



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

Action Minutes

JANUARY 17, 2020

Members Present: Representatives Hatch, McGuire, Schmidt, Williams, Hoelzel, Lang*, Bershtein*, Schuett*, and Karrick*, and Senators Reagan, Dietsch, Ward, Kahn, Watters, and Chandley*. (*) 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. Hatch as Chair.

Members present at this time, aside from Rep. Hatch, were Reps. McGuire, Schmidt, Williams, Hoelzel, Bershtein, Schuett, and Karrick, and Sens. Reagan, Dietsch, Ward, and Watters.

Rep. Hatch designated Rep. Karrick an alternate for Sen. Kahn, who was absent.

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

CONSENT AGENDA

2. *Committee Approval of Final Proposals:*

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| (a) FP 2019-128 | GOVERNING BOARD OF PHYSICAL THERAPISTS
Organizational and Procedural Rules |
| (b) FP 2019-129 | GOVERNING BOARD OF SPEECH LANGUAGE PATHOLOGISTS
Organizational and Procedural Rules |
| (c) FP 2019-178 | BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS
School and Shop Requirements, Licensee Standards, Fines, and Inspection Notices |
| (d) FP 2019-185 | DEPARTMENT OF EMPLOYMENT SECURITY
Claimant Requirements |
| (e) FP 2019-186 | INSURANCE DEPARTMENT
Organizational Rules |
| (f) FP 2019-203 | DEPARTMENT OF REVENUE ADMINISTRATION
Business Profits Tax Corrections Regarding Federal Refund Subject to Joint
Committee on Taxation Review |

3. *Committee Conditional Approvals:*

- | | |
|-----------------|--|
| (a) FP 2019-201 | DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Further Amendments to Adopted Wetlands Rules
(JLCAR Deadline February 18, 2020.) |
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Rep. McGuire moved that Final Proposal 2019-178 be taken off the Consent Agenda.

Rep. Schmidt seconded.

Adopted.

The Committee discussed (1) Final Proposal 2019-145 from the Department of Health and Human Services (Former Division of Public Health Services, Lead Poisoning Prevention and Control), for which the Department had submitted a conditional approval request in a letter and amended rules dated January 16, 2020; and (2) the response by the Department of Natural and Cultural Resources to the Committee's preliminary objection to Final Proposal 2019-155 (Natural Heritage Program Rules).

It was the consensus of the Committee to add Final Proposal 2019-145 to the Consent Agenda for conditional approval and Objection Response 2019-155 to the Consent Agenda for acceptance and approval of the rules.

Rep. McGuire moved that the Committee approve the Consent Agenda as amended, that is, approve the Final Proposals in Item #2 except for Final Proposal 2019-178, conditionally approve Final Proposal 2019-201 in Item #3(a) based on the amended conditional approval request from the Department of Environmental Services in a letter and amended rules dated January 16, 2020, conditionally approve Final Proposal 2019-145 based on the conditional approval request from the Department of Health and Human Services in a letter and amended rules dated January 16, 2020, and accept the response and approve the rules in Objection Response 2019-155 from the Department of Natural and Cultural Resources.

Rep. Schmidt seconded.

Adopted.

3. The Committee discussed the minutes of the Committee meeting on December 19, 2019.

Sen. Reagan moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

4. The Committee discussed Final Proposal 2019-163 from the Department of Environmental Services (Air Related Programs, Conformity). Gretchen Hamel testified for the Department.

Sen. Kahn arrived during the discussion of this item. Rep. Karrick was no longer a voting member.

Sen. Watters moved that the Committee approve Final Proposal 2019-163.

Rep. McGuire seconded.

Adopted.

5. The Committee discussed Final Proposal 2019-201 from the Department of Environmental Services (Wetlands Programs). Gretchen Hamel testified for the Department.

Sen. Watters moved that the Committee reconsider its vote earlier in the meeting to conditionally approve Final Proposal 2019-201 based on the Department's amended conditional approval request.

Rep. Schmidt seconded.

Adopted.

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Prior to the meeting the Department had submitted a conditional approval request with a letter dated January 17, 2020 and amended rules dated January 8, 2020, and an amended conditional approval request with a letter and amended rules dated January 16, 2020. In the meeting the Department submitted a revised, amended conditional approval request in amended rules dated January 17, 2020.

Kevin Nyhan testified for the N. H. Department of Transportation (DOT), which had earlier submitted written testimony.

Rep. Lang arrived during the discussion of this item, but he was not a voting member at this time.

Rep. McGuire moved that the Committee accept the revised, amended conditional approval request and conditionally approve Final Proposal 2019-201 based on the request.

Sen. Reagan seconded.

Adopted.

6. The Committee discussed an emergency rule Document #12949, effective December 20, 2019, from the Department of Environmental Services (Water Quality and Quantity Programs, Amendment to Criteria for Issuance of AOT Permits). Commissioner Robert Scott and Gretchen Hamel testified for the Department.

Richard W. Head, of Rath, Young, and Pignatelli, representing Suzanne Fournier and some residents of the town of Milford, N. H., testified, and had earlier submitted written testimony dated January 3, 2020.

Rep. Williams left during the discussion of this item, and Sen. Chandley arrived.

Sen. Watters moved that the Committee petition the Department to repeal the emergency rule.

Sen. Reagan seconded.

At this time Rep. Hatch designated Rep. Karrick as an alternate for Rep. Williams.

The motion was adopted. Rep. Hatch noted for the record that there was one "no" from Rep. McGuire.

7. The Committee discussed an emergency rule Document #12956, effective December 23, 2019, from the Department of Environmental Services (Wetlands Programs, Amendments to Required Planning, When Delineation Not Required). Gretchen Hamel testified for the Department.

It was the consensus of the Committee to take no further action.

8. The Committee discussed Final Proposal 2019-135 from the Board of Psychologists (Informal Resolution, Post-Doctoral Supervision, Application Process, Temporary License Application, and Written Applications). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Rep. Schmidt moved that the Committee postpone action on Final Proposal 2019-135 to the next regular meeting and request a waiver from the Director of Legislative Services of the Committee's January 27, 2020 deadline to act on this Final Proposal.

Rep. Hatch seconded.

Adopted.

9. The Committee discussed Final Proposal 2019-160 from the Board of Acupuncture Licensing (Application Process, Renewal, and Continuing Education Units, and Written Applications). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request in a cover memo and amended rules dated January 16, 2020.

Sen. Kahn moved that the Committee conditionally approve Final Proposal 2019-160 based on the request.

Sen. Reagan seconded.

Adopted.

10. The Committee discussed the response by the Pharmacy Board to the Committee's preliminary objection to Final Proposal 2019-74 (Inspections). Thomas Broderick and Michael Bullek of the Office of Professional Licensure and Certification testified for the Board.

Thomas Broderick requested, on behalf of the Board, a revised objection to Final Proposal 2019-74 based on the comments in the annotations by Committee staff to the Objection Response.

Rep. Schmidt moved that the Committee make a revised objection to Final Proposal 2019-74 as requested by Attorney Broderick.

Sen. Reagan seconded.

Adopted.

11. The Committee discussed the response by the Board of Accountancy to the Committee's preliminary objection to Final Proposal 2019-107 (Application for Initial Certification, Reciprocity, and Return to Active Practice). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Sen. Kahn moved that the Committee accept the response and approve the rules.

After further discussion, there was no second.

Rep. McGuire moved that the Committee accept the Objection Response and approve the rules but also petition the Board to begin rulemaking to address the comments by Committee staff to the Objection Response once proposed legislation (such as Section 283 of SB 576) is adopted and resolves the issues, as outlined in Committee staff comments, relative to the authority under RSA 309-B of the National Association of State Boards of Accountancy (NASBA).

Sen. Kahn seconded.

Adopted.

12. The Committee discussed Final Proposal 2019-178 from the Board of Barbering, Cosmetology, and Esthetics (School and Shop Requirements, Licensee Standards, Fines, and Inspections Notices). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Rep. McGuire moved that the Committee postpone action on Final Proposal 2019-135 to the next regular meeting and request a waiver from the Director of Legislative Services of the Committee's February 18, 2020 deadline to act on this Final Proposal.

Sen. Reagan seconded.

Adopted.

13. The Committee discussed Final Proposal 2019-145 from the Department of Health and Human Services (Former Division of Public Health Services, Lead Poisoning Prevention and Control). Allyson Zinno and Knatalie Vetter testified for the Department.

Debbie Valenk testified for herself.

Rep. Schmidt then moved that the Committee reconsider its vote earlier in the meeting to conditionally approve Final Proposal 2019-145 based on the Department's conditional approval request.

Rep. Hatch seconded.

Sen. Reagan left the meeting during the discussion of this item.

Adopted. Rep. Hatch noted for the record that there was one "no" vote on reconsideration.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2019-145 based on public comments and on the analysis as outlined in the annotations to the Final Proposal by Committee staff.

Rep. Hatch seconded.

Adopted.

14. The Committee discussed Final Proposal 2019-181 from the Department of Health and Human Services (Former Division of Public Health Services, End Stage Renal Disease Dialysis Centers). Allyson Zinno and Doreen Shockley testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated January 16, 2020.

Sen. Dietsch and Sen. Ward left the meeting during the discussion of this item.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-181 based on the Department's request.

Sen. Watters seconded.

Rep. Hatch designated Sen. Chandley, Rep. Lang, and Rep. Bershtein as alternates, respectively, for Sen. Dietsch, Sen. Ward, and Sen. Reagan, who were now absent.

The motion was adopted.

15. The Committee discussed Proposed Interim Rule INT 2020-1 from the Department of Health and Human Services (Commissioner, Operating Standards for Youth Recreation Camps and Youth Skills Camps). Allyson Zinno and Melissa Clement testified for the Department.

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2020-1 with the suggestion to the Department that it enter regular rulemaking as soon as possible and recommend to the Director of Legislative Services that he take the former rules Env-Wq 900 of the Department of Environmental Services (Water Quality and Quantity Programs, Youth Camps) off the website of the Office of Legislative Services

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based on the determination that those rules were effectively repealed by the legislature in HB 4 (2019, 346:131-138).

Rep. Schmidt seconded.

Adopted.

16. The Committee discussed the response by the Lottery Commission to the Committee's preliminary objection to Final Proposal 2019-157 (Sports Wagering), which had originally received conditional approval on November 7, 2019 but had converted to a preliminary objection pursuant to RSA 541-A:13, V(a). Valerie King testified for the Commission.

Sen. Ward returned to the meeting during the discussion of this item. Rep. Lang therefore was no longer a voting member.

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

Rep. Hoelzel seconded.

Adopted.

17. The Committee discussed an emergency rule Document #12970, effective January 9, 2020, from the Banking Department (Public Deposit Investment Pool). Chiara Dolcino and Lauren Warner testified for the Department.

It was the consensus of the Committee to take no further action.

18. The Committee discussed the continued meeting scheduled for February 7, 2020.

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

19. The Committee adjourned by consensus at 11:40 a.m.