



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

Action Minutes

FEBRUARY 7, 2014

Members Present: Senators Reagan, Cataldo, and Watters, and Representatives Schmidt, McGuire, MacKay, Ladd, Sad, and Hatch*. (*) 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 9:03 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, MacKay, Ladd, and Sad.

Rep. Hatch arrived shortly after the meeting was convened. Sen. Reagan designated Rep. Hatch as an alternate for Sen. Lasky, who was absent.

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

No action to postpone was taken at this time.

3. The Committee discussed the minutes of the Committee meeting on January 17, 2014.

Rep. Schmidt moved that the minutes be approved.

Rep. Ladd seconded.

Adopted.

4. The Committee discussed Final Proposal 2013-166 from the Higher Education Commission (Private Postsecondary Career Schools). Dr. Richard Gustafson and Mary Mayo of the Department of Education testified for the Commission.

The Commission had submitted a conditional approval request in an amended rule dated January 17, 2014, with a further amendment submitted on February 7, 2014 to insert the following language at the end of the sentence in Heds 312.01(c): "or within 15 days of final decision after opportunity for a hearing."

Rep. Schmidt moved that the Committee accept the conditional approval request as amended and conditionally approve Final Proposal 2013-166 based on the request as amended.

Rep. Ladd seconded.

Adopted.

5. The Committee discussed Final Proposal 2013-105 from the Department of Safety (Motorcycle Rider Education Program Rules). David Hilts and Larry Crowe testified for the Department.

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The Department had submitted a conditional approval request in a letter dated February 6, 2014 and in an amended rule.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2013-105 based on the annotations to the Final Proposal by Committee staff, but with special attention to be made in the Objection Response in addressing the concerns of the Committee derived from the Committee staff's annotations to the rules as numbered in the Department's conditional approval request:

- In Saf-C 5302.01(d), where arrests and indictments, and not just convictions, were included as disqualifying conditions for instructor-trainees and should be removed;
- In Saf-C 5302.02(d)(5), where disqualifying convictions for instructors were expanded from 5 years preceding the application, pursuant to RSA 263:34-d, II(e), to 10 years in the rule, but should conform to the statute;
- In Saf-C 5302.02(c), where an instructor-trainee pays a \$50.00 fee for an instructor's guide but the authority for the fee is not clear;
- In Saf-C 5302.04(e), where the Motorcycle Safety Foundation form has a code which should be incorporated by reference;
- In Saf-C 5302.06, which creates a separate instructor certification for a private training organization but should be deleted;
- In Saf-C 5305.02(a), where the Department charges a fee for tuition for the Department's own motorcycle education program course whereas legislation should be sought to make such authority specific; and
- In Saf-C 5306.04, where the waiver of liability should be clarified so the legal release requirements are separated from the student information form.

Rep. McGuire seconded.

Adopted.

6. The Committee discussed Final Proposal 2013-121 from the Banking Department (Amendments to the Bylaws for Credit Unions). Spencer Culp testified for the Department.

Russell R. Hilliard of Upton and Hatfield, representing the New Hampshire Credit Union League, had submitted written testimony dated February 6, 2014 but was not present.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-121.

Sen. Watters seconded.

Adopted.

7. The Committee discussed Final Proposal 2013-120 from the Banking Department (Credit Union Branching and Reciprocal Branching). Spencer Culp testified for the Department.

Since Final Proposal 2013-120 was exempt from Committee review pursuant to RSA 394-A:7, X, it was the consensus of the Committee to take no further action.

8. After a break, with Sens. Reagan, Cataldo, and Watters, and Reps. Schmidt, McGuire, Ladd, Sad, and Hatch present, the Committee discussed Final Proposal 2013-130 from the Department of Resources and Economic Development (Rules for Parks and Recreation). Philip Bryce and Torene Tango-Lowy testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated February 4, 2014.

Richard Estes, representing the N.H. Guides' Association, also testified.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-130 based on the request.

Sen. Watters seconded.

Adopted.

9. The Committee discussed Final Proposal 2013-131 from the Department of Resources and Economic Development (Rules for the Reserved and Privileged Use of DRED Lands, Facilities, and Resources). Philip Bryce and Torene Tango-Lowy testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated February 4, 2014, and an amended request in a letter and amended rules dated February 6, 2014.

Sen. Watters left the meeting during the discussion of this item.

Richard Estes, representing the N.H. Guides' Association, also testified.

Rep. Schmidt moved that the Committee accept the conditional approval request as amended and conditionally approve Final Proposal 2013-131 based on the request as amended.

Sen. Cataldo seconded.

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

Sen. Watters returned to the meeting at this time.

10. The Committee discussed Final Proposal 2013-132 from the Department of Resources and Economic Development (Rules for Administrative Fines Pertaining to Violations and Recreation Use Rules). Philip Bryce and Torene Tango-Lowy testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated February 4, 2014.

Rep. Sad moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-132 based on the request.

Rep. Hatch seconded.

Adopted.

11. The Committee discussed the response of the Department of Labor to the Committee's preliminary objection to Final Proposal 2013-93 (Whistleblower's Protection Act Posting and Filing Procedures). Christine Farmer and Michele Small testified for the Department.

Sen. Waters left the meeting during the discussion of this item.

Rep. Sad moved that the Committee accept the Objection Response and approve the rules, with the understanding that the Department would editorially insert the word "optional" in parentheses in the "Complaint Form for Public Employees" before the signature line that follows the statement "I give the New Hampshire Department of Labor the authority to disclose my identity if my complaint is deemed [to] have merit", so that it is clear the signature is optional.

Rep. Ladd seconded.

Adopted.

12. The Committee discussed as "Other Business" the issue of standardizing the format for agency identification of agency forms.

Committee staff was directed to develop suggestions to amend RSA 541-A:19-b on the adoption of forms to require a standardized format to identify forms.

13. Rep. McGuire moved that the Committee adjourn.

Rep. Hatch seconded.

Adopted.

The Committee adjourned at 11:20 a.m.