



Action Minutes

September 21, 2023

Members Present: Senators Chandley, Gray*, Lang, and Ward, and Representatives McGuire, Grote*, Hakken-Phillips*, Layon, Lynn, and Schmidt. (*) 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 Senators Chandley, Gray, Lang, and Ward, and Representatives Grote*, Hakken-Phillips*, Layon, Lynn, and Schmidt.

Rep. McGuire designated Rep. Hakken-Phillips as an alternate for Rep. Hatch, who was absent.

Rep. McGuire designated Rep. Grote as an alternate for Sen. Whitley, who was absent.

Rep. McGuire designated Sen. Gray as an alternate for Sen. Innis, who was absent.

2. The Committee discussed the minutes of the continued Committee meeting on August 31, 2023.

Rep. Schmidt moved that the minutes be approved.

Sen. Lang seconded.

Adopted.

Senators Ward and Whitley joined the meeting at this time.

Representative Grote's designation for Sen. Whitley was removed.

3. The Committee discussed postponing Final Proposal 2023-12 and Final Proposal 2023-82 to its meeting on October 19, 2023.

Sen. Lang moved to approve the postponement of Final Proposal 2023-12 and Final Proposal 2023-82 and to seek waivers of the Committee's deadline to act on Final Proposal 2023-12 and Final Proposal 2023-82.

Rep. Schmidt seconded.

Adopted.

4. The Committee noted that Final Proposal 2023-149 from the Department of Health and Human Services, containing He-W 685.01 and He-W 885.01, was withdrawn.

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

CONSENT AGENDA

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|--------------------|--|
| FP 2023-37 | BOARD OF EDUCATION
Special Education – 21 Inclusive
Ed 1100 various |
| FP 2023-46 | BOARD OF SEPTIC SYSTEM EVALUATORS
Definitions, Organization, and Public Information
Sep 100 |
| FP 2023-47 | BOARD OF SEPTIC SYSTEM EVALUATORS
Rules of the Practice and Procedure
Sep 200 |
| FP 2023-90 | PUBLIC UTILITIES COMMISSION
Alternative Regulation
Puc 206 |
| FP 2023-91 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Collection Action on Claims
He-W 708.01 |
| FP 2023-140 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Erroneously Paid Assistance
He-W 692.02 and He-W 692.03 |
| FP 2023-147 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Case Decisions and Notices for Financial and Medical Assistance
He-W 604.01-He-W 604.03 and He-W 804.01-He-W 804.03 |
| FP 2023-148 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Standard of Need for Adult Categories of Financial and Medical Assistance
He-W 658.02, He-W 658.03, and He-W 858.03 |
| FP 2023-151 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Reimbursement of Financial and Medical Assistance
He-W 690.01 and He-W 890.01 |
| FP 2023-158 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Use of Money Payments
He-W 608.01 |
| | DEPARTMENT OF HEALTH AND HUMAN SERVICES |

Action Minutes
September 21, 2023
Page 3

- FP 2023-110** Former Division of Mental Health and Developmental Services
Complaint Resolution Procedures for Family-Centered Early Supports and Services
He-M 203.02, He-M 203.05, and He-M 203.12
- FP 2023-130** DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Coastal Lands and Tidal Waters/Wetlands
Env-Wt 600 various
- FP 2023-139** INSURANCE DEPARTMENT
Group Coordination of Benefits
Ins 1904
- FP 2023-155** DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
NH Residential Child Care Licensing Rules – Homeless Youth Program
He-C 4001.28
- FP 2023-157** DEPARTMENT OF ENVIRONMENTAL SERVICES
Commissioner
Administrative Fines
Env-C 600
- EXRF 2023-8** LIQUOR COMMISSION
Initial License Application
Liq 702.02(a)
- OR 2023-61** REAL ESTATE APPRAISER BOARD
Continued Status
Rab 400
- FP 2023-36** DEPARTMENT OF EMPLOYMENT SECURITY
Failure to Report for Employment Services
Emp 501.14
- FP 2023-88** BOARD OF LANDSCAPE ARCHITECTS
Continued Status
Lsa 400 various
- FP 2023-95** BOARD OF EDUCATION
School Facility Approvals
Ed 318.08, Ed 318.13, and Ed 320
- FP 2023-112** PUBLIC UTILITIES COMMISSION
Rules for Gas Service
Puc 500

Action Minutes
September 21, 2023
Page 4

- FP 2023-129** DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Wetlands Project-Specific Requirements
Env-Wt 500 various
- FP 2023-131** DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Wetlands Compensatory Mitigation
Env-Wt 800 various
- FP 2023-132** DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Wetlands Permits and Other Authorizations, Conditions Applicable to All Work
in Wetlands Jurisdictional Areas
Env-Wt 300 various
- FP 2023-145** DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Age Requirements for Financial and Medical Assistance
He-W 632.01 and He-W 832.01
- FP 2023-153** DEPARTMENT OF ENVIRONMENTAL SERVICES
Cross-Program Rules
Certification of Wastewater Treatment Plant Operators
Env-Wq 304

Sen. Lang moved that the Committee accept and approve the Consent Agenda, that is, approve Final Proposals 2023-37, 2023-46, 2023-47, 2023-90, 2023-91, 2023-140, 2023-147, 2023-148, 2023-151, 2023-158, 2023-110, 2023-130, 2023-139, 2023-155, and 2023-157 and objection response 2023-61; conditionally approve Final Proposals 2023-36, 2023-88, 2023-95, 2023-112, 2023-129, 2023-131, 2023-132, 2023-145, 2023-153, and approve EXRF 2023-8; and approve Objection Response 2023-61.

Rep. Lynn seconded.

Committee staff informed the Committee that one item on the Consent Agenda, Final Proposal 2023-36, had a late-filed conditional approval request and that the Committee would need to act on the request before voting on the Consent Agenda.

Rep. McGuire moved to accept the late-filed conditional approval request for Final Proposal 2023-36.

Sen. Lang seconded.

Adopted.

Sen. Lang moved that the Committee accept and approve the Consent Agenda as revised.

Rep. Lynn seconded.

Adopted.

6. The Committee discussed Final Proposal 2023-27 from the Board of Medicine (Physician Assistants). Tina Kelley and Lindsey Courtney from the Office of Professional Licensure and Certification testified for the Board. The Board had submitted a Conditional Approval Request in amended rules dated 9/6/2023 and an amended Conditional Approval Request in amended rules dated 9/14/2023.

Sen. Gray moved to conditionally approve Final Proposal 2023-27 based on the amended request and on amending Med 610.02 to incorporate the language suggested by JLCAR staff on the amended request text, specifically to add, at the end of the sentence after “practicing”, the words “, except as allowed by Med 602.03(d).

Rep. Layon seconded.

Adopted.

7. The Committee discussed Final Proposal 2023-80 from the Pease Development Authority (State-Owned Commercial Piers and Associated Facilities). Geno Marconi, the Director of Ports and Harbors, testified for the Authority. The Authority had submitted a Conditional Approval Request in amended rules dated 9/19/2023.

Sen. Lang moved to conditionally approve Final Proposal 2023-80 based on (1) the conditional request; (2) amending Pda 609.01 to include the requirements “pier use location” and “if a Skiff Permit is required” into the rule text; (3) amending Pda 609.02 to include the requirements “pier use location” and which address the applicant requests be used as the correspondence address by the division; (4) amending Pda 609.04 to remove the requirement for a business fax, if the applicant has one, from the rule text and to include in the certification statement in the rule text to say “my placement”; (5) amending Pda 609.06 to remove the option of “Seasonal Overnight” in the “Parking For” section on the “Daily Seasonal Parking Application and Permit” form; and (6) amending Pda 609.010 to remove the requirement in the rule text that the application include the season for which the seasonal overnight parking permit is sought.

Sen. Lynn seconded.

Adopted.

8. The Committee discussed Final Proposal 2023-111 from the Department of Health and Human Services, Former Division of Mental Health and Developmental Services (Family-Centered Early Supports and Services). Allyson Raadmae testified for the Department. The Department was also represented by Nicole Bushaw. The Department had submitted a Conditional Approval Request in amended rules dated 9/13/2023 and an amended Conditional Approval Request made on the record.

Senator Lang moved to conditionally approve Final Proposal 2023-111 based on the conditional approval request and amended conditional approval request, but with the understanding that the Department would amend the waiver form in the Expediated Revision to Form process to remove the language that only an area agency can request a waiver.

Rep. Lynn seconded.

Adopted.

9. The Committee discussed Final Proposal 2023-156 from the Fish and Game Department (Interference with Hunting, Trapping, or Fishing). Martha Mobley and Captain Michael Eastman testified for the Department.

Sen. Lang moved to approve Final Proposal 2023-156.

Sen. Gray seconded.

Adopted.

10. The Committee discussed Proposed Interim Rule 2023-5 from the Office of Professional Licensure and Certification (License by Endorsement). Lindsey Courtney testified for the Office. The Office had submitted a Conditional Approval Request in a letter and amended rules dated 9/14/23 and an amended Conditional Approval Request in rules dated 9/19/2023.

Steven Rancourt testified regarding his concerns with Proposed Interim Rule 2023-5 and offered suggested amendments to the rule.

Sen. Lang moved to conditionally approve Proposed Interim Rule 2023-5 based on the amended request, with the understanding that the Office would consult with the boards when starting, and throughout, the regular rulemaking process for these rules and that the Office will amend the Appendix in regular rulemaking to include any statutory authority for statutory requirements the Office is incorporating into these rules, regardless if they are Office statutes or Board statutes.

Rep. Lynn seconded.

Adopted.

11. The Committee discussed Final Proposal 2023-137 from the Department of Environmental Services, Hazardous Waste Programs (Fines Relating to Hazardous Waste Management). Pam Monroe and Kerry Barnsley testified for the Department.

Sen. Gray left the meeting at this time and did not return.

Sen. Lang moved to postpone Final Proposal 2023-137.

Rep. Schmidt seconded.

Adopted.

12. The Committee discussed the Objection Response to Final Proposal 2023-89 from the Department of Health and Human Services, Commissioner (Foster Family Care Licensing Requirements). Allyson Raadmae testified for the Department. Ms. Raadmae requested that the Committee enter a Revised Objection to Final Proposal 2023-89 to allow the Department an opportunity to address Committee staff's comments to the Objection Response.

Sen. Lang, and Senator Whitley left the meeting at this time and did not return. Rep. McGuire designated Rep. Grote to sit for Sen. Lang.

Rep. Layon moved to enter a revised objection to Final Proposal 2023-89 based on the request and to recommend that the Department examine whether the religious exemption for immunizations extends, or should extend, to adult caregivers in the household when the rule goes through the regular rulemaking process next year.

Rep. McGuire seconded.

Adopted.

13. Under “Other Business”, Committee staff presented proposed amended versions of forms “Cover Sheet for Proposed Interim Rule”, “Interim Rulemaking Notice Form”, and “Notice for Expedited Revisions to Agency Forms”, located respectively in Appendices II-I, II-J, and II-N of the *Manual*.

Rep. Lynn moved to approve.

Rep. Layon seconded.

Adopted.

Sen. Chandley left the meeting at this point and did not return.

Committee staff presented a memorandum from the Mechanical Licensing Board and a memorandum from the Real Estate Appraisal Board. No action was taken on these items. Director Morrell discussed a memorandum Committee staff sent out to agencies summarizing the changes to RSA 541-A from the past legislative session. Rep. McGuire requested the summary and the full memorandum be sent to the Committee members.

14. The Committee briefly discussed the preliminary objection responses for 2023-116 and 2023-135. The responses were not filed at the time. No action was taken.
15. The Committee discussed the continued meeting scheduled for October 5, 2023.

By consensus, the Committee voted to cancel the continued meeting.

16. The Committee discussed adjournment.

By consensus, the Committee adjourned at 10:42 a.m.