



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

**Action Minutes**

**APRIL 25, 2014**

**Members Present:** Senators Reagan, Rausch, and Watters, and Representatives Schmidt, McGuire, MacKay, Sad, Gottling\*, Barry\*, 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 9:00 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sen. Rausch, Sen. Watters, Rep. Schmidt, Rep. McGuire, Rep. MacKay, Rep. Sad, Rep. Gottling, Rep. Barry, and Rep. Hatch.

Sen. Reagan designated Rep. Barry, Rep. Gottling, and Rep. Hatch as alternates, respectively, for Rep. Ladd, Sen. Lasky, and Sen. Cataldo.

2. The Committee discussed the following Final Proposals and Proposed Expedited Repeal (Consent Agenda – Final Proposals and Proposed Expedited Repeal):

FP 2013-129	BOARD OF EDUCATION Child Restraint Practices, Behavioral Interventions, Parental Consent, and Access to Public and Private Insurance
FP 2013-165	DEPARTMENT OF REVENUE ADMINISTRATION Property Assessment
FP 2013-170	DEPARTMENT OF ENVIRONMENTAL SERVICES Solid Waste Programs Solid Waste Rules: Definitions of "Vertical Expansion" and "Mechanically Stabilized Earth Berm"
FP 2013-171	DEPARTMENT OF ENVIRONMENTAL SERVICES Solid Waste Programs Solid Waste Program Procedural Rules
FP 2013-173	DEPARTMENT OF ENVIRONMENTAL SERVICES Solid Waste Programs Collection, Storage, and Transfer Facilities; Processing and Treatment Facilities; Composting Facilities; and Incineration Facilities
FP 2013-174	DEPARTMENT OF ENVIRONMENTAL SERVICES Solid Waste Programs Landfill Requirements

FP 2013-176	DEPARTMENT OF ENVIRONMENTAL SERVICES Solid Waste Programs Public Grants for Landfill and Incinerator Closure; Financial Assurance; Certification of Waste-Derived Products
FP 2013-182	UNEMPLOYMENT COMPENSATION APPELLATE BOARD Organizational Rules
FP 2013-225	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Public Health Services Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
FP 2014-7	DEPARTMENT OF SAFETY Toll-Free Hotline for Drug-Free School Zone
FP 2014-15	DEPARTMENT OF REVENUE ADMINISTRATION Municipal Matters
FP 2014-17	DEPARTMENT OF EMPLOYMENT SECURITY Successive Benefit Year Earnings Requirement
FP 2014-19	DEPARTMENT OF EMPLOYMENT SECURITY Notice of Claim and Verification Request
EXP 2014-1	DEPARTMENT OF ENVIRONMENTAL SERVICES Air Related Programs NOx Emissions Reduction Fund For NOx -Emitting Generation Sources - REPEAL

It was the consensus of the Committee to take Final Proposals 2013-165, 2013-174, 2013-176, and 2014-7 off the consent agenda.

Rep. McGuire moved that the Final Proposals and Proposed Expedited Repeal on the consent agenda be approved, with the exception of Final Proposals 2013-165, 2013-174, 2013-176, and 2014-7.

Rep. Sad seconded.

Adopted.

3. The Committee discussed the following response to the Committee's preliminary objection to the Final Proposal indicated (Consent Agenda – Response to Objection):

OR 2013-227 BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS  
Shop License, School License, School and Shop Additional Requirements

Rep. Schmidt moved that the Committee accept the response and approve the rules.

Sen. Rausch seconded.

Adopted.

4. The Committee discussed the minutes of the Committee meeting on March 25, 2014.

Sen. Watters moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed Final Proposal 2013-183 from the Unemployment Compensation Appellate Board (Rulemaking Petitions and Hearings, Declaratory Rulings, and Explanation of Adopted Rule). Maria Dalterio of the Department of Employment Security testified for the Board.

Rep. McGuire moved that the Committee approve Final Proposal 2013-183.

Sen. Rausch seconded.

Adopted.

6. The Committee discussed Proposed Interim Rule INT 2014-3 of the Pesticide Control Board (Aquatic Application of Pesticides). David Rousseau of the Department of Agriculture, Markets and Food testified for the Board.

Rep. Sad moved that the Committee approve Proposed Interim Rule INT 2014-3.

Rep. Barry seconded.

Adopted.

7. The Committee discussed Final Proposal 2013-151 of the Public Utilities Commission (Rules for Electric Service). Suzanne Amidon, Randy Knepper, and Thomas Frantz testified for the Commission.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2013-151 on the grounds as outlined in the annotations by Committee staff to rule Puc 306.09(b).

Rep. Schmidt seconded.

After further discussion, Rep. McGuire amended her motion to include, as grounds for the preliminary objection, all annotations by Committee staff to Final Proposal 2013-151.

Rep. Schmidt amended his motion.

The motion as amended was adopted.

8. The Committee discussed Proposed Interim Rule INT 2014-2 of the Department of Health and Human Services (Commissioner, New Hampshire Residential Child Care Licensing Rules). Michael Holt and Melissa Clement testified for the Department.

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2014-2.

Sen. Watters seconded.

Adopted.

9. The Committee discussed Final Proposal 2013-184 from the Pharmacy Board (Mail Order Pharmacy). Robert Stout testified for the Board.

Rep. MacKay had left the meeting by this time.

The following persons also testified:

Jodi Grimbilas, representing CVS Caremark, who also submitted written testimony from Michael Sargent.

Curtis J. Barry, representing Express Scripts.

Rep. Sad moved that the committee make a preliminary objection to Final Proposal 2013-184 on the grounds (1) as outlined in public testimony relative to the rules being contrary to legislative intent by requiring a “pharmacist-in-charge license and (2) Committee staff annotations, with the recommendation that the Board seek legislation for clear authority on separate fees for regular pharmacies vs. compounded pharmacies.

Sen. Waters seconded.

Adopted.

10. The Committee discussed the response by the Department of Safety to the Committee’s revised objection to Final Proposal 2013-105 (Motorcycle Rider Education Program Rules).

Sen. Rausch moved that the Committee accept the response and approve the rules.

Sen. Waters seconded.

Adopted.

11. The Committee discussed Final Proposal 2013-169 from the Department of Environmental Services (Water Quality and Quantity Programs, Public Bathing Places). Gretchen Hamel and Richard (Tim) Wilson testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-169 with the request that the Department provide information to answer Sen. Rausch’s question whether the Department is testing for cryptosporidium at beaches on public waters.

Rep. Hatch seconded.

Adopted.

12. The Committee discussed Final Proposal 2013-172 from the Department of Environmental Services (Solid Waste Programs, Solid Waste Program: Permits; Permits by Notification). Gretchen Hamel and Pamela Hoyt-Denison testified for the Department.

The Department had submitted a conditional approval request in a letter dated April 25, 2014 and amended rule dated April 24, 2014.

Rep. Hatch left the meeting during the discussion of this item.

Rep. McGuire moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-172 based on the request, with amendments to change the references to forms where they are incorporated by reference to “Personal Disclosure Form, dated 4-24-14” and “Business

Disclosure Form, dated 4-24-14” but also to use the acronyms “PDF” and “BDF” appropriately for the names of the forms after they are first mentioned.

Rep. Sad seconded.

Adopted.

13. The Committee discussed Final Proposal 2013-175 from the Department of Environmental Services (Solid Waste Programs, Management of Certain Wastes; Universal Facility Requirements; Additional Facility Requirements). Gretchen Hamel and Pamela Hoyt-Denison testified for the Department.

The Department had requested a conditional approval in a letter and amended rule dated April 24, 2014.

Sen. Rausch moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-175 based on the request.

Rep. Sad seconded.

Adopted.

14. The Committee discussed Final Proposal 2013-177 from the Department of Environmental Services (Solid Waste Programs, Solid Waste Facility Operator Training and Certification). Gretchen Hamel and Pamela Hoyt-Denison testified for the Department.

Rep. Barry moved that the Committee approve Final Proposal 2013-177 with the understanding that the Department would send the Department’s revised forms to the Committee staff for their review when the forms are completed.

Rep. McGuire seconded.

Adopted.

15. The Committee discussed Final Proposal 2013-178 from the Department of Environmental Services (Solid Waste Programs, Requirements for Acceptance of Wood Ash; Reduction of Toxics in Packaging; Inspections). Gretchen Hamel and Pamela Hoyt-Denison testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated April 22, 2014.

Rep. McGuire moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-178 based on the request.

Sen. Watters seconded.

Adopted.

16. The Department discussed Final Proposal 2013-174 of the Department of Environmental Services (Solid Waste Requirements, Landfill Requirements). Gretchen Hamel and Pamela Hoyt-Denison testified for the Department.

Rep. Hatch had returned to the meeting by this time.

Henry Veilleux, representing Waste Management Inc., also testified.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-174.

Rep. Hatch seconded.

Adopted.

17. The Committee discussed Final Proposal 2013-176 from the Department of Environmental Services (Solid Waste Programs, Public Grants for Landfill and Incinerator Closure; Financial Assurance; Certification of Waste-Derived Products). Gretchen Hamel and Pamela Hoyt-Denison testified for the Department.

Henry Veilleux, representing Waste Management, Inc., also testified.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-176.

Rep. Sad seconded.

Adopted.

18. The Committee discussed Final Proposal 2014-7 from the Department of Safety (Toll-Free Hotline for Drug-Free School Zone). Larry Crowe testified for the Department, but had actually appeared to testify on the Department's response to the Committee's revised objection to Final Proposal 2013-105 (Motorcycle Rider Education Program Rules) which the Committee had approved earlier in the meeting.

Rep. McGuire moved that the Committee approve Final Proposal 2014-7.

Rep. Barry seconded.

Adopted.

19. The Committee discussed Final proposal 2013-165 from the Department of Revenue Administration (Property Assessment). Kathryn Skouteris and Stephan Hamilton testified for the Department.

The following persons also testified:

Barbara Reid, representing the N.H. Municipal Association.

Gary Roberge, representing Avitar Association.

James Michaud, representing the Municipal Assessing Administration, submitted written testimony but did not speak.

Rep. McGuire moved that the Committee approve Final Proposal 2013-165 with the understanding that for those rules not containing a limitation on their applicability, such rules are not limited in scope to contracts for reassessments ordered by the Board of Tax and Land Appeals.

Rep. Hatch seconded.

Adopted.

20. The Committee discussed whether the continued meeting scheduled for May 2, 2014 was still necessary.

It was the consensus of the Committee to cancel the May 2 meeting.

21. As there was no other business, Sen. Rausch moved that the Committee adjourn.

Sen. Watters seconded.

Adopted.

The Committee adjourned at 12:06 p.m.