



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

JUNE 15, 2018

Members Present: Senators Reagan, Feltes, Avard, French, Kahn, and Ward*, and Representatives McGuire, Schmidt, Hatch, Wolf, and Matthews*. (*) 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 9:04 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sens. Feltes, French, and Ward, and Reps. McGuire, Schmidt, Hatch, Wolf, and Matthews.

Sen. Reagan designated Sen. Ward and Rep. Matthews as alternatives, respectively, for Sen. Avard and Rep. Lang, who were absent.

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

CONSENT AGENDA

2. Committee Approval of Final Proposals, Proposed Interim Rules, and Proposed Expedited Repeals:

FP 2017-171	DEPARTMENT OF ENVIRONMENTAL SERVICES Amendments Relative to Groundwater Discharges of Wastewater Containing 1,4-Dioxane and the Required Response to Exceedances of Ambient Groundwater Quality Standards
FP 2017-172	DEPARTMENT ENVIRONMENTAL SERVICES Oil and Remediation Programs Amendments to Ambient Groundwater Quality Standards (AGQS).
FP 2018-54	OFFICE OF STRATEGIC INITIATIVES Governor's Scholarship Program
FP 2018-55	DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD Livestock Dealer Licensing
FP 2018-56	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Treatment of Combat-Related Pay for FANF Cash Assistance Programs
FP 2018-63	INSURANCE DEPARTMENT Replacement of Individual Ancillary Health Coverage (JLCAR Deadline July 2, 2018. Former regular rules expired April 17, 2014.)
FP 2018-69	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Expiring Rules Related to Telephone Applications

INT 2018-13	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Public Health Services Ambulatory Surgical Centers
INT 2018-14	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Mental Health and Developmental Services Children's Special Medical Service
EXP 2018-1	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Child Support Disbursement Fee

3. Committee Conditional Approvals:

FP 2018-50	INSURANCE DEPARTMENT Health and Dental Benefit Plan Network Adequacy
FP 2018-65	DEPARTMENT OF HEALTH AND HUMAN SERVICES Division of Elderly and Adult Services Nursing Facility Reimbursement – Methodology for Determining the Per Diem Rate
FP 2018-77	DEPARTMENT OF SAFETY Commissioner Rules for Breath Alcohol Procedures Using the Intoxilyzer 9000 Instrument

Rep. McGuire moved that the Committee approve the Consent Agenda, that is, (1) approve the Final Proposals, Proposed Interim Rules, and Proposed Expedited Repeal in Item #2, and (2) conditionally approve the Final Proposals in Item #3 based on the agency's amended conditional approval request for Final Proposal 2018-50 and the agencies' conditional approval requests for Final Proposal 2018-65 and Final Proposal 2018-77.

Rep. Schmidt seconded.

Debra McCann testified briefly about Final Proposal 2018-54 from the Office of Strategic Initiatives (Governor's Scholarship Program).

The motion was adopted.

3. The Committee discussed the minutes of the Committee meeting on May 18, 2018.

Rep. McGuire moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

4. The Committee discussed Final Proposal 2017-163 from the Public Utilities Commission (Utility Pole Attachment Rules). David Wiesner testified for the Commission.

The Commission had submitted a conditional approval request in a letter and amended rules dated June 13, 2018.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2017-163 based on the request.

Rep. Schmidt seconded.

Susan Geiger, representing Comcast NBCU and New England Cable and Telecommunications Association, Inc., (NECTA), testified briefly and had previously submitted written testimony.

The following persons also had previously submitted written testimony:

Ellen G. Scarponi, representing N.H. for Consolidated Communications, in testimony signed also by Donna Gamache, representing Eversource; Huck Montgomery, representing Liberty Utilities; Mark W. Dean, representing New Hampshire Electric Co-Op; Scott A. Brooks, representing TDS Telecommunications Corporation; and Carleton B. Simpson, representing Unifil.

Pamela H. Hollick, representing CenturyLink.

Benjamin J. Aron, representing CTIA – The Wireless Association.

Brian T. Shepperd, representing the University of New Hampshire.

The motion was adopted.

5. The Committee discussed Proposed Interim Rule INT 2018-11 from the N.H. Veterans' Home (Home). Margaret LaBrecque, Commandant, testified for the Home.

Sen. Feltes moved that the Committee approve Proposed Interim Rule INT 2018-11.

Sen. French seconded.

Adopted.

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

6. The Committee discussed Proposed Interim Rule INT 2018-12 from the N.H. Veterans' Home (Home). Margaret LeBrecque, Commandant, testified for the Home.

Sen. Kahn and Sen. Avard arrived during the discussion of this item. Sen. Ward therefore was no longer a voting member.

Sen. Feltes moved that the Committee approve Proposed Interim Rule INT 2018-12.

Rep. Hatch seconded.

Adopted.

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

7. The Committee discussed Proposed Interim Rule INT 2018-15 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Family Support Services). David Newton testified for the Department.

Sen. Feltes moved that the Committee approve Proposed Interim Rule INT 2018-15 with the understanding that the Department, as indicated by Mr. Newton, would address in regular rulemaking the comments in the annotations by Committee staff to the Proposed Interim Rule.

Rep. McGuire seconded.

Adopted.

8. The Committee discussed Final Proposal 2017-181 from the Fish and Game Department (Agency Action Against Holders of Licenses, Registrations, and Permits). Paul Sanderson testified for the Department.

Sen Feltes moved that the Committee approve Final Proposal 2017-181.

Sen. Avard seconded.

Adopted.

9. The Committee discussed Final Proposal 2018-33 from the Fish and Game Department (Off Highway Recreation Vehicles and Snowmobiles). Paul Sanderson testified for the Department.

The following persons also testified and provided written testimony:

Steve Lord, representing Southern N.H. Snowslickers.

Dan Leclair, representing Bridgewater Mountain Snowmobile Club.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2018-33 on the grounds (1) as outlined in the annotations by Committee staff to the Final Proposal, and (2) as outlined in public testimony.

Sen. Feltes seconded.

Adopted.

10. The Committee discussed Final Proposal 2018-39 from the Fish and Game Department (Wildlife Seasons Biennial Rulemaking). Paul Sanderson and Mark Ellingwood testified for the Department.

Aside from public testimony received prior to the meeting, the following persons registered their opposition to the Final Proposal but did not speak:

Ruth Tanner Isaks, representing Voices of Wildlife, who also submitted written testimony in the meeting and had previously submitted written testimony.

Linda Dionne, representing Voices of Wildlife, who had previously submitted written testimony.

Danielle Erikson.

Chris Schadler.

Lindsay Hamnick, representing the Humane Society of the United States, who had previously submitted written testimony.

Weldon Bosworth, who had previously submitted written testimony.

Rep. Hatch moved that the Committee make a preliminary objection to Final Proposal 2018-39 on the ground that the Final Proposal is contrary to the public interest because the Department had failed to consider fully all public comment pursuant to RSA 541-A:11, and recommended that the Department hold another rulemaking hearing and work with Committee staff to ensure that all public comments submitted to the Committee are considered.

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed RSA 200:29 on school nurses in relation to Final Proposal 2017-53 from the Board of Education, which the Committee had conditionally approved on September 21, 2017.

12. The Committee discussed the continued Committee meeting scheduled on June 29, 2018.

It was the consensus of the Committee to cancel the continued meeting.

13. The Committee adjourned by consensus at 10:10 a.m.