen. Reagan designated Rep. Kidder as an alternate for Sen. Watters.

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7. The Committee discussed Final Proposal 2012-161 from the Board of Nursing (Nursing Assistants). Executive Director Denise Nies and Lori Tetrault testified for the Board.

The Board had submitted a conditional approval request in an amended rule dated February 11, 2013, and an amended conditional approval request in a further amended rule dated February 13, 2013.

Sen. Rausch moved that the Committee accept the amended conditional approval request and conditionally approve Final Proposal 2012-161 based on the request.

Rep. McGuire seconded.

Adopted.

8. The Committee discussed Final Proposal 2012-162 from the Board of Nursing (Certificate of Medication Administration for Licensed Nursing Assistants and Medication Administration Education Program). Executive Director Denise Nies and Lori Tetrault testified for the Board.

The Board had submitted a conditional approval request in an amended rule dated February 11, 2013 and an amended conditional approval request in a further amended rule dated February 13, 2013.

Sen. Rausch moved that the Committee accept the amended conditional approval request and conditionally approve Final Proposal 2012-162 based on the request.

Rep. Sad seconded.

Adopted.

9. The Committee discussed Final Proposal 2012-152 from the Department of Agriculture, Markets and Food (Certification of Processors and Handlers of Organic Commodities). Jennifer Gornert and Victoria Smith testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated February 14, 2013.

Rep. McGuire and Rep. Kidder left during the discussion of this item, and Sen. Watters returned.

Rep. Sad moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-152 based on the request, with a recommendation that the Department seek legislation to clarify the issue of authority for a reduced fee for on-farm processors as outlined in the Committee staff annotations to the conditional approval request.

Sen. Watters seconded.

Adopted.

Representative Sad suggested HB 177 as a possible vehicle for an amendment on this issue.

10. After a break, with Sens. Reagan and Rausch, and Reps. Schmidt, Sad, Ladd, and Barry present, the Committee discussed Final Proposal 2012-124 from the Board of Education (Procedure for Approvals,

Standard for PEPP, IHE Responsibility). Dr. Judith Fillion and Mary Mayo of the Department of Education testified for the Board.

Sen. Watters returned to the meeting after the discussion on this item began.

The Board had submitted a conditional approval request in an amended rule dated February 14, 2013.

Rep. Ladd moved that the Committee accept the conditional approval request and conditionally approve final Proposal 2012-124 based on the request.

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed whether to take action on the following items since agency representatives were not yet present:

11. LIQUOR COMMISSION

- (a) INT 2013-1 Rules Governing Licensee Operations
(JLCAR Deadline May 8, 2013. Former rules expired December 31, 2012.)
- (b) INT 2013-2 Alcoholic Beverage Licensee Licensing
(JLCAR Deadline May 8, 2013. Former rules expired August 13, 2012.)

12. GOVERNOR'S COMMISSION ON DISABILITY

- (a) FP 2012-187 Organizational Rules
(JLCAR Deadline March 18, 2013.)
- (b) FP 2012-188 Procedural Rules
(JLCAR Deadline March 18, 2013.)
- (c) FP 2012-189 Rules for the Telecommunications Equipment Assistance Program
(JLCAR Deadline March 18, 2013.)
- (d) FP 2012-190 Rules Related to Permanent Registration of Service Animals
(JLCAR Deadline March 18, 2013.)

It was the consensus of the Committee to go forward and discuss the items.

12. The Committee discussed Final Proposal 2012-187 from the Governor's Commission on Disability (Organizational Rules).

The Commission had submitted a conditional approval request in an amended rule dated February 7, 2013 and an amended conditional approval request in a further amended rule also dated February 7, 2013 but received on February 13, 2013.

Sen. Lasky moved that the Committee accept the amended conditional approval request and conditionally approve Final Proposal 2012-187 based on the request.

Sen. Rausch seconded.

Adopted.

13. The Committee discussed Final Proposal 2012-188 from the Governor's Commission on Disability (Procedural Rules).

The Commission had submitted a conditional approval request in an amended rule dated February 7, 2013 and a further amended rule also dated February 7, 2013 but received on February 13, 2013.

Rep. Schmidt moved that the Committee accept the amended conditional approval request, with the further amendment to delete Gcd 213.02(b)(1) and editorially renumber (b)(2) and (3) as (b)(1) and (2), and conditionally approve Final Proposal 2012-188 based on the request, as further amended.

Sen. Rausch seconded.

Adopted.

14. The Committee discussed Final Proposal 2012-189 from the Governor's Commission on Disability (Rules for the Telecommunications Equipment Assistance Program).

The Commission had submitted a conditional approval request in an amended rule dated February 7, 2013 and an amended conditional approval request in a further amended rule dated February 7, 2013 and received February 13, 2013.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2012-189 based on Committee staff annotations, which indicated that the requirements of the TEAP application form do not match the requirements contained in Gcd 303.04.

Rep. Sad seconded.

Adopted.

15. The Committee discussed Final Proposal 2012-190 from the Governor's Commission on Disability (Rules Related to Permanent Registration of Service Animals).

The Commission had submitted a conditional approval request in an amended rule dated February 7, 2013 and an amended conditional approval request in a further amended rule dated February 7, 2013 but received on February 13, 2013.

Rep Schmidt moved that the Committee make a preliminary objection to Final Proposal 2012-190 on the grounds as outlined in Committee staff annotations, and on the further ground that the definition of "service animal" in Gcd 402.01 was in conflict with RSA 167-D:1, IV. The Committee especially noted the need to clarify the term "recognized" in Gcd 403.01, by either specifying the agencies or schools that are recognized, or by specifying the process and requirements to be recognized.

Sen. Rausch seconded.

Adopted.

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16. The Committee discussed the following Proposed Interim Rules filed by the Liquor Commission:

INT 2013-1 Rules Governing Licensee Operations

INT 2013-2 Alcoholic Beverage Licensee Licensing

Rep. Sad moved that the Committee approve Proposed Interim Rule INT 2013-1.

Rep. Barry seconded.

Adopted.

Rep. Schmidt moved that the Committee approve Proposed Interim Rule INT 2013-2.

Sen. Watters seconded.

Adopted.

17. The Committee discussed the continued meeting date of March 1, 2013.

It was the consensus of the Committee to cancel the March 1 meeting date and have the next meeting be the regular Committee meeting on March 15, 2013.

18. Sen. Rausch moved that the Committee adjourn.

Sen. Lasky seconded.

Adopted.

The Committee adjourned at 10:55 a.m.