



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

Action Minutes

MAY 15, 2015

Members Present: Representatives McGuire, Schmidt, Ladd, Sad, Gottling*, and Hatch*, and Senators Reagan, Cataldo, Feltes, and Daniels*. (*) Indicates alternate member.

(**) Indicates where Part 1, Article 28-a of the N.H. Constitution was an issue in the Committee's discussions or decisions in this meeting. (See Item #9. However, that item was approved.)

1. The meeting was convened at 9:00 a.m. by Rep. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Reps. Schmidt, Ladd, Sad, and Hatch, and Sens. Reagan, Cataldo, and Feltes.

Rep. McGuire designated Reps. Gottling and Hatch as alternates, respectively, for Sen. Avard and Rep. Kidder.

2. The Committee discussed the minutes of the Committee meeting on April 17, 2015.

Sen. Reagan moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

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

2. *Committee Approval of Final Proposals:*

(a) FP 2014-187 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Early and Periodic Screening, Diagnostic, and Treatment Services

(b) FP 2015-13* HEALTH SERVICES PLANNING AND REVIEW BOARD
Transfer of Ownership
**(The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.)*

(c) FP 2015-19 GOVERNING BOARD OF PHYSICAL THERAPISTS
Requirements for Reinstatement of Licensure and Supervised Practice

(d) FP 2015-20 GOVERNING BOARD OF ATHLETIC TRAINERS
Definition of National Athletic Trainer Association Board of Certification, Inc.

- (e) FP 2015-37 BOARD OF REVENUE ADMINISTRATION
Credits or Refunds for Returned, Outdated, Damaged, or Unsalable OTP, RYO, or Cigarettes

4. Committee Acceptance of Agency Responses to Objections:

- OR 2014-136 BOARD OF EDUCATION
Chartered Public School and Open Enrollment Schools

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2, and accept the response and approve the rules in Item #4.

Sen. Reagan seconded.

Adopted.

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

Sen. Reagan moved that the Committee postpone action on the following items to the next Committee meeting:

16. BOARD OF MENTAL HEALTH PRACTICE

- ROR 2014-12 License Requirements, Applications, and Fees
(JLCAR Deadline July 21, 2015.)
(Response not yet received. Response due by June 1, 2015.)

17. EXECUTIVE BRANCH ETHICS COMMITTEE

- OR 2014-132 Organizational Rules, Practice and Procedure Rules
(JLCAR Deadline July 21, 2015.)
(Response not yet received. Response due by June 1, 2015. Waiver of deadline to be requested.)

18. BOARD OF MEDICINE

- OR 2015-1 New Requirements for Physician License Renewal
(JLCAR Deadline July 21, 2015.)
(Response not yet received. Response due by June 1, 2015. Waiver of deadline pending.)

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed Final Proposal 2015-15 from the Public Utilities Commission (Working Capital). Rorie E. Patterson testified for the Commission.

Sen. Daniels arrived during the discussion of this item.

Sen. Reagan moved that the Committee approve Final Proposal 2015-15.

Rep. Schmidt seconded.

Sen. Feltes left the meeting at this time.

Rep. McGuire designated Sen. Daniels as an alternate for Sen. Feltes.

The motion was adopted.

6. The Committee discussed Final Proposal 2014-166 from the Department of Environmental Services (Oil and Remediation Programs, Contaminated Site Management). Gretchen Hamel and Karlee Kenison testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2014-166.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed Final Proposal 2014-167 from the Department of Environmental Services (Oil and Remediation Programs, Groundwater Release Detection Permits). Gretchen Hamel and Karlee Kenison testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2014-167.

Rep. Schmidt seconded.

Adopted.

8. The Committee discussed Final Proposal 2014-168 from the Department of Environmental Services (Oil and Remediation Programs, Brownfields Program Under RSA 147:F). Gretchen Hamel and Michael McCluskey testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2014-168.

Rep. Schmidt seconded.

Adopted.

- **9. The Committee discussed Final Proposal 2014-179 from the Department of Environmental Services (Water Quality and Quantity Programs, Required Best Management Practices for Groundwater Protection). Gretchen Hamel and Stephen Roy testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2014-179.

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed Final Proposal 2015-18 from the Governing Board of Physical Therapists (Requirements for Initial Licensure). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2015-18 based (1) on the grounds as outlined in annotations to the Final Proposal by Committee staff, (2) on Committee

comments that the rules do not address the Board's determination, pursuant to RSA 332-G:7, that military experience was not applicable to physical therapy, and (3) on the fact that the word "soon" was unclear in the question on the initial license application form relative to the applicant's belief of future disciplinary action, and that "soon" should be changed to "may in the future".

Sen. Reagan seconded.

Adopted.

11. The Committee discussed Final Proposal 2015-21 from the Governing Board of Athletic Trainers (Continued Status). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2015-21 based (1) on the grounds as outlined in the annotations to the Final Proposal by Committee staff and (2) on Committee comments that the rules do not address the Board's determination, pursuant to RSA 332-G:7, that military experience was not applicable to athletic training.

Rep. Schmidt seconded.

Adopted.

12. The Committee discussed Final Proposal 2015-22 from the Governing Board of Athletic Trainers (Obligation to Comply with Laws and Ethical Principles). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

The Board had submitted a conditional approval request in a letter and amended rules dated May 11, 2015, with an Incorporation by Reference Statement.

Rep. Hatch moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2015-22 based on the request.

Sen. Reagan seconded.

Adopted.

13. The Committee discussed Final Proposal 2015-24 from the Governing Board of Occupational Therapists (Requirements for Licensure). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

Rep. Sad moved that the Committee make a preliminary objection to Final Proposal 2015-24 based (1) on the grounds as outlined in the annotations to the Final Proposal by Committee staff, (2) on Committee comments that the rules do not address the Board's determination, pursuant to RSA 332-G:7, that military experience was not applicable to occupational therapy, and (3) on the fact that the word "soon" was unclear in the question on the initial license application form relative to the applicant's belief of future disciplinary action, and that "soon" should be changed to "may in the future".

Sen. Reagan seconded.

Adopted.

14. The Committee discussed Final Proposal 2015-25 from the Governing Board of Occupational Therapists (Requirement for Reinstatement). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

Sen. Cataldo moved that the Committee make a preliminary objection to Final Proposal 2015-25 based (1) on the grounds as outlined in the annotations to the final proposal by Committee staff, (2) on Committee comments that the rules do not address the Board's determination, pursuant to RSA 332-G:7, that military experience was not applicable to occupational therapy, and (3) on the fact that the word "soon" was unclear in the question on the license reinstatement application form relative to the applicant's belief of future disciplinary action, and that "soon" should be changed to "may in the future".

Rep. Ladd seconded.

Adopted.

15. The Committee discussed Proposed Interim Rule INT 2015-1 from the Department of Health and Human Services (Former Division of Public Health Services, Collection Station Rules). Michael Holt testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2015-1.

Sen. Cataldo seconded.

Adopted.

16. The Committee discussed Final Proposal 2014-153 from the Department of Resources and Economic Development (Rules for the Grant-In-Aid Program). Chris Gamache testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule received on May 14, 2015.

The following persons also testified:

Larry Gomes, representing White Mountain Ridge Runners.

Donald LeClair, representing Bridgewater Mountain Snowmobile Club.

Gail Hanson, representing N.H. Snowmobile Association.

At this point, the Committee recessed for a break.

17. After a break, with Reps. McGuire, Schmidt, Ladd, Gottling, and Hatch, and Sens. Reagan and Cataldo present, the Committee resumed discussion of Final Proposal 2014-153 from the Department of Resources and Economic Development (Rules for the Grant-In-Aid Program).

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2014-153 on the grounds as outlined in the annotations to the Final Proposal by Committee staff, with the understanding (1) that the Department would consider the changes in the Department's conditional approval request when amending the rules in response to the objection, and (2) that the response would be on the agenda for the Committee meeting on June 5, 2015 if submitted prior to the meeting.

Sen. Reagan seconded.

Adopted.

18. The Committee discussed the following Final Proposal and emergency rule filed by the Fish and Game Department:

FP 2015-26 2015 Cod and Haddock Adjustments

Emergency rule (Doc. #10822, effective 4-28-15): Cod Restriction and Haddock Weight Limit

Douglas Grout and Evan Mulholland testified for the Department.

Rep. Sad returned to the meeting during the discussion of this item.

Senator Reagan moved that the Committee approve Final Proposal 2015-26.

Sen. Cataldo seconded.

Adopted.

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

19. The Committee discussed the response by the Department of Agriculture, Markets and Food to the Committee's preliminary objection to Final Proposal 2014-178 (Transfer of Animals and Birds). Dr. Stephen Crawford, State Veterinarian, testified for the Department.

Rep. Sad moved that the Committee accept the response and approve the rules, with the recommendation that the Department seek legislation to clarify its authority relative to foster facilities and occasional operations as outlined in the annotations by Committee staff on page 16 of the Final Proposal.

Rep. Hatch seconded.

Adopted.

20. The Committee discussed the request by Richard Welch of Farmington, N.H. for the Committee to examine the response by the N.H. Retirement System to his rulemaking petition relative to procedural rules.

The Committee took no action at this time, but it was the consensus of the Committee that Rep. McGuire would introduce legislation to amend RSA 541-A relative to rulemaking petitions and Sen. Cataldo would discuss with Mr. Welch other possible legislation.

21. The Committee recessed by consensus at 11:35 a.m.