



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

Action Minutes

DECEMBER 15, 2016

Members Present: Senators Reagan, Avard, Feltes, French, and Representatives Schmidt, Ladd, Hatch, Gottling*, and Sytek*. (*) Indicates alternate member.

(**) Part I, 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 outgoing Vice-Chair.

Members present at this time, aside from Sen. Reagan, were Sens. Avard, Feltes, and French, and Reps. Schmidt, Hatch, Gottling, and Sytek.

2. The Committee discussed nominations for the next Committee Chair.

Rep. Schmidt nominated Sen. Reagan to be the Committee Chair.

Sen. Avard seconded.

There were no further nominations.

The motion was adopted.

Sen. Reagan now chaired the meeting as Committee Chair.

3. Sen. Avard nominated Rep. McGuire to be the Committee Vice-Chair.

Rep. Schmidt seconded.

There were no further nominations.

The motion was adopted.

4. The Committee discussed the designation of alternate members.

Sen. Reagan designated Rep. Sytek and Rep. Gottling as alternates, respectively, for Rep. McGuire and Sen. Kahn, who were absent.

5. The Committee discussed the minutes of the Committee meeting on November 17, 2016.

Rep. Schmidt moved that the Committee approve the minutes, with amendments to Item #5 on Page 3 of the minutes relative to the Committee's conditional approval of Final Proposal 2016-142 from the Board of Veterinary Medicine, by changing the reference to removal of "Vet 501.02" to removal of "Vet 501.03 and Vet 501.04".

Sen. Feltes seconded.

Adopted.

6. The Committee discussed scheduling Committee meetings in 2017.

Rep. Schmidt moved that the Committee approve the meeting schedule prepared by Committee staff, with the approval of Friday, June 30 and Thursday, August 31 as continued meeting dates after the regular meeting dates in June and August.

Rep. Hatch seconded.

Adopted.

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

4. Committee Approval of Final Proposals:

- FP 2016-107 DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Shoreland Protection
- FP 2016-151 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Personal Safety Emergencies
- FP 2016-153 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Regulated Toxic Air Pollutants Updates
- FP 2016-156 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Food Stamp EBT Benefit Issuance and Extended Food Stamp (EFS) Benefits
- FP 2016-173 LOTTERY COMMISSION
Lottery Intercept
- FP 2016-192 DEPARTMENT OF REVENUE ADMINISTRATION
Utility Property Tax
- FP 2016-193 DEPARTMENT OF REVENUE ADMINISTRATION
Railroad and Private Rail Car Company Taxation

5. Committee Conditional Approvals:

- FP 2016-130 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Community Mental Health Services Assertive Community Treatment (ACT)
- FP 2016-163 LIQUOR COMMISSION
Public Sampling of Beverage/Liquor/Wine Pursuant to RSA 179:44
- FP 2016-164 LIQUOR COMMISSION
Rules Relating to Tobacco

FP 2016-200 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Therapeutic Cannabis Program - Alternative Treatment Centers

6. *Committee Acceptance of Agency Responses to Objections:*

OR 2016-121 DEPARTMENT OF SAFETY
Rental Agent Rules

Sen. Avard moved that the Committee approve the Consent Agenda with the exception of Final Proposal 2016-130, that is, approve the Final Proposals in Item #4, conditionally approve the Final Proposals in Item #4 based on the agencies' conditional approval requests, except for Final Proposal 2016-130, and accept the objection response and approve the rules in Item #6.

Rep. Schmidt seconded.

Adopted.

8. 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 items:

13. *INSURANCE DEPARTMENT*

OR 2016-172 Prescription Prices for Pharmacists and Pharmacies
(Response not yet received. Agency Response Deadline January 3, 2017. JLCAR Deadline February 22, 2017.)

14. *BOARD OF EDUCATION*

FP 2016-86 NH Rules for the Education of Children with Disabilities
(JLCAR Deadline February 17, 2017. Amended Final Proposal not yet received.)

Rep. Hatch seconded.

Rep Ladd arrived in the meeting at this time.

The motion was adopted.

9. The Committee discussed Final Proposal 2016-149 from the Department of Agriculture, Markets, and Food (Invasive Species).

The Department had submitted a conditional approval request in a letter and amended rules dated December 13, 2016.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2016-149 based on the request.

Sen. Avard seconded.

Adopted.

10. The Committee discussed Proposed Interim Rule INT 2016-38 from the Board of Barbering, Cosmetology, and Esthetics (Registration or Licensing Requirements). Robert Lamberti, from the Office of Professional Licensure and Certification, testified for the Board.

Rep. Schmidt moved that the Committee approve Proposed Interim Rule INT 2016-38.

Rep. Ladd seconded.

Adopted.

11. The Committee discussed Proposed Interim Rule INT 2016-40 from the Real Estate Commission (Licensing Requirements; Continued Status; Conduct of Licensees). Robert Lamberti, from the Office of Professional Licensure and Certification, testified for the Commission.

Rep. Schmidt moved that the Committee approve Proposed Interim Rule INT 2016-40.

Sen. Feltes seconded.

Adopted.

12. The Committee discussed Proposed Interim Rule INT 2016-39 from the Department of Safety (Interim Rules for Breath Alcohol Procedure Using the Intoxilyzer 5000 Instrument). Marta Modigliani, Peter Pifer, and Lisa Johnson testified for the Department.

Sen. Feltes moved that the Committee approve Proposed Interim Rule INT 2016-39 with the understanding (1) that Sen. Avarad would seek late-filed legislation to clarify the Department's authority to establish the fee in Saf-C 7105.05 and to allow the money collected through this fee to be placed in the Default Bench Warrant Fund, and (2) that, for the time being, the money collected by the Department through this fee would become general revenue, as required by RSA 6:12.

Rep. Schmidt seconded.

Adopted.

13. The Committee discussed the response by the Department of Safety to the Committee's rulemaking petition of October 20, 2016 to adopt criminal background check forms. Marta Modigliani testified for the Department.

No further action was taken.

14. The Committee discussed requesting a waiver from the Director of the Office of Legislative Services for the Committee deadline of January 17, 2017 for the following Final Proposal filed on December 2, 2016:

FP 2016-162 PUBLIC UTILITIES COMMISSION
Underground Utility Damage Prevention Program

Rep. Schmidt moved that the Committee request a waiver so that the Final Proposal could be on the agenda of the Committee meeting on January 20, 2017.

Rep. Hatch seconded.

Adopted.

15. The Committee discussed Final Proposal 2016-130 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Community Mental Health Services Assertive Community Treatment (ACT)). Raymond Perry, Catherine Bernhard, and Dr. Mary Brunette testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated December 12, 2016.

The following persons also testified:

- Susan Paschell, representing the N.H. Community Behavioral Health Association.
- Janet Salisbury, representing the N.H. Community Behavioral Health Association.
- Andrew Milne, representing the Disability Rights Center.
- Aaron Ginsberg, representing the Disability Rights Center.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2016-130 based on the Department's request.

Sen. Avard seconded.

Adopted.

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

16. The Committee discussed the continued meeting date of January 6, 2017.

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

17. The Committee adjourned by consensus at 10:20 a.m.

18. An orientation presentation by Committee staff on rulemaking was given after the Committee adjourned.