



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

Action Minutes

APRIL 26, 2019

Members Present: Representatives Hatch, McGuire, Schmidt, Hoelzel, Lang*, Schuett*, Karrick*, Fontneau*, and Sytek*, and Senators Reagan, Ward, and Gray*. (*) 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. Hatch as Chair.

Members present at this time, aside from Rep. Hatch, were Reps. Hoelzel, Lang, Karrick, Fontneau, and Sytek, and Senators Reagan, Ward, and Gray.

Rep. Hatch designated Rep. Fontneau as an alternate for Rep. Williams, who was absent. Rep. Hatch also designated Rep. Karrick, Rep. Sytek, and Rep. Lang as alternates, respectively, for Sen. Kahn, Sen. Feltes, and Sen. Dietsch, who also were absent. Sen. Gray was not a voting member at this time.

2. The Committee discussed the minutes of the Committee meeting on March 15, 2019.

Sen. Reagan moved that the minutes be approved.

Rep. Lang seconded.

Adopted.

Rep. Schuett and Rep. McGuire arrived in the meeting at this time.

3. The Committee discussed the following items on the Consent Agenda:

CONSENT AGENDA

2. 9:15 a.m. Committee Approval of Final Proposals and Proposed Expedited Amendments to Incorporation by Reference:

FP 2018-181	DEPARTMENT OF ENVIRONMENTAL SERVICES Air Related Programs Testing and Monitoring Procedures
FP 2018-182	FISH AND DEPARTMENT Closure of Portion of Bellamy River to Waterfowl Hunting and Licensing of Guides
FP 2018-193	DEPARTMENT OF ENVIRONMENTAL SERVICES Water Quality and Quantity Programs Amendments Relative to Accessory Structures Under RSA 483-B
FP 2018-200	BOARD OF PROFESSIONAL GEOLOGISTS Amendment of Examination Fees

- FP 2018-211 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Mitigation of Regional Haze
- FP 2019-4 BOARD OF EDUCATION
School Year
- FP 2019-11 BOARD OF REGISTRATION IN OPTOMETRY
Change in Continuing Education Requirements
- FP 2019-18 BOARD OF MENTAL HEALTH PRACTICE
Continuing Education Requirements
- FP 2019-26 INSURANCE DEPARTMENT
Standards and Procedures for the Filing of Property and Casualty Insurance
Forms and Rates
- FP 2019-29 BOARD OF PSYCHOLOGISTS
License Renewal
- FP 2019-30 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Unwed Minor Parent Living Arrangement Requirements Within the Financial
Assistance to Needy Families (FANF) Program and Parents and Other Caretaker
Relatives Medically Needy Medical Assistance
- FP 2019-31 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Health Professions Survey
- FP 2019-36 INSURANCE DEPARTMENT
Standards for Preparing Annual Life Insurance Disclosures
- FP 2019-40 OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
Fees
- EXIR 2019-1 BOARD OF NURSING
Change to Model Rules
- EXIR 2019-2 DEPARTMENT OF SAFETY
Commissioner
Commercial Vehicle Out-of-Service Criteria (OOSC) Update

3. Committee Conditional Approvals:

- FP 2018-163 FISH AND GAME DEPARTMENT
Bait Fish, Fishing Tournaments, Importation of Bait Fish, Licensing and Permitting
of Dealers and Importers

Sen. Reagan moved that the Committee remove Final Proposal 2019-40 from the Consent Agenda.

Rep. Lang seconded.

Adopted.

The Committee then discussed Final Proposal 2019-40 from the Office of Licensed Allied Health Professionals (Fees) with Thomas Broderick and Tina Kelley from the Office of Professional Licensure and Certification.

Rep. Schmidt arrived during the discussion of this item.

Sen. Reagan moved that the Committee approve the Consent Agenda except for Final Proposal 2019-40, that is, approve the other Final Proposals in Item #2 and the Proposed Expedited Amendments to Incorporation by Reference in Item #2 and conditionally approve Final Proposal 2018-163 in Item #3 based on the agency's conditional approval request.

Rep. Schmidt seconded.

Adopted.

Sen. Reagan moved that the Committee approve Final Proposal 2019-40.

Rep. Schmidt seconded.

Adopted.

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

Senator Reagan moved that the Committee postpone action on the following Item #12 to the continued Committee meeting on May 3, 2019 and on Item #9(b) to the regular meeting on May 17:

**12. DEPARTMENT OF ENVIRONMENTAL SERVICES
WETLANDS PROGRAMS**

- (a) FP 2018-181 Wetlands: Definitions, Access to Files
(JLCAR Deadline May 6, 2019.)
- (b) FP 2018-185 Wetlands: Hearings, Appeals, and Waivers
(JLCAR Deadline May 6, 2019.)
- (c) FP 2018-186 Wetlands: Permits and Other Authorizations, Conditions Applicable to
All Work in Jurisdictional Areas
(JLCAR Deadline May 6, 2019.)
- (d) FP 2018-187 Wetlands: Delineation and Classification of Jurisdictional Areas,
Classification of Projects
(JLCAR Deadline May 6, 2019.)

- (e) FP 2018-188 Wetlands: Project-Specific Requirements
(JLCAR Deadline May 6, 2019.)
- (f) FP 2018-189 Wetlands: Coastal Lands and Tidal Waters and Wetlands
(JLCAR Deadline May 6, 2019.)
- (g) FP 2018-190 Wetlands: Prime Wetlands
(JLCAR Deadline May 6, 2019.)
- (h) FP 2018-191 Wetlands: Compensatory Mitigation
(JLCAR Deadline May 6, 2019.)
- (i) FP 2018-192 Wetlands: Stream Crossings; Certified Culvert Maintainer Program
(JLCAR Deadline May 6, 2019.)

9(b). DEPARTMENT OF SAFETY

- OR 2018-156 Commissioner
Emergency Medical Services Rules
(JLCAR Deadline June 18, 2019.)

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed Final Proposal 2019-7 from the Board of Septic System Evaluators (Procedural Rules). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Mr. Broderick requested a conditional approval of Final Proposal 2019-7 on the ground that Sep 216.02(c) be amended to read: "(c) Written comments, which may be submitted in lieu of or in addition to oral testimony, shall be accepted until the close of the public hearing if stated in the rulemaking notice."

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-7 as requested.

Rep. Schmidt seconded.

Adopted.

6. The Committee discussed Final Proposal 2019-32 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Certification Standards for Developmental Services Community Residences). Kim Reeve and Peter Bacon testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2019-32.

Rep. McGuire seconded.

Adopted.

7. The Committee discussed Proposed Interim Rule INT 2019-11 from the Department of Health and Human Services (Commissioner, Child Placing Agency Licensing Requirements). Kim Reeve and James Ponzer testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-11.

Sen. Ward seconded.

Adopted.

8. The Committee discussed Final Proposal 2019-27 from the Department of Safety (Commissioner, Self-Dialing Telephone Alarm Systems). Keith Lohmann testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2019-27.

Sen. Reagan seconded.

Adopted.

The Chair noted that there was a “no” vote from Rep. McGuire.

9. The Committee discussed the response by the Accessing Standards Board to the Committee’s preliminary objection to Final Proposal 2019-2 (Certification of Accessors). Board Chair Betsy Patten and Mary Pinkham-Langer testified for the Board.

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

Rep. Schmidt seconded.

Adopted.

10. After a break, with Reps. Hatch, McGuire, Schmidt, Hoelzel, Lang, Karrick, Fontneau, and Sytek, and Sens. Ward and Gray present, the Committee discussed Final Proposal 2018-203 from the Department of Corrections (Control of Contraband on Departmental Property). Chris Kench testified for the Department.

Rep. Hatch designated again Rep. Fontneau as an alternate for Rep. Williams, Rep. Karrick as an alternate for Sen. Kahn, and Rep. Sytek as an alternate for Sen. Feltes, and also designated Sen. Gray as an alternate for Sen. Reagan, as all of these regular members were absent.

Christopher Dornin and Thomas Adams also spoke briefly.

Rep. McGuire moved that the Committee approve Final Proposal 2018-203.

Sen. Ward seconded.

Adopted.

11. The Committee discussed Final Proposal 2018-204 from the Department of Corrections (Authorized Searches and Inspections in State Correctional Facilities). Chris Kench testified for the Department.

Rep. Hoelzel moved that the Committee approve Final Proposal 2018-204.

Rep. Schmidt seconded.

Adopted.

12. The Committee discussed Final Proposal 2018-208 from the Department of Corrections (Correctional Classification System). Chris Kench testified for the Department.

The Department had submitted a conditional approval in a letter and amended rules dated April 23, 2019.

Sen. Ward moved that the Committee conditionally approve Final Proposal 2018-208 based on the request.

Rep. McGuire seconded.

Adopted.

13. The Committee discussed Final Proposal 2018-209 from the Department of Corrections (Standards for Health, Medical, and Behavioral Health in Corrections Facilities). Chris Kench testified for the Department.

Rep. McGuire moved that the Committee postpone action on Final Proposal 2018-209 to the regular Committee meeting on May 17, 2019.

Rep. Schmidt seconded.

Adopted.

Rep. Lang returned to the meeting during the discussion of this item and was still an alternate for Sen. Dietsch.

14. The Committee discussed the notice from the Office of Professional Licensure and Certification of its use of the Jus 800 Model Rules of Practice and Procedure from the Department of Justice in an adjudicative hearing on May 14, 2019 relative to massage therapy.

No further action was taken.

15. Rep. McGuire moved that the Committee recess till May 3.

Rep. Schmidt seconded.

Adopted.

The Committee recessed at 10:00 a.m.