

Bill as
Introduced

HB 43 - AS INTRODUCED

2011 SESSION

11-0150
05/10

HOUSE BILL **43**

AN ACT relative to the adoption of forms under the administrative procedures act.

SPONSORS: Rep. Pilotte, Hills 16; Rep. Sad, Ches 2; Rep. Millham, Belk 5; Rep. B. Patten,
Carr 4

COMMITTEE: Legislative Administration

ANALYSIS

This bill removes the provisions of the administrative procedures act which made forms adopted by agencies to be non-expiring.

This bill is a request of the joint legislative committee on administrative rules.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struckthrough~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to the adoption of forms under the administrative procedures act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Administrative Procedures Act; Time Limit; Forms. Amend RSA 541-A:17, II to read as
2 follows:

3 II. Notwithstanding the provisions of paragraph I, any organizational and procedural rules
4 proposed and adopted pursuant to RSA 541-A:16, I and as identified in the drafting and procedure
5 manual~~], and any forms adopted pursuant to RSA 541-A:19-b or RSA 541-A:19-e~~ shall not expire,
6 provided that they have been approved by the committee. No changes to such organizational and
7 procedural rules ~~[or forms]~~ may be made by the agency, other than editorial changes not affecting the
8 substance of the procedural rules ~~[or forms]~~, without following the rulemaking procedures in this
9 chapter. However, if the adoption or amendment of a statute governing the agency renders the
10 agency's organizational and procedural rules ~~[or forms]~~ no longer accurate, such rules ~~[or forms]~~
11 shall expire one year after the effective date of the statute that makes such change, unless such
12 organizational and procedural rules ~~[or forms]~~ are amended, superseded, or repealed before such
13 expiration. The agency shall commence rulemaking to amend its rules no later than 90 days after
14 the effective date of such statute. If the agency reorganizes its organization and responsibilities in
15 such a way that the agency's rules under RSA 541-A:16, I(a) describing its organization are no longer
16 accurate, the agency shall amend its rules as soon as is practicable, but shall commence rulemaking
17 not later than 90 days after such changes occur.

18 2 Administrative Procedure Act; Adoption of Forms. Amend RSA 541-A:19-b to read as follows:

19 541-A:19-b Adoption of Forms. An agency may adopt a form as defined in RSA 541-A:1, VII-a by
20 incorporating the actual form by reference or by setting forth the requirements of the form in rules
21 adopted according to the procedures in this chapter. ~~[Such forms shall be non-expiring unless~~
22 ~~required to be revised by statutory change as specified in RSA 541-A:17, II.]~~

23 3 Effective Date. This act shall take effect 60 days after its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 43 Date 2/22/11
Committee Exec. Depts & Adm.

**** Please Print All Information ****

[illegible]

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 43

BILL TITLE: relative to the adoption of forms under the administrative procedures act.

DATE: 2/22/11

LOB ROOM: 306 **Time Public Hearing Called to Order:** 10:30 am

Time Adjourned: 10:45 am

(please circle if present)

Committee Members: Reps. McGuire, Hawkins, Sytek, Day, Gould, Pratt, Vita, Perkins, Winter, Bowers, Hansen, Proulx, Whitehead, P. Schmidt, Pilotte, Jeudy and Sullivan.

Bill Sponsors: Rep. Pilotte, Hills 16; Rep. Sad, Ches 2; Rep. Millham, Belk 5; Rep. B. Patten, Carr 4

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

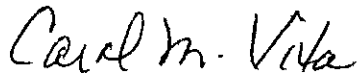
Rep. Pilotte introduced bill

Rules expire on 8 year cycle – (eventually will be 10 years) – make form non-expiring
1040A no longer expiring – point of this bill

Gretchen Hamel – Supports HB 43 – should eliminate?

Sheri Kalloway – Supports – Should go back the way it was

Respectfully submitted,



Carol M. Vita

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

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TESTIMONY

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REP PILOTTE - INTRO.

2 GRETCHEN HAMEL - DEPT OF ENVIRONMENTAL SERVICES
SHERI KALLOWAY

HB 43

REP PILOTTE RULES EXPIRE ON 8YR CYCLE - (EVENTUALLY WILL BE 10 YRS)
MAKE FORM NON-EXPIRING

1040A NO LONGER EXPIRING - POINT OF THIS BILL

GRETCHEN HAMEL SUP. HB 43 - SHOULD ELIMINATE ? FROM COM.

KALLOWAY SUPPORTS - SHOULD GO BACK THE WAY IT WAS.

Sub-Committee Actions

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 43

BILL TITLE: relative to the adoption of forms under the administrative procedures act.

DATE: 3/1/11

Subcommittee Members: Reps. Gould, Hansen, Jeudy, Perkins, Pilotte

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Pilotte

Seconded by Rep. Jeudy

Vote: 4-0

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Ken Gould
Subcommittee ~~Chairman~~/S clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 43

BILL TITLE: relative to the adoption of forms under the administrative procedures act.

DATE: 3/1/11

Subcommittee Members: Reps. Gould Hansen Jeudy Perkins Pilotte

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Pilotte

Seconded by Rep. Jeudy

Vote: 4-0

Motions: OTP OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Pilotte

Seconded by Rep.

Vote:

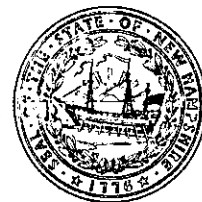
Respectfully submitted,

Rep. KH Gould
Subcommittee Chairman/Clerk

Testimony



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 22, 2011

The Honorable Carol McGuire, Chairman
House Executive Departments and Administration Committee
Legislative Office Building, Room 306
Concord, New Hampshire 03301

Re: HB 43, relative to the adoption of forms under the administrative procedures act

Dear Chairman McGuire and members of the Committee:

Thank you for the opportunity to testify on HB 43, relative to the adoption of forms under the administrative procedures act. The Department of Environmental Services supports this bill.

In the 2009 legislative session, the General Court enacted Chapter 232 to amend RSA 541-A, the Administrative Procedure Act, relative to rulemaking. In part, the amendments clarified when a "form" was a rule (and when it was not), established a more efficient way to adopt or amend forms, and exempted forms from expiring. We believed at the time, and continue to believe, that clarification of forms vis-à-vis rules was needed.

Unfortunately, the amendments relative to the adoption and expiration of forms have been applied in a way that has been confusing and caused additional work, both to the Office of Legislative Services and to agencies. Repealing the exemption of forms from the normal expiration of rules would address this unintended consequence of the original legislation.

Thank you again for the opportunity to comment on this bill. If you have any questions, please call me or Gretchen Hamel of my staff at 271-3137.

Sincerely,

Thomas S. Burack
Commissioner

cc: Representative Pilotte
Representative Sad
Representative Millham
Representative B. Patten

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 43

BILL TITLE: relative to the adoption of forms under the administrative procedures act.

DATE:

LOB ROOM: 306

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carol Vita, Clerk

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: 43 Title: RELATIVE TO ADOPTION OF FORMS - ADM. PROC. ACTPH Date: 2, 22, 11 CONSENT Exec Session Date: 3, 2, 11Motion: OTP Amendment #: _____

MEMBER	YEAS	NAYS
McGuire, Carol M, Chairman	✓	
Hawkins, Kenneth, V Chairman	✓	
Sytek, John J	✓	
Day, Russell C	✓	
Gould, Kenneth H	✓	
Pratt, Calvin D	✓	
Vita, Carol M, Clerk	✓	
Perkins, Lawrence B	✓	
Winter, Steven J	✓	
Bowers, Spec	✓	
Hansen, Peter T	✓	
Proulx, Mark L	A	
Whitehead, Randall A	✓	
Schmidt, Peter B	✓	
Pilotte, Maurice L	✓	
Jeudy, Jean L	✓	
Sullivan, Daniel J	✓	

3/2/11

TOTAL VOTE:

Printed: 1/28/2011

16

0

Committee Report

CONSENT CALENDAR

March 3, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on EXECUTIVE DEPARTMENTS AND
ADMINISTRATION to which was referred HB43,

AN ACT relative to the adoption of forms under the
administrative procedures act. Having considered the
same, report the same with the recommendation that
the bill OUGHT TO PASS.

Rep. Maurice L Pilotte

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	EXECUTIVE DEPARTMENTS AND ADMINISTRATION
Bill Number:	HB43
Title:	relative to the adoption of forms under the administrative procedures act.
Date:	March 3, 2011
Consent Calendar:	YES
Recommendation:	OULD TO PASS

STATEMENT OF INTENT

This bill was introduced at the request of the Joint Legislative Committee on Administrative Rules (JLCAR). In the last session, the legislature authorized agencies to incorporate by reference forms used by the agency and it made such forms non-expiring. The option allowing agencies to incorporate forms by reference proved to be a great improvement. The provision making them non-expiring created a serious unintended consequence for those agencies who decided to continue to describe their forms in the corpus of the rule. Because the form section had a different life-span, it needed to be filed separately and recorded distinctly from the rest of the rule, thus creating work rather than streamlining the process. This bill repeals the non-expiring provision.

Vote 16-0.

Rep. Maurice L Pilotte
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB43, relative to the adoption of forms under the administrative procedures act. **OUGHT TO PASS.**

Rep. Maurice L Pilotte for EXECUTIVE DEPARTMENTS AND ADMINISTRATION. This bill was introduced at the request of the Joint Legislative Committee on Administrative Rules (JLCAR). In the last session, the legislature authorized agencies to incorporate by reference forms used by the agency and it made such forms non-expiring. The option allowing agencies to incorporate forms by reference proved to be a great improvement. The provision making them non-expiring created a serious unintended consequence for those agencies who decided to continue to describe their forms in the corpus of the rule. Because the form section had a different life-span, it needed to be filed separately and recorded distinctly from the rest of the rule, thus creating work rather than streamlining the process. This bill repeals the non-expiring provision. **Vote 16-0.**

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE:

ED+A

BILL NUMBER:

AB 43

TITLE:

relative to the adoption of forms under

DATE:

3/2/4

CONSENT CALENDAR:

YES ☒

NO ☐

☒ OUGHT TO PASS

☐ OUGHT TO PASS W/ AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

Statement of Intent section with multiple horizontal lines for text entry.

COMMITTEE VOTE:

16-0

Consent

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,

Rep.

Maurice E. Roberts

For the Committee

HB 43

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Rep. Maurice L. Pilotte for the Committee

A handwritten signature in black ink, appearing to read "M. Pilotte", is written diagonally across the page.

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This bill repeals the non-expiring provision

Rep. Maurice L. Pilotte for the Committee

HB 43 relative to the adoption of forms under the administrative procedures act.

Rep. Maurice L. Pilotte for the Executive Departments and Administration.

OTP

(Consent)

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