



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

Action Minutes

JULY 19, 2012

Members Present: Representatives Patten, Pilotte, Schmidt, McGuire, Kidder*, Bowers*, and Winter*, and Senator White. (*) 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 9:02 a.m. by Rep. Patten as Chair.

Members present at this time, aside from Rep. Patten, were Reps. Pilotte, Schmidt, McGuire, Kidder, Bowers, and Winter, and Sen. White.

Rep. Patten designated Reps. Kidder, Winter, and Bowers as alternates, respectively, for Rep. Manuse, Sen. Groen, and Sen. Lambert, who were absent.

2. The Committee discussed the minutes of the Committee meeting on June 15, 2012.

Rep. Schmidt moved that the minutes be approved.

Rep. McGuire seconded.

Adopted.

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

FP 2012-46* DEPARTMENT OF AGRICULTURE, MARKETS AND FOOD
Organic Commodities Certification

**The only substantive issue is that the agency continued to operate under expired rules as noted in the fiscal impact statement for the final proposal.*

FP 2012-65 FISH AND GAME DEPARTMENT
Groundfish Restrictions – Atlantic Cod Length and Creel Limits for
Recreational Fishing

FP 2012-70 DEPARTMENT OF REVENUE ADMINISTRATION
Offset of Refund or Credit

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

Rep. McGuire seconded.

Adopted.

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4. The Committee discussed the following Final Proposal for which the agency had submitted a request for conditional approval (Consent Agenda – Conditional Approvals):

FP 2012-47 DEPARTMENT OF AGRICULTURE, MARKETS AND FOOD
Certification Seal Rules

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

Rep. Winter seconded.

At this point, David Rousseau and Dennis Marquis testified for the Department.

The motion was adopted.

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

No action to postpone was taken at this time.

6. The Committee discussed Final Proposal 2011-161 from the Department of Labor (Employee Leasing Companies). Ellery Hathorn testified for the Department.

The Department had submitted a conditional approval request in an amended rule dated July 13, 2012.

Rep. Pilotte moved that the Committee make a preliminary objection to Final Proposal 2011-161 on the grounds as outlined in the annotations to the final proposal by Committee staff with the exception of the comment on the fiscal impact statement, but with the recommendation that the amendments to Lab 1501 through Lab 1507 in the conditional approval request be incorporated into the objection response and that Lab 1508 be amended to address staff comments to Lab 1508 in the final proposal and the conditional approval request.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed Final Proposal 2012-37 from the Department of Agriculture, Markets, and Food (Dating Prewrapped Sandwiches). Dennis Marquis testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated July 12, 2012 and an amended conditional approval request in a letter and amended rule dated July 18, 2012.

Rep. McGuire moved that the Committee accept the amended conditional approval request and conditionally approve Final Proposal 2012-37 based on the request.

Rep. Kidder seconded.

Adopted.

8. The Committee discussed Final Proposal 2012-51 from the Board of Podiatry (Rules Regarding Explanation After Adoption of Rules, Educational and Continuing Educational Requirements for

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Licensure, Severance of Connection of Practice, Requirement of Wall Certificates, and Ethical Guidelines for Podiatrists). Penny Taylor testified for the Board.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2012-51 on the condition that the words "by April 1 of even-numbered years" be inserted at the end of the first sentence in Pod 402.02(a).

Rep. Schmidt seconded.

Adopted.

Rep. Patten noted for the record that Rep. Pilotte voted "no".

9. The Committee discussed Final Proposal 2012-11 from the Department of Transportation (Driving While Impaired (DWI) Victim Fatality Sign Program). Kathleen Mulcahy-Hampson and Walter Keuenhoff testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated July 17, 2012.

Rep. Bowers moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-11 based on the request.

Rep. Pilotte seconded.

Adopted.

10. The Committee discussed Final Proposal 2012-16 from the Pharmacy Board (Pharmacist Administration of Vaccines). Margaret Clifford testified for the Board.

Rep. Pilotte moved that the Committee conditionally approve Final Proposal 2012-16 on the condition that the word "fax" be inserted after the words "in writing or by" in Ph 1304.01(f).

Rep. Kidder seconded.

Adopted.

11. After a break, with Reps. Patten, Pilotte, Schmidt, McGuire, Kidder, Bowers, and Winter, and Sen. White present, the Committee discussed Final Proposal 2012-72 from the Department of Health and Human Services (Commissioner, Children Left at Hospitals and Safe Havens). Michele Beasley, Roger Derosiers, and Byry Kennedy testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated July 17, 2012.

Rep. Bowers moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-72 based on the request.

Sen. White seconded.

Adopted.

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12. The Committee discussed Final Proposal 2012-54 from the Department of Health and Human Services (Division of Elderly and Adult Services, Adult Protective Services Program). Michele Beasley testified for the Department.

It was the consensus of the Committee to postpone action on Final Proposal 2012-54 to the regular Committee meeting on August 16, 2012.

Rep. Schmidt moved that the Committee request the Acting Director of the Office of Legislative Services to grant a waiver of the August 13, 2012 deadline for the Committee to act on Final Proposal 2012-54 pursuant to RSA 541-A:13, I, in order that the Final Proposal be on the agenda for the August 16, 2012 meeting.

Sen. White seconded.

Adopted.

13. The Committee discussed Final Proposal 2012-71 from the Department of Health and Human Services (Division of Elderly and Adult Services, Bureau of Elderly and Adult Services State Registry). Michele Beasley and Mary McGuire testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated July 17, 2012.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2012-71 on the grounds that the proposal is contrary to the public interest by not being clear and understandable because the final proposal does not contain criteria by which the Department could determine whether the employer's plan to supervise the perpetrator, as mentioned in He-E 720.06(f), is adequate to assure the safety of clients and thereby allow a waiver for employment to be approved or denied.

Rep. Schmidt seconded.

Sen. White left during the discussion of this item.

The motion was adopted.

14. The Committee discussed Final Proposal 2012-59 from the Department of Health and Human Services (Former Division of Human Services, Expiring Rules Related to Electronic Funds Transfer and Paper Checks). Michele Beasley, Jennifer Jones, and Renee Drouin testified for the Department.

Rep. McGuire moved that the Committee request the Acting Director of the Office of Legislative Services to grant a waiver of the August 13, 2012 deadline for the Committee to act on Final Proposal 2012-59 pursuant to RSA 541-A:13, I, in order that the Final Proposal could be on the agenda for the August 16 meeting.

Rep. Winter seconded.

Adopted.

Rep. Patten moved for the record that Rep. Pilotte voted "no".

It was the consensus of the Committee to postpone action on Final Proposal 2012-59 to the regular Committee meeting on August 16, 2012.

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15. The Committee discussed Final Proposal 2012-66 from the Department of Health and Human Services (Former Division of Human Services, Elimination of the Unemployed Parent (UP) Cash Assistance Program). Michele Beasley, Jennifer Jones, and Janine Lesser testified for the Department.

Rep. Kidder moved that the Committee approve Final Proposal 2012-66.

Rep. Winter seconded.

Adopted.

16. Rep. Pilotte moved that the Committee adjourn.

Rep. Winter seconded.

It was the consensus of the Committee to cancel the continued meeting previously scheduled for August 2, 2012.

The motion to adjourn was adopted.

The Committee adjourned at 12:13 p.m.