



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

JUNE 21, 2013

Members Present: Senators Reagan, Rausch, and Cataldo, and Representatives Schmidt, MacKay, Ladd, Sad, Gottling*, Kidder*, and Hatch*. (*) 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 9:01 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sens. Rausch and Cataldo, and Reps. Schmidt, MacKay, Ladd, Sad, Kidder, Gottling, and Hatch.

Sen. Reagan designated Rep. Gottling as an alternate for Sen. Lasky, and Rep. Kidder as an alternate for Rep. McGuire, who were absent.

2. The Committee discussed the minutes of the Committee meeting on June 7, 2013.

Rep. MacKay moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

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

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| FP 2012-214 | RACING AND CHARITABLE GAMING COMMISSION
Carryover Bingo Game Prize and Carryover of a Lucky 7 Rolling Jackpot |
| FP 2012-215 | RACING AND CHARITABLE GAMING COMMISSION
Manufacture and Distribution of Double Sided Lucky 7 Tickets to Charitable Organizations |
| FP 2012-216 | RACING AND CHARITABLE GAMING COMMISSION
The Manufacture and Distribution of Multiple Jackpot Seal Cards to Charitable Organizations |
| FP 2013-24 | INSURANCE DEPARTMENT
Group Coordination of Benefits |
| FP 2013-29 | DEPARTMENT OF LABOR
Safety Programs and Joint Loss Management Committees |
| FP 2013-32 | DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Wetlands Program Rules of Practice and Procedure |

- FP 2013-33 DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Wetlands Program Rules
- FP 2013-45 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Deeming Ineligible Alien Income to Assistance Groups Applying for or Receiving
Financial Assistance to Needy Families (FANF) Financial Assistance
- FP 2013-46 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Expiring Rules Related to the Food Stamp Program
- FP 2013-52 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Employment Related Childcare – Family Cost-Share

Rep. Schmidt moved that the Committee approve the Final Proposals.

Sen. Rausch seconded.

Adopted.

4. The Committee discussed the following response to a preliminary objection (Consent Agenda – Responses to Objections):

- OR 2012-148 PASSENGER TRAMWAY SAFETY BOARD
Various Passenger Tramway Safety Rules

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

Rep. MacKay seconded.

Adopted.

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

Rep. Schmidt moved that the Committee postpone action on the following items to the continued Committee meeting on June 28, 2013:

12. 11:00 a.m. BOARD OF PROFESSIONAL ENGINEERS

- FP 2013-35 Rules Regarding Application and Examination Fees and Examination Requirements
(JLCAR Deadline July 8, 2013.)

Sen. Cataldo seconded.

Adopted.

6. The Committee discussed Proposed Interim Rule INT 2013-9 from the Fish and Game Department (Commercial Groundfish Size Limits). Sandra Falicon and Douglas Grout testified for the Department.

Rep. Kidder moved that the Committee approve Proposed Interim Rule INT 2013-9.

Rep. Schmidt seconded.

Rep. Hatch arrived at this time. Sen. Reagan designated Rep. Hatch as an alternate for Sen. Watters, who was absent.

The motion was adopted.

7. The Committee discussed Proposed Interim Rule INT 2013-8 from the Real Estate Appraiser Board (Real Estate Appraiser Board Rules Regarding Reciprocity).

Rep. Ladd moved that the Committee approve Proposed Interim Rule INT 2013-8.

Rep. MacKay seconded.

Adopted.

8. The Committee discussed Final Proposal 2013-2 from the Department of Health and Human Services (Former Division of Human Services, Aid to the Permanently and Totally Disabled (APTD) Cash Assistance Grant Criteria When the APTD Applicant or Recipient is Ineligible for Federal Benefits). Jennifer Jones testified for the Department.

The Department had submitted a request for conditional approval in a letter and amended rule dated April 18, 2013 and an amended conditional approval request in a letter and amended rule dated June 20, 2013.

Alan Linder, representing N.H. Legal Assistance, registered his support for the amended conditional approval request but did not speak.

Rep. MacKay moved that the Committee accept the amended conditional approval request and conditionally approve Final Proposal 2013-2 based on the request.

Rep. Kidder seconded.

Adopted.

9. The Committee discussed Final Proposal 2013-44 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Allocation of Funds For Individual Service Requests). Michael Holt and Jill Desrochers testified for the Department.

The Department had submitted a request for conditional approval in a letter and amended rule dated June 17, 2013.

Sen. Rausch moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-44 based on the request.

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed Final Proposal 2012-173 from the Pharmacy Board (Code of Ethics (Standard of Conduct)). James Queenan, Executive Director for the Board, testified for the Board.

Stuart Trachy, representing chain pharmacies, had submitted written testimony prior to the meeting.

The following persons indicated their support for the rules but did not speak:

Cheryl Durand, representing the N.H. Pharmacists Association and the N.H. Society of Health-system Pharmacists.

Lorraine Radick, representing the N.H. Pharmacists Association.

The following persons indicated their opposition to the rules but did not speak:

Steven F. Hill, R.Ph., representing Rite Aid Corporation.

Susan DeLeo, representing Walgreens Pharmacy.

Mark Polli, representing Hannaford Bros. Co.

Sen. Cataldo moved that the Committee conditionally approve Final Proposal 2012-173 on the condition that Ph 501.01(b)(12) be deleted.

Rep. MacKay seconded.

Adopted.

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

11. The Committee discussed Final Proposal 2012-174 from the Pharmacy Board (Limitation on Access). James Queenan, Executive Director of the Board, testified for the Board.

Stuart Trachy had submitted written testimony prior to the meeting.

The following persons testified in support of the rules:

Cheryl Durand, representing the N.H. Pharmacists Association and the N.H. Society of Health-system Pharmacists

Lorraine Redick, representing the N.H. Pharmacists Association.

The following persons indicated their opposition to the rules but did not speak:

Steven F. Hill, R.Ph., representing Rite Aid Corporation.

Susan DeLeo, representing Walgreens Pharmacy.

Mark Polli, representing Hannaford Bros. Co.

Rep. MacKay left during the discussion of this item.

Rep. Ladd moved that the Committee make a preliminary objection to Final Proposal 2012-174 on the grounds as outlined in the Committee staff annotations to the Final Proposal, testimony from Stuart Trachy, and the Committee's discussion.

Rep. Kidder seconded.

Adopted.

Rep. Ladd left the meeting at this time.

12. The Committee discussed Final Proposal 2012-175 from the Pharmacy Board (Presence of Pharmacists). James Queenan, Executive Director of the Board, testified for the Board.

Stuart Trachy had submitted written testimony prior to the meeting.

The following persons indicated their support for the rules but did not speak:

Cheryl Durand, representing the N.H. Pharmacists Association and the N.H. Society of Health-system Pharmacists.

Lorraine Radick, representing the N.H. Pharmacists Association.

The following persons indicated their opposition to the rules but did not speak:

Steven F. Hill, R.Ph., representing Rite Aid Corporation.

Susan DeLeo, representing Walgreens Pharmacy.

Mark Polli, representing Hannaford Bros. Co.

Rep. Kidder moved that the Committee make a preliminary objection based on the Committee's determination that Ph 704.01(b) was beyond the Board's rulemaking authority.

Rep. Hatch seconded.

Adopted.

13. The Committee discussed Final Proposal 2012-176 from the Pharmacy Board (Transfer of Prescription). James Queenan, Executive Director for the Board, testified for the Board.

Stuart Trachy had submitted written testimony prior to the meeting.

The following persons indicated their support for the rules but did not speak:

Cheryl Durand, representing the N.H. Pharmacists Association and the N.H. Society of Health-system Pharmacists.

Lorraine Radick, representing the N.H. Pharmacists Association.

The following persons indicated their opposition to the rules but did not speak:

Steven F. Hill, R.Ph., representing Rite Aid Corporation.

Susan DeLeo, representing Walgreens Pharmacy.

Mark Polli, representing Hannaford Bros. Co.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2012-176 based on the Committee's determination that Ph 704.04(g) was beyond the Board's rulemaking authority.

Sen. Cataldo seconded.

Adopted.

14. The Committee discussed Final Proposal 2012-177 from the Pharmacy Board (Pharmacist-in-Charge, Corporate Entity Requirements, Duties). James Queenan, Executive Director for the Board, testified for the Board.

Stuart Trachy had submitted written testimony prior to the meeting.

The following persons indicated their support for the rules but did not speak:

Cheryl Durand, representing the N.H. Pharmacists Association and the N.H. Society of Health-system Pharmacists.

Lorraine Radick, representing the N.H. Pharmacists Association.

The following persons indicated their opposition to the rules but did not speak:

Steven F. Hill, R.Ph., representing Rite Aid Corporation.

Susan DeLeo, representing Walgreens Pharmacy.

Mark Polli, representing Hannaford Bros. Co.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2012-177 based on the grounds as outlined in the Committee staff annotations to the Final Proposal and the Committee's discussion.

Rep. Kidder seconded.

Adopted.

15. After a break, with Sens. Reagan, Rausch, and Cataldo, and Reps. Schmidt, Kidder, Gottling, and Hatch present, the Committee discussed the response to the Committee's preliminary objection to Final Proposal 2012-146 (Nonresident Pistol/Revolver License Rules). Assistant Commissioner Earl Sweeney and David Hilts testified for the Department. Sergeant Sean Haggerty of the State Police also represented the Department but did not speak.

Rep. Sad returned to the meeting as the discussion began on this item.

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

Sen. Rausch seconded.

Adopted.

16. The Committee discussed Final Proposal 2012-204 from the Department of Safety (Explosives Rules). David Hilts testified for the Department.

It was the consensus of the Committee to postpone this item to the continued meeting on June 28, 2013.

17. The Committee discussed Final Proposal 2012-205 from the Department of Safety (Various Procedural and Hearing Rules). David Hilts testified for the Department.

Rep. Schmidt moved that the Committee postpone action on this item to the continued Committee meeting on June 28, 2013.

Rep. Kidder seconded.

Adopted.

18. The Committee recessed at 10:50 a.m. by consensus, thereby postponing action on the following item to the continued meeting on June 28, 2013:

OTHER BUSINESS

13. Other