



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

Action Minutes

SEPTEMBER 19, 2013

Members Present: Senators Reagan, Cataldo, Lasky, and Watters, and Representatives Schmidt, McGuire, MacKay, Ladd, Hatch*, and Barry*. (*) 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 the 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 Sens. Cataldo and Watters, and Reps. Schmidt, McGuire, MacKay, and Ladd.

2. The Committee discussed the minutes of the Committee meeting on September 5, 2013.

Sen. Cataldo moved that the minutes be approved.

Rep. McGuire seconded.

Adopted.

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

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

8. DEPARTMENT OF HEALTH AND HUMAN SERVICES

- (d) INT 2013-12 Former Office of Alcohol and Drug Abuse Prevention
Impaired Driver Programs - Out-of-State Residents
(JLCAR Deadline December 4, 2013. Rule implements 2013, 219:5 (SB 20), effective July 11, 2013.)

Rep. McGuire seconded.

Adopted.

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

FP 2013-66 PEASE DEVELOPMENT AUTHORITY
State Owned Commercial Piers And Associated Facilities

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- FP 2013-68 FISH AND GAME DEPARTMENT
2014 Fishing Rules
- FP 2013-71 OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
Pre-Hearing Disclosure of Witnesses and Exhibits
- FP 2013-86 DEPARTMENT OF ENVIRONMENTAL SERVICES
Division of Water
Official List of Public Waters
- FP 2013-95 ELECTRICIANS' BOARD
Electricians' Board Rules of Practice and Procedure
- FP 2013-96 ELECTRICIANS' BOARD
Electricians' Board Rules Regarding Application Procedures, Approval Process,
Qualifications, Examinations, Fees, Continued Status, Lapse of License, Continuing
Education, General Administration, and Disciplinary Action
- FP 2013-97 ELECTRICIANS' BOARD
Electricians' Board Organizational Rules
- FP 2013-98 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Medicaid Hospital Service Limits
- FP 2013-99 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Home Visit for Postpartum and Newborn Assessment
- FP 2013-100 REAL ESTATE APPRAISER BOARD
Rules Regarding Reciprocity and Temporary Permits

Rep. Ladd moved that the Final Proposals be approved.

Sen. Watters seconded.

Adopted.

5. The Committee discussed Final Proposal 2013-56 from the Board of Licensure for Land Surveyors (Rules Regarding Application, Examination Fees, and Examination and Re-examination Requirements). Louise Lavertu of the Joint Board for Licensure and Certification testified for the Board of Licensure for Land Surveyors.

Rep. McGuire moved that the Committee approve Final Proposal 2013-56.

Rep. Schmidt seconded.

Adopted.

6. The Committee discussed Final Proposal 2013-28 from the Department of Health and Human Services (Former Division of Public Health Services, Ophthalmic Dispensing). John Martin and Christine Topham testified for the Department.

Rep. Hatch and Sen. Lasky arrived during the discussion of this item.

The following persons also testified:

Richard Bouley, representing the N.H. Opticians Society.

Richard Murphy, representing the N.H. Opticians Society.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2013-28 on the ground that the Department does not have statutory authority to issue a permanent waiver.

Rep. Ladd seconded.

Adopted.

At this time Sen. Reagan designated Rep. Hatch and Rep. Barry as alternates, respectively, for Rep. Sad and Sen. Rausch, who were absent.

7. The Committee discussed Final Proposal 2013-27 from the Department of Health and Human Services (Former Division of Public Health Services, Body Art Licensing). John Martin and Michael Holt testified for the Department.

Rep. McGuire moved that the Committee approve Final Proposal 2013-27.

Rep. MacKay seconded.

Adopted.

8. The Committee discussed Final Proposal 2013-92 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Community Participation Services). Raymond Perry and Matthew Ertas testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated September 18, 2013.

Sen Watters moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-92 based on the request.

Rep. MacKay seconded.

Adopted.

9. The Committee discussed a request from the Department of Health and Human Services to the Acting Director of the Office of Legislative Services to allow editorial changes to existing rules He-M 202, He-M 510, He-M 513, He-M 519, He-M 525, He-M 1001, and He-M 1002 due to changes to Department forms in Final Proposal 2013-92.

Rep. McGuire moved that the Committee recommend to the Acting Director of the Office of Legislative Services that she accept the requested changes to the designated rules as editorial changes.

Sen. Watters seconded.

Adopted.

10. The Committee discussed a memo from Committee staff regarding the status of rules of the former Postsecondary Education Commission and rulemaking authority of the Higher Education Commission in light of a memo to Senator Reagan from the Higher Education Commission dated September 10, 2013.

Rep. McGuire moved that the Committee recommend to the Office of Legislative Services that there be training for bill drafters on the issue of rules transfer and legislative repeal of rules.

Rep. Schmidt seconded.

Adopted.

Sen. Watters and Sen. Lasky left during the discussion of this item.

Rep. Ladd moved that the Committee recommend to the Acting Director of the Office of Legislative Services that she consider rules Pos 600-900 and Pos 1600 as having been effectively repealed by the legislature by 2011, 204:125, IX.

Rep. McGuire seconded.

After further discussion, Rep. Ladd withdrew his motion, and Rep. McGuire withdrew her second.

It was the consensus of the Committee that further discussion of this item be postponed to the next Committee meeting.

11. The Committee discussed Final Proposal 2013-90 from the Board of Dental Examiners (Board Fees, Examination for Licensure, Expanded Functions for Dental Auxiliaries, and Hygienists Ethical Duties).

The Board had submitted a conditional approval request in an amended rule dated September 17, 2013.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-90 based on the request.

Rep. Hatch seconded.

Adopted.

Sen. Reagan noted for the record that Rep. McGuire was opposed.

12. After a break, with Sens. Reagan and Cataldo, and Reps. Schmidt, McGuire, MacKay, Ladd, Barry, and Hatch present, the Committee discussed Final Proposal 2013-38 from the Department of Environmental Services (Air Related Programs, General Recordkeeping Requirements for Combustion Devices). Gretchen Hamel testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-38.

Rep. Hatch seconded.

Adopted.

13. The Committee discussed Final Proposal 2013-39 from the Department of Environmental Services (Air Related Programs, Fuel Specifications). Gretchen Hamel testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-39.

Rep. Hatch seconded.

Adopted.

14. The Committee discussed Final Proposal 2013-40 from the Department of Environmental Services (Air Related Programs, Particulate and Visible Emissions Standards for Stationary Fuel Burning Devices). Gretchen Hamel testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-40.

Rep. Hatch seconded.

Adopted.

15. The Committee discussed Final Proposal 2013-34 from the Higher Education Commission (Degree Granting Higher Ed Institutions). Patricia Edes 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 September 19, 2013 but received on September 18, 2013.

Rep. McGuire moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-34 based on the request.

Rep. Schmidt seconded.

Adopted.

16. The Committee discussed Final Proposal 2013-87 from the Liquor Commission (Rules Governing Licensee Operations). Scott Dunn, Ivan Bass, and Richard Gerrish testified for the Commission.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-97.

Sen. Cataldo seconded.

Adopted.

17. The Committee discussed Final Proposal 2013-88 from the Liquor Commission (Rules Relating to Particular Licensees). Scott Dunn, Ivan Bass, and Richard Gerrish testified for the Commission.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2013-88 on the condition that Liq 508.08(a) be amended to delete the words "no less than" and that Liq 509.01(f) be amended to insert the word "may" after "The Commission..." and insert the word "only" after the word "privilege".

Rep. MacKay seconded.

Adopted.

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18. The Committee discussed Final Proposal 2013-89 from the Liquor Commission (Licensee Licensing and Physical Requirements Required for New or Renewal Applications for Licenses). Scott Dunn, Ivan Bass, and Richard Gerrish testified for the Commission.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2013-89 on the ground that the rules were contrary to the public interest by a lack of clarity regarding the Commission's forms.

Rep. Barry seconded.

Adopted.

19. The Committee discussed Final Proposal 2013-106 from the Liquor Commission (Application, Listing and Delisting Procedures). Scott Dunn, Ivan Bass, and Richard Gerrish testified for the Commission.

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

It was the consensus of the Committee that this item be postponed to the next Committee meeting.

20. The Committee discussed whether the next Committee meeting would be the continued meeting date scheduled for October 3, 2013 or the regular meeting scheduled for October 17, 2013.

It was the consensus of the Committee that the next meeting be the continued meeting on October 3, 2013, and that agency responses to Committee objections be on the agenda if they are received prior to that date.

21. The Committee discussed having sample, completed rulemaking documents inserted in the Drafting and Procedure Manual for Administrative Rules.

It was the consensus of the Committee that such documents be included, for example in new appendices, in the proposed amendments Committee staff is preparing to the Manual.

22. The Committee recessed by consensus at 11:43 a.m.