



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

Action Minutes

APRIL 17, 2015

Members Present: Representatives McGuire, Schmidt, Ladd, Kidder, Sad, and Hatch*, and Senators Reagan, Cataldo, Avard, Feltes, and Daniels*. (*) 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 Rep. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Reps. Schmidt, Ladd, Kidder, Sad, and Hatch, and Sens. Reagan, Avard, Feltes, and Daniels.

Rep. McGuire designated Sen. Daniels as an alternate for Sen. Watters, who was absent.

Sen. Cataldo arrived in the meeting at this time. Rep. Hatch was not a voting member at this time.

2. The Committee discussed the minutes of the Committee meeting on March 20, 2015.

Rep. Schmidt moved that the minutes be approved.

Sen. Reagan seconded.

Adopted.

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

FP 2014-156 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Podiatry Services

FP 2014-161 DEPARTMENT OF ADMINISTRATIVE SERVICES
Amendments to Organizational Rules

FP 2014-162 DEPARTMENT OF ADMINISTRATIVE SERVICES
Amendments to Procurement and Property Rules

FP 2015-4 HEALTH SERVICES PLANNING AND REVIEW BOARD
Megavoltage Radiation Therapy Services

FP 2015-6 BOARD OF DENTAL EXAMINERS
Licensing Requirements and Hygienists' Duties

FP 2015-7 DEPARTMENT OF REVENUE ADMINISTRATION
Equalization Ratio, Payment in Lieu of Taxes

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

Rep. Ladd seconded.

Adopted.

4. The Committee discussed whether to postpone certain items to another meeting.

Rep. Schmidt moved that the Committee postpone action on the following items to the next Committee meeting:

16. BOARD OF EDUCATION

OR 2014-136 Chartered Public School and Open Enrollment Schools
(JLCAR Deadline June 23, 2015.)
(Response not yet received. Response due by May 4, 2015.)

17. DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD

OR 2014-178 Transfer of Animals and Birds
(JLCAR Deadline June 23, 2015.)
(Response not yet received. Response due by May 4, 2015.)

Rep. Ladd seconded.

Adopted.

5. The Committee discussed the response by the Board of Mental Health Practice to the Committee's preliminary objection to Final Proposal 2014-12 (License Requirements, Applications, and Fees). Jane Power-Kilcoyne, Board Chair, and Dr. Al Goodman, Board member, testified for the Board.

The Board had requested a revised objection in a letter dated April 9, 2015 on the grounds identified in the annotations by Committee staff to the Objection Response.

The following persons also testified:

Valerie Acres, representing N.H. College and University Council.

Nicholas Hunt-Bull, representing Southern N.H. University.

Sen. Reagan moved that the Committee make a revised objection to Final Proposal 2014-12 as requested.

Sen. Cataldo seconded.

Adopted.

6. The Committee discussed Final Proposal 2014-132 from the Executive Branch Ethics Committee (Organizational Rules; Practice and Procedure Rules). Ann Rice from the Department of Justice and Joe DiBrigida, Ethics Committee Chair, testified for the Ethics Committee.

The Ethics Committee had submitted a conditional approval request as amended rules dated April 14, 2015.

It was the consensus of the Committee that Sen. Feltes and Rep. Hatch would work with the Executive Branch Ethics Committee on necessary legislation to amend the statutes of the agency.

Sen. Reagan seconded.

Adopted.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2014-132 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Sen. Reagan seconded.

Adopted.

7. The Committee discussed Final Proposal 2014-118 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Rights of Persons Receiving Developmental Services or Acquired Brain Disorder Services in the Community). Michael Holt and Melissa Nemeth testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated April 14, 2015.

Sen. Reagan moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-118 based on the request.

Rep. Schmidt seconded.

Adopted.

8. The Committee discussed Final Proposal 2014-142 from the Department of Health and Human Services (Former Division of Public Health Services, Supported Residential Health Care Facility Licensing Rules). John Martin and Rodney Bascom testified for the Department.

The following persons also testified:

Cheryl Steinberg, representing N.H. Legal Assistance.

Eldon Munson, representing the N.H. Association of Residential Care Homes (ARCH).

Sen. Reagan moved that the Committee approve Final Proposal 2014-142, with the recommendation that the Department track HB 427, relative to updating the State Fire Code, and, if the bill passes, that the Department undertake rulemaking to amend He-P 805.16(j) and He-P 805.25(h), as necessary.

Rep. Schmidt seconded.

Adopted.

9. The Committee discussed the following Final Proposals from the Department of Health and Human Services:

FP 2015-16 Former Division of Mental Health and Developmental Services
Rights of Persons Receiving Mental Health Services in the Community

FP 2015-17 Former Division of Mental Health and Developmental Services
Rights of Persons Receiving Mental Health Services in State Mental Health Facilities

Raymond Perry and Catherine Bernhard testified for the Department.

For each Final Proposal the Department had submitted a conditional approval request in a letter and amended rule dated April 15, 2015, and an amended conditional approval request in a letter and amended rule dated April 16, 2015.

Sen. Reagan moved that the Committee accept the amended conditional approval requests for Final Proposal 2014-16 and Final Proposal 2014-17, and conditionally approve the Final Proposals based on the amended requests.

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed Final Proposal 2015-1 from the Board of Medicine (New Requirements for Physician License Renewal). Sarah Blodgett, Executive Director of the Board, testified for the Board.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2015-1 on the grounds as outlined in the annotations to the Final Proposal by Committee Staff.

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed Final Proposal 2014-121 from the Department of Transportation (Oversize and Overweight Vehicle Permits). Kathleen Mulcahey-Hampson testified for the Department.

Sen. Avard left during the discussion of this item.

Sen. Reagan moved that the Committee approve Final Proposal 2014-121.

Rep. Schmidt seconded.

Adopted.

Sen. Daniels left at this time.

12. After a break, with Reps. McGuire, Ladd, Kidder, and Sad, and Sens. Cataldo and Feltes present, the Committee discussed Final Proposal 2014-154 from the Department of Resources and Economic Development (Bureau Trail Use Rules). Chris Gamache testified for the Department.

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

Rep. Kidder moved that the Committee approve Final Proposal 2014-154 with the understanding that editorial changes would be made as outlined in the comments to the Final Proposal by Committee staff, and that editorial changes would also be made involving cross-referencing the applicable statutes and rules in Res 8502.02 and Res 8502.03(c), and cross-referencing the application procedures for the special use permits described in Res 8504.02(j).

Sen. Cataldo seconded.

Adopted.

13. The Committee discussed Final Proposal 2014-186 from the Fish and Game Department (Method and Manner of Taking). Executive Director Glenn Normandeau and Evan Mulholland testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated April 14, 2015.

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

Rep. Kidder moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-186 based on the request.

Sen. Cataldo seconded.

Rep. McGuire designated Rep. Hatch as an alternate for Sen. Watters, who was absent.

The motion was adopted.

14. The Committee discussed the response by the Department of Administrative Services, Division of Personnel to the Committee's preliminary objection to Final Proposal 2014-139 (Division of Personnel, Personnel Rules – Readoption and Various Amendments to Per 300 through Per 1500). Personnel Director Sarah Willingham and Kathleen Belanger of the Department of Administrative Services testified for the Division.

Rep. Schmidt moved that the Committee approve Final Proposal 2014-139 with the recommendation that the Division Director undertake rulemaking to address the annotations by Committee staff to Per 1002.04(b)(8) and (b)(9) in the Final Proposal.

Rep. Sad seconded.

Adopted.

Sen. Cataldo voted "no".

15. The Committee discussed Final Proposal 2015-2 from the Department of Safety (Commissioner, Pleas by Mail, Telephone and Online Rules). David Hilts and Sue Roy testified for the Department.

Sen. Cataldo moved that the Committee approve Final Proposal 2015-2.

Rep. Ladd seconded.

Adopted.

16. The Committee discussed Final Proposal 2015-29 from the Department of Safety (Mechanical Licensing Board, Mechanical Licensing Board Fees Rules). David Hilts and Jeffrey Cyr of the Department of Safety testified for the Board. Bill Twombly, Jr., Board Vice-Chair, also represented the Board.

The Department had submitted a conditional approval request on behalf of the Board in an amended rule dated April 16, 2015.

Rep. Hatch moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2015-29 based on the request.

Rep. Ladd seconded.

Adopted.

17. The Committee discussed Final Proposal 2015-27 from the Department of Safety (Mechanical Licensing Board, Mechanical Licensing Board Initial Licensure Rules). David Hilts and Jeffrey Cyr of the Department of Safety testified for the Board.

The Department had submitted a conditional approval on behalf of the Board in an amended rule dated April 16, 2015.

Sen. Feltes moved that the Committee accept the conditional approval request, with further amendments as identified in the Committee's discussion, and conditionally approve Final Proposal 2015-27 based on the request as amended.

Sen. Cataldo seconded.

Adopted.

18. The Committee discussed Final Proposal 2015-28 from the Department of Safety (Mechanical Licensing Board, Mechanical Licensing Board Renewal Licensure Rules). David Hilts and Jeffrey Cyr of the Department of Safety testified for the Board.

The Department had submitted a conditional approval request on behalf of the Board in an amended rule dated April 15, 2015.

Sen. Feltes moved that the Committee accept the conditional approval request, with the further amendment to substitute "shall" for "may" on the introductory language of Saf-Mec 403.01(f), and that the Committee conditionally approve Final Proposal 2015-28 based on the request as amended.

Sen. Cataldo seconded.

Adopted.

- 19 The Committee discussed the continued meeting scheduled for May 1, 2015.

It was the consensus of the Committee to cancel the meeting and postpone consideration of the following item to the regular meeting on May 15:

OTHER BUSINESS

18. 12:00 p.m.

Item #18 concerned a rulemaking petition by Richard Welch of Farmington to the N.H. Retirement System.

20. Rep. Schmidt moved that the Committee adjourn.

Seconded by all Committee members.

Adopted.

The Committee adjourned at 12:18 p.m.