

Burgos, Alexander N

Subject: FW: 01 NCAC 06B .0307

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, January 24, 2024 9:47 AM
To: Strong, Donya M <donya.strong@doa.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307

Received, thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: 01 NCAC 06B .0307
Attachments: _DOA-delegation letter.pdf

From: Strong, Donya M <donya.strong@doa.nc.gov>
Sent: Friday, January 19, 2024 3:34 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307

Mr. Peaslee,

Please see the attached document to support our position regarding the above captioned rule.

Thank you,
Donya Strong



Donya M. Strong, Esq.

(she/her)

General Counsel

Office 984-236-0003

Cell 984-789-0342

Donya.strong@doa.nc.gov

116 West Jones St., Raleigh, NC 27603

1301 Mail Service Center

ncadmin.nc.gov



**STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR**

**ROY COOPER
GOVERNOR**

January 19, 2024

Pamela B. Cashwell, Secretary
NC Department of Administration
1301 Mail Service Center
Raleigh, NC 27699-1301

Dear Secretary Cashwell:

Under my constitutional authority as Governor of North Carolina, having the full executive power of the State, and under my statutory authority in N.C. Gen. Stat. § 143-341(4)f, I hereby delegate my rulemaking authority under the above-referenced statute to the North Carolina Department of Administration.

I hereby direct and expressly authorize you as Secretary of the North Carolina Department of Administration to adopt 01 N.C. Admin. Code 06B.0307.

With kind regards, I am

Very truly yours,


Roy Cooper

RAC/eff/swh

Burgos, Alexander N

From: Peaslee, William W
Sent: Tuesday, January 16, 2024 9:30 AM
To: Strong, Donya M
Cc: Burgos, Alexander N
Subject: 01 NCAC 06B .0307

Hi Donya,

I believe you were going to submit some written argument or perhaps caselaw in favor of the above captioned rule. Please submit that information no later than COB 1/19 if you want the rule considered at the January RRC meeting.

If you need more time, I can put it down as a “no action item” until the February meeting.

Thanks and stay warm.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 01 NCAC 06B .0307 extension

From: Strong, Donya M <donya.strong@doa.nc.gov>
Sent: Thursday, December 14, 2023 4:33 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307 extension

Received, thank you.



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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, December 14, 2023 2:34 PM
To: Strong, Donya M <donya.strong@doa.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 01 NCAC 06B .0307 extension

Good afternoon,

Please see the attached concerning the above captioned rule.

I hope you have a great weekend.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 01 NCAC 06B .0307

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, December 12, 2023 4:24 PM
To: Strong, Donya M <donya.strong@doa.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307

Thank you for your email.

As you are probably aware, staff cannot grant an extension. Only the Commission can. I will certainly make the Commission aware of your request.

The ability for an agency, as the term is used in G.S. 150B-2(1b), to delegate authority to make rules is an interesting concept. I look forward to hearing your thoughts.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: Strong, Donya M <donya.strong@doa.nc.gov>
Sent: Tuesday, December 12, 2023 4:04 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307

Good afternoon Mr. Peaslee,

The Department of Administration would like to provide more information regarding our position that the Governor has delegated the authority to adopt the rule to the Department of Administration. We respectfully request an extension on the consideration of this rule to provide the documentation to you for your review.

Thank you,
Donya Strong

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Burgos, Alexander N

Subject: FW: 01 NCAC 06B .0307

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, December 8, 2023 9:55 AM
To: Strong, Donya M <donya.strong@doa.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307

Thank you! Will you or someone from the DOA be attending the RRC meeting and desiring to speak?

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 01 NCAC 06B .0307

From: Strong, Donya M <donya.strong@doa.nc.gov>
Sent: Friday, December 8, 2023 9:53 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307

Good morning Mr. Peaslee,

Please allow this message serve as confirmation of the staff opinion on the rule captioned above. Thank you.



Donya M. Strong, Esq.

(she/her)

General Counsel

Office 984-236-0003

Cell 984-789-0342

Donya.strong@doa.nc.gov

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Burgos, Alexander N

Subject: FW: 01 NCAC 06B .0307
Attachments: 12.23 01 NCAC 06B .0307 Staff opinion.doc

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, December 8, 2023 9:27 AM
To: Strong, Donya M <donya.strong@doa.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307

Good morning,

Attached please find the staff opinion on the above captioned rule which will be considered at the RRC's December meeting.

As always, if you have any questions please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: Strong, Donya M <donya.strong@doa.nc.gov>
Sent: Thursday, December 7, 2023 4:07 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307 RFC

Mr. Peaslee,

Please see the attached revised rule and responses to the request for changes, along with supporting documentation requested, attached to this email message.

Thank you,

Donya Strong



Donya M. Strong, Esq.

(she/her)

General Counsel

Office 984-236-0003

Cell 984-789-0342

Donya.strong@doa.nc.gov

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1 01 NCAC 06B .0307 is adopted with changes as published in 38:05 NCR 255 as follows:

2

3 **01 NCAC 06B .0307 LEASES AT STATE FAIRGROUNDS AND WNC AG CENTER**

4 The Department of Agriculture and Consumer Services, without prior approval of the Council of State, is authorized
5 to enter into leases of buildings or land, and contracts for the furnishing of rides, shows and other related services on
6 the State Fairgrounds and the WNC Ag Center, provided that the duration of each lease, rental agreement or contract
7 shall not exceed 20 days per year for up to three years, ~~plus a reasonable number of 10 days before and after an event~~
8 for move-in and move-out. A lease, rental agreement or contract for more than one year, which provides for a payment
9 to the State of more than one hundred thousand dollars (\$100,000) per year, shall be awarded to the highest qualified
10 bidder, ~~as determined by~~ in a request for proposals issued by the Department.

11

12 *History Note: Authority G.S. ~~146-35~~; 143-341(4)d,f; 143-341(4)f; Council of State Resolution of July 1, 1975;*

13 *Eff. February 1, 1976;*

14 *Readopted Eff. February 27, 1979;*

15 *Amended Eff. January 1, 2006; August 1, 1988;*

16 *Expired Eff. August 1, 2018 pursuant to G.S. 150B-21.3A,*

17 *Eff. January 1, 2024.*

1 01 NCAC 06B .0307 is adopted as published in 38:05 NCR 255 as follows:

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7 lease, rental agreement or contract shall not exceed 20 days per year for up to three years, plus a reasonable
8 number of days before and after an event for move-in and move-out. A lease, rental agreement or contract
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10 dollars (\$100,000) per year, shall be awarded to the highest qualified bidder, as determined by the
11 Department.

12
13 *History Note: Authority G.S. 146-35; 143-341(4)d,f; 143-341(4)f; Council of State Resolution of July 1, 1975;*
14 *Eff. February 1, 1976;*
15 *Readopted Eff. February 27, 1979;*
16 *Amended Eff. January 1, 2006; August 1, 1988;*
17 *Expired Eff. August 1, 2018 pursuant to G.S. 150B-21.3A,*
18 *Eff. January 1, 2024.*



STATE OF NORTH CAROLINA
OFFICE OF STATE BUDGET AND MANAGEMENT



Employment First State for Individuals with Disabilities

ROY COOPER
GOVERNOR

CHARLES PERUSSE
STATE BUDGET DIRECTOR

February 5, 2021

MEMORANDUM

TO: Department Heads and Chief Fiscal Officers
State Departments, Agencies and Institutions

FROM: Charles Perusse *Charles Perusse*
State Budget Director

SUBJECT: Council of State Meeting Notification

The next regularly scheduled meeting of the Council of State (COS) will be held on **Tuesday, March 2, 2021 at 9:00 a.m.** Due to the COVID19 pandemic, this meeting will be held by video/teleconference using Microsoft TEAMS LIVE software. Individuals on our COS distribution lists will receive an email with link to access the TEAMS LIVE meeting closer to the date of the meeting. For those not on our distribution, please email kela.lockamy@osbm.nc.gov to request the link.

The attached list of meeting dates for the Council includes the dates requests for Council of State action for each meeting are due. We ask that all requests for the March meeting be submitted to the Office of State Budget and Management (OSBM) by close of business on Monday, February 15, 2021.

Attachment

CP/kl

COUNCIL OF STATE
ETHICS AWARENESS AND CONFLICT OF INTEREST REMINDER

In accordance with the State Government Ethics Act, it is the duty of every Council member to avoid both conflicts of interest and the appearances of conflict.

If any Council member has any known conflict of interest or is aware of facts that might create the appearance of such conflict, with respect to any matters coming before the Council today, please identify the conflict or the facts that might create the appearance of a conflict to ensure that any inappropriate participation in that matter may be avoided. If at any time, any new matter raises a conflict during the meeting, please be sure to identify it at that time.

AGENDA

COUNCIL OF STATE

March 2, 2021

VIDEO/TELECONFERENCE VIA MICROSOFT TEAMS

PUBLIC LINK: <http://bit.ly/2NBPsK5>

Pursuant to Section 4.31 (a) of Session Law 2020-3 entitled “Public Bodies/Remote Meetings During Declared Emergencies” which applies to a “remote meeting” conducted by a “public body” utilizing a method of “simultaneous communication”.

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A.	Ethics Awareness and Conflict of Interest Reminder	
B.	Approval of the February 2, 2021 Minutes	
C.	Interest Matters	Dale Folwell
D.	Fire Insurance Matters	Mike Causey 1
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FIRE INSURANCE MATTERS
FUND CONDITION REPORT

State Property Fire Insurance Fund
Fund Condition – March 2021 Council of State
(Cumulative Since July 1, 2020)

Beginning Balance	7/1/2020	21,769,219.27
Premium Received		13,724,451.00
Reinsurance Reimbursement		4,209,419.23
Interest Income		211,266.51
Realized Gain - Sale of Investments		0.00
Total Income		18,145,136.74
Losses Paid (Fund)		7,023,153.87
Losses Paid (Reinsurer)		0.00
Return of Expenditure		0.00
Reinsurance Premium Paid		0.00
Realized Loss - Sale of Investments		0.00
Administrative Expenses		1,411,389.81
Total Expenses		8,434,543.68
Fund Balance	1/31/2021	31,479,812.33

FIRE INSURANCE MATTERS
PROPERTY INSURANCE LOSSES

The Department of Insurance requests permission to pay the following loss(es) from the State Property Fire Insurance Fund:

1. North Carolina Health & Human Services
Location of Loss: Vocation Rehabilitation (Bldg. K)
Cause of Loss: Fire
Date of Loss: August 2, 2020
Loss Number: 20200022-44002000
Amount of Loss: \$14,555.17

2. North Carolina State University
Location of Loss: Owen Hall
Cause of Loss: Broad Form
Date of Loss: January 15, 2021
Loss Number: 20210005-60005003
Amount of Loss: \$11,163.00

BOARD OF TRANSPORTATION RIGHT OF WAY MATTERS
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CONVEYANCE OF RESIDUE TO MUNICIPALITY

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BOARD OF TRANSPORTATION RIGHT OF WAY MATTERS
SALE OF RESIDUE TO MUNICIPALITY

ITEM 1

GRANTOR: State of NC, Department of Transportation

GRANTEE: Town of Rolesville

LOCATION: Intersection of US 401 (Louisburg Road) and East Young
Street near Town of Rolesville, Wake County

AREA: 15.25 acres

CONSIDERATION: \$417,500

COMMENTS: This 15.25 acre residual tract was acquired by the Department, during the construction of highway project 34506.2.GV1 (R-2814B), Wake County. The 15.25 acre tract has an appraised value of \$457,000. The Grantee, in accordance with NCGS 160A-274, has agreed to purchase the residual tract for the negotiated value of \$417,500. The Secretary of Transportation approved this conveyance with the concurrence of the Board of Transportation in a resolution adopted on February 4, 2021.

STATE PROPERTY MATTERS
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3. Pearson's Inc. (INSURANCE) Gaston County 9

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STATE PROPERTY MATTERS
ACQUISITION BY DEED

ITEM 1

GRANTOR: The Nature Conservancy

GRANTEE: State of NC, Department of Agriculture and Consumer Services,
NC Forest Service

LOCATION: Bladen Lakes State Forest, Turnbull Township, Bladen County

AREA: ±445 acres

CONSIDERATION: Gift

COMMENTS: State Forest Addition. Property proposed for acquisition is for inclusion in Bladen Lakes State Forest. Acquisition of this property will provide habitat management for wildlife and longleaf pine. The Nature Conservancy and NC Forest Service staff have jointly developed a management plan to help guide future management of the property. This item was reported to the Joint Legislative Commission on Governmental Operations. Notifications of acquisitions were made to the County and/or Municipality in accordance with G.S.§146-22.

ITEM 2

GRANTOR: L & S Water Power, Inc.
William H. Lee, President

GRANTEE: State of NC, Department of Natural and Cultural Resources,
Division of Parks and Recreation

LOCATION: Andrew Hunter Road, Franklinville Township, Randolph County

AREA: ±22.8 acres

UNIT COST: ±\$2,850.88/acre

CONSIDERATION: \$65,000

COMMENTS: State Trail Addition. Property proposed for acquisition is for inclusion in the Deep River State Trail system. Acquisition of this property protects natural and scenic resources along the Deep River. Funding for this acquisition is provided by funds authorized in Session Law 2015-280, Connect NC Bond Act. This item was reported to the Joint Legislative Commission on Governmental Operations. Notifications of acquisitions were made to the County and/or Municipality in accordance with G.S.§146-22.

STATE PROPERTY MATTERS (Continued)
ACQUISITION BY DEED (Continued)

ITEM 3

GRANTOR: William J. Thornton

GRANTEE: State of NC, Department of Natural and Cultural Resources,
Division of Parks and Recreation

LOCATION: off Meat Camp Road, Meat Camp Township, Watauga County

AREA: ±65.598 acres

UNIT COST: ±\$5,762/acre

CONSIDERATION: \$378,000

COMMENTS: State Park Addition. Property proposed for acquisition is for inclusion in Elk Knob State Park. Acquisition of this property protects natural resources along the southern face of Elk Knob. Funding for this acquisition is provided by the Parks and Recreation Trust Fund (\$189,000) and by private funds (\$189,000). This item was reported to the Joint Legislative Commission on Governmental Operations. Notifications of acquisitions were made to the County and/or Municipality in accordance with G.S. §146-22.

ACQUISITION BY LEASE

ITEM 1

LESSOR: Skyway Properties & Investments, LLC
Christopher D. Fletcher, Manager

LESSEE: State of NC, Department of Commerce,
Division of Workforce Solutions

LOCATION: 1904 South Main Street, Salisbury, Rowan County

TERM: Five years effective March 1, 2021 or possession with five 5-year renewal options

AREA: ±8,269 sq. ft. of office space

STATE PROPERTY MATTERS (Continued)
ACQUISITION BY LEASE (Continued)

ITEM 1 (Continued)

UNIT COST: \$12.50/sq. ft. including parking
\$12.88/sq. ft. – 1st renewal option
\$13.27/sq. ft. – 2nd renewal option
\$13.27/sq. ft. – 3rd renewal option
\$13.27/sq. ft. – 4th renewal option
\$13.27/sq. ft. – 5th renewal option

ANNUAL RENTAL: \$103,363
\$106,505 – 1st renewal option
\$109,730 – 2nd renewal option
\$109,730 – 3rd renewal option
\$109,730 – 4th renewal option
\$109,730 – 5th renewal option

COMMENTS: Renewal Consolidation and Reduction Lease. Renewal, consolidation and reduction of an existing 6-year lease for 9,287 sq. ft. of office space at an annual rental of \$119,802.30 or \$12.90/sq. ft. including parking. Space accessible to the disabled. One lower proposal for \$105,430 annually with full services was received but not deemed feasible due to poor access for an agency with high customer volume. 100% Federal Funds.

ITEM 2

LESSOR: CE Office, LLC
J. Andrew English, Manager

LESSEE: State of NC, Department of Health and Human Services,
Division of Public Health, Communicable Disease Branch and Public
Health Preparedness and Response (PHPR)

LOCATION: 5801 Executive Center Drive, Charlotte, Mecklenburg County

TERM: Eight years effective August 1, 2021 or possession with one 8-year
renewal option

AREA: ±6,659 sq. ft. of office space

UNIT COST: \$21.40/sq. ft. (average), including utilities, janitorial, water/sewer and
parking
\$27.11/sq. ft. (average) – renewal option

ANNUAL RENTAL: \$142,483.85 (average)
\$180,494.27 (average) – renewal option

STATE PROPERTY MATTERS (Continued)
ACQUISITION BY LEASE (Continued)

ITEM 2 (Continued)

COMMENTS: Relocation, Consolidation and Expansion Lease. Relocation, consolidation and expansion of two existing leases for 3,989 sq. ft. at average annual rental of \$73,011.75 or \$18.30/sq. ft., including utilities, janitorial services and parking. Expansion due to the addition of adding a Mother's room, increase in staff, and a training room. Lowest proposal of three received. Space accessible to the disabled. 100% Federal Funds.

ITEM 3

LESSOR: Pearson's Inc.
Plato P. Pearson, Jr., President

LESSEE: State of NC, Department of Insurance

LOCATION: 1422 Burtonwood, Suite 100, Gastonia, Gaston County

TERM: Five years effective March 1, 2021 or possession with three 5-year renewal options

AREA: ±3,285 sq. ft. of office space

UNIT COST: \$14.15/sq. ft. average including utilities, janitorial services, water/sewer and parking
\$15.64/sq. ft. (average) – 1st renewal option
\$17.24/sq. ft. (average) – 2nd renewal option
\$19.04/sq. ft. (average) – 3rd renewal option

ANNUAL RENTAL: \$46,472 average
\$51,309 (average) – 1st renewal option
\$56,649 (average) – 2nd renewal option
\$62,545 (average) – 3rd renewal option

COMMENTS: Relocation lease. Relocation of an existing 5-year lease for 3,006 sq. ft. at an annual rental of \$75,781 or \$25.21/sq. ft. including utilities, janitorial services, water/sewer and parking. Negotiated proposal after no acceptable proposals received through advertising. Space accessible to the disabled. 100% State Funds.

STATE PROPERTY MATTERS (Continued)
DISPOSITION BY DEED

ITEM 1

GRANTOR: State of NC, Department of Agriculture and Consumer Services,
Research Stations Division

GRANTEE: Johnny R. Barbee

LOCATION: 762 Claridge Nursery Road, Goldsboro, Wayne County

AREA: ±17 acres

UNIT COST: ±\$2,000/acre

CONSIDERATION: \$34,000

COMMENTS: Surplus Property. Property proposed for disposition is no longer utilized and has been declared surplus by the agency. The property is currently forest land and unusable due to swampy terrain. The grantee is the adjacent land owner. The property will be conveyed by non-warranty deed. Notifications of acquisitions were made to the County and/or Municipality in accordance with G.S. §146-22.

ITEM 2

GRANTOR: State of NC, Department of Public Safety, North Carolina National Guard

GRANTEE: Town of Morehead City

LOCATION: 3413 Bridges Street, Morehead City, Carteret County

AREA: ±5.1 acres improved with ±15,622 sq. ft. armory and associated buildings

CONSIDERATION: N/A

COMMENTS: Reversion. Property proposed for disposition was acquired from the grantee by deed of gift to be utilized for an armory site subject to a reversionary interest in the event the property is no longer needed. The Department no longer utilizes the property and requests the disposition to the grantee in accordance with the deed. The property will be conveyed by quit claim deed. Notifications of acquisitions were made to the County and/or Municipality in accordance with G.S. §146-22.

STATE PROPERTY MATTERS (Continued)
DISPOSITION BY DEED (Continued)

ITEM 3

GRANTOR: State of NC, Department of Transportation, Division of Highways,
Maintenance

GRANTEE: University Church of Christ, Inc.

LOCATION: Newell-Hickory Grove Road, Charlotte, Mecklenburg County

AREA: ±20,473.2 sq. ft. (±0.47 acre) unimproved

CONSIDERATION: \$18,025

COMMENTS: Surplus Property. Property proposed for disposition is a non-contiguous portion of the Department of Transportation's Newell Maintenance Yard which is no longer utilized. The grantee is the adjacent land owner. The property will be conveyed as-is, by non-warranty deed.

DISPOSITION BY EASEMENT

ITEM 1

GRANTOR: State of NC, Department of Health and Human Services,
Division of Alcohol and Drug Abuse

GRANTEE: Metropolitan Sewerage District of Buncombe County,
North Carolina

LOCATION: 201 Tabernacle Rd, Black Mountain, Buncombe County

EASEMENT AREA: Permanent Utility Easement: ±13,098.2 sq. ft. (±0.301 acre)
Temporary Construction Easement: ±14,923.80 sq. ft. (±0.343 acre)

CONSIDERATION: Benefit

COMMENTS: Utility Easements. Proposed easements are needed to replace an aging public sewer line which services the Julian F. Keith Alcohol and Drug Addiction Treatment Center. The temporary construction easement will terminate upon completion.

STATE PROPERTY MATTERS (Continued)
DISPOSITION BY EASEMENT (Continued)

ITEM 2

GRANTOR: State of NC, Department of Health and Human Services,
Division of Property and Construction

GRANTEE: Duke Energy Carolinas, LLC

LOCATION: 1003 12th Street, Butner, Granville County

EASEMENT AREA: ±571 sq. ft. (±0.013 acre)

CONSIDERATION: Benefit

COMMENTS: Utility Easement. Proposed easement is needed to provide electrical service to a transformer for the new Veterans Life Center building on the Central Regional Annex campus.

ITEM 3

GRANTOR: State of NC, Department of Natural and Cultural Resources,
North Carolina Zoological Park

GRANTEE: Randolph Electric Membership Corporation

LOCATION: Vet Hospital Drive, Asheboro, Randolph County

EASEMENT AREA: ±547 sq. ft. (±0.013 acre)

CONSIDERATION: Benefit

COMMENTS: Utility Easement. Proposed easement is needed for the installation and maintenance of electrical service to the Avian Holding Building.

ITEM 4

GRANTOR: State of NC, University of North Carolina at Wilmington

GRANTEE: Duke Energy Progress, LLC

LOCATION: Riegel Road, Wilmington, New Hanover County

EASEMENT AREA: ±5,741.1 sq. ft. (±0.13 acre)

CONSIDERATION: Benefit

STATE PROPERTY MATTERS (Continued)
DISPOSITION BY EASEMENT (Continued)

ITEM 4 (Continued)

COMMENTS: Utility Easement. Proposed easement is needed for the installation and maintenance of an electrical service line and transformer at the university's new Film Studies building.

PRIOR APPROVAL

ITEM 1

PROPOSED ACTION: Severance of timber

DEPARTMENT/AGENCY: State of NC, Department of Agriculture and Consumer Services,
Research Stations

LOCATION: Umstead Research Station, Cassam Road, Durham and
Granville Counties

AREA: ±243 acres

COMMENTS: Approval is requested to sever ±243 acres of mature loblolly pine plantations which will be commercially thinned to improve health, increase residual stand growth, and accelerate the production of high-quality forest products. Severance will be handled by a contractor.

OTHER MATTERS

ITEM 1

The Department of Agriculture and Consumer Services requests approval from the Governor and the Council of State for the Department of Administration to adopt 01 NCAC 06B.0307 set forth below, which was inadvertently allowed to expire. The Department of Administration concurs in this request.

01 NCAC 06B.0307 LEASES AT STATE FAIRGROUNDS AND WNC AG CENTER

The Department of Agriculture and Consumer Services, without prior approval of the Council of State, is authorized to enter into leases of buildings or land, and contracts for the furnishing of rides, shows and other related services on the State Fairgrounds and the WNC Ag Center, provided that the duration of each lease, rental agreement or contract shall not exceed 20 days per year for up to three years, plus a reasonable number of days before and after an event for move-in and move-out. A lease, rental agreement or contract for more than one year, which provides for a payment to the state of more than one hundred thousand dollars (\$100,000) per year, shall be awarded to the highest qualified bidder, as determined by the Department.

STATE PROPERTY MATTERS (Continued)
OTHER MATTERS (Continued)

ITEM 2

On April 7, 2020, the Governor and Council of State approved a disposition by deed on behalf of the Department of Agriculture and Consumer Services (“DACs”) to Bandwidth, Inc. (“Bandwidth”) for a ±40-acre (exact acreage to be determined by a survey) tract of vacant land at the southwest quadrant of Reedy Creek Road and Edwards Mill Road in Raleigh, Wake County (the “Conveyed Parcel”). The agenda item included the grant of a perpetual easement to Bandwidth for the construction and maintenance of stormwater facilities on adjoining land retained by the State (the “Retained Parcel”) together with an easement for access. Subsequent to approval, this office was notified that the stormwater easement originally requested should be granted to both Bandwidth and the City of Raleigh. Authorization is now requested to grant certain access, maintenance, temporary construction and drainage easements (the “Easements”) to Bandwidth and the City of Raleigh, as needed and applicable, in connection with the stormwater facilities (one facility to be located on the Conveyed Parcel and one facility to be located on the Retained Parcel) and as reasonably needed in connection with the future development of the Conveyed Parcel, and in order to effectively expedite the completion of the conveyance of the Conveyed Parcel to Bandwidth, the Department of Administration is requesting permission to grant, accept, terminate, change, or relocate the Easements on an as-needed basis without the individual approval of the Council of State.

The agenda also included several items related to parking improvements on the Retained Parcel and other State-owned land. Subsequent to approval, this office was notified of the following changes with respect to the location of the parking improvements and the number of parking spaces. Bandwidth or Athens Development Partners, LLC, a North Carolina limited liability company (or its successors or assigns, “ADP”), as third-party developer for Bandwidth, will construct, at its sole expense, a parking lot and related improvements on the Retained Parcel and on a tract of State-owned land identified as “Area 4” (located at the intersection of Edwards Mill Road and Hwy 54 at the end of Mt. Vernon Road and directly south of the NC State Fairgrounds Campground) (the “Parking Areas”), that shall accommodate, in the aggregate, approximately ±5,000 vehicles. In connection with the foregoing, authorization is requested to expressly grant to ADP all rights of access and construction similarly granted to Bandwidth in the ground lease with respect to the Parking Areas and the improvements to be performed thereon. Further, neither Bandwidth nor ADP shall have the obligation to construct parking facilities on the Conveyed Parcel or to provide DACs or any other State agency with use of any parking facilities to be located on the Conveyed Parcel.

STATE PROPERTY MATTERS (Continued)
OTHER MATTERS (Continued)

ITEM 3

Lease Amendment. On May 7, 2019, the Governor and Council of State approved a 10-year disposition lease with two 10-year renewal options to Communications Tower Group LLC, for \$20.00/year plus 50% gross revenue sharing from sublessees, for approximately 0.5 acre of land to construct two monopine communication towers to enhance cellular coverage at the NC Zoological Park in Asheboro. The deadline for completion of the construction of the two towers is November 1, 2021. Due to delays caused by COVID-19, Communication Tower Group LLC has requested an extension of the completion date to July 1, 2022. With the approval of the Council of State, the amended lease will reflect these changes. All other terms and conditions will remain the same.

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UNC HEALTH CARE SYSTEM MATTERS
ACQUISITION BY SALE AND LEASE (Informational Report)

ITEM 1

GRANTOR: Carolina Hosiery Mills, Inc.

GRANTEE: University of North Carolina Hospitals at Chapel Hill

LOCATION: 1225 Huffman Mill Road, Burlington, Alamance County

AREA: 3,162 SF

COST / SF \$23.50 / SF

CONSIDERATION: Monthly lease payment of \$6,192.25

TERM: 01.01.2021 – 12.31.2023

COMMENTS: University of North Carolina Hospitals at Chapel Hill extended the lease for three years for 3,162 sf at 1225 Huffman Mill Road, Burlington, NC. The space is used for Burlington Imaging.

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OTHER DISCUSSION

Governor allows time for each member to share updates from respective agency.

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "~~a~~Association"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day;;and"
 - Right: "~~day;~~ day; and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

William W. Peaslee
Commission Counsel
Date submitted to agency:

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

William W. Peaslee
Commission Counsel
Date submitted to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Administration

RULE CITATION: 01 NCAC 06B .0307

DEADLINE FOR RECEIPT: November 7, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: Explain the Department's authority to adopt this rule when G.S. 143-241(4)(f) states that the Governor may adopt rules.

On March 2, 2021, the Governor and Council of State approved the request of the Department of Agriculture and Consumer Services for the Department of Administration to adopt 01 NCAC 06B.0307, which was inadvertently allowed to expire in 2018.

Lines 5-6: Does the Council of State need to approve contracts for furnishing rides, shows, and other related services?

No, the Council of State does not need to approve contracts for furnishing rides, shows, and other related services, as these items are not within the scope of Real Property Control, as listed in G.S. 143-341(4).

Lines 7-8: "Reasonable number of days" is ambiguous.

The revised rule eliminates the ambiguity.

Line 10: What is a "qualified" bidder?

The revised rule defines "qualified bidder."

Line 13: Explain the relevance of G.S. 146-35 and G.S. 143-341(4)d?

The revised rule eliminates G.S. 146-35.

Line 13: G.S. 143-341(4)f is listed twice in the History Note.

The revised rule eliminates the additional G.S. 143-341(4)f.

William W. Peaslee
Commission Counsel
Date submitted to agency:

Line 13: Please provide a copy of the Council of State Resolution of July 1, 1975.

Please see the attached copy of the Council of State Resolution dated July 1, 1975.

Line 13: Has the Council of State approved this rule since July 1, 1975? If so, when was the latest approval?

Yes, the Council of State approved this rule on March 2, 2021. Please see the attached approval memo and Council of State minutes from the March 2, 2021, meeting.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel
Date submitted to agency:

2. That the Council's prior Resolution adopted August 9, 1972, authorizing certain agencies to acquire or dispose of real property by rental without the prior approval of the Council under certain conditions be amended by adding to the list of authorized agencies contained therein the Examining and Licensing Boards listed.

3. That the Department of Administration be directed to contact all listed Examining and Licensing Boards and inform them of the Council action and future procedures for leasing.

On a motion by Mr. Bridges, seconded by Mr. Graham, the Council of State unanimously passed the following resolution:

COUNCIL OF STATE MEETING

RESOLUTION

July 1, 1975

THAT, WHEREAS, the North Carolina State Fair, a Division of the North Carolina Department of Agriculture, frequently leases buildings located on the State Fair Grounds in Wake County to individuals, corporations and other legal entities; and

WHEREAS, the State Fair also leases space on the Fair Grounds for individuals, corporations and other legal entities to exhibit goods and wares and to sell food and other items during the State Fair and at other times; and

WHEREAS, the State Fair enters into contracts with individuals and other legal entities for the furnishing of rides, shows and other services during the State Fair and at other times; and

WHEREAS, usually the terms of such leases, rental agreements and contracts provide that the State Fair is to receive a percentage of the gross or net receipts of the renter, lessee, or contractor, thereby making the amount of money to be received by the State Fair undeterminable at the time of the execution of such leases, rental agreements, and contracts; and

WHEREAS, the Department of Agriculture has requested the Council of State to grant to the Department authority to enter into certain leases, rental agreements and contracts without prior approval of the Council of State,

NOW, THEREFORE, BE IT RESOLVED that the North Carolina Department of Agriculture, without prior approval of the Council of State, is hereby authorized to enter into leases of buildings on the State Fair Grounds, leases of space on the State Fair Grounds, and contracts for the furnishing of rides, shows and other services on the State Fair Grounds, provided that the duration of such leases, rental agreements and contracts shall not exceed fifteen (15) days.

There being no further business the meeting was adjourned.

RESOLUTION

On a motion by Mr. Brooks, seconded by Mr. Eure, the Council of State unanimously approved the following resolution:

RESOLUTION

THAT WHEREAS, the Western North Carolina Horse and Livestock Facility (including the Western North Carolina Agriculture Center) a division of the North Carolina Department of Agriculture, frequently provides short-term leases of space within the facility for horse shows, and other agricultural events; and,

WHEREAS, the consideration for these leases, rental agreements and contracts often are indeterminable in that they are often a percentage of the gross or net receipts of the renter, lessee, or contractor; and,

WHEREAS, the provisions of Article 7 of Chapter 146 of the North Carolina General Statutes cannot be adhered to prior to acceptance of many of the lease agreements and contracts; and,

WHEREAS, G.S. 146-32 provides that the Governor, acting with the approval of the Council of State, may adopt rules and regulations exempting from any or all of the requirements of Sub-Chapter II of Chapter 146 of the General Statutes, such classes of lease as he deems advisable;

NOW, THEREFORE, BE IT RESOLVED that those short-term leases at the Western North Carolina Horse and Livestock Facility (including the Western North Carolina Agriculture Center) are hereby exempt from the provisions of Article 7 of Chapter 146 of the North Carolina General Statutes and the Department of Agriculture is hereby authorized to enter into short-term leases and contracts for said facilities in the best interest of the State of North Carolina.

No leases entered into under the authority of this Resolution shall exceed a term of fifteen (15) days and provisions for earlier termination by the State shall be obtained whenever possible.

On a motion by Mr. Eure, seconded by Mr. Graham, the Council of State unanimously approved the following resolution:

RESOLUTION

THAT WHEREAS, Appalachian State University has requested the North Carolina Department of Administration to acquire certain lands in Watauga County, North Carolina, needed for roadway and drainage easements for Appalachian State University; and

WHEREAS, the Department of Administration has investigated the proposed acquisition of several small parcels of land containing about 0.854 acre, more or less, in the aggregate, ostensibly owned by Thrift Lease, Inc., A. E. McCreary, or their successors in interest; and

WHEREAS, the State of North Carolina has been unable to acquire said lands by negotiation; and

WHEREAS, said lands are necessary for roadway and drainage easements for Appalachian State University; and

WHEREAS, the Department of Administration has requested approval of the Governor and Council of State for acquisition of said lands by the State of North Carolina by condemnation as provided in Chapter 146 and Chapter 136, Article 9, of the General Statutes of North Carolina.

NOW, THEREFORE, BE IT RESOLVED:

1. That acquisition of said lands as hereinabove designated by the State of North Carolina be and the same is hereby approved.

RESOLUTION

On a motion by Mr. Graham, seconded by Mr. Boyles, the Council of State unanimously approved the following resolutions:

ITEM 1

THAT WHEREAS, the Senator Bob Martin Eastern North Carolina Agriculture Center at Williamston, Martin County and Southeastern Agriculture Center at Lumberton, Robeson County, divisions of the North Carolina Department of Agriculture and Consumer Services, frequently provide short-term leases of space within the facilities for horse shows and other agricultural events; and,

WHEREAS, the consideration for these leases, rental agreements and contracts often are indeterminable in that they are often a percentage of the gross or net receipts of the renter, lessee, or contractor; and,

WHEREAS, the provisions of Article 7 of Chapter 146 of the North Carolina General Statutes cannot be adhered to prior to acceptance of many of the lease agreements and contracts; and,

WHEREAS, G.S. 146-32 provides that the Governor, acting with the approval of the Council of State, may adopt rules and regulations exempting from any or all of the requirements of Sub-Chapter II of Chapter 146 of the General Statutes, such classes of lease as he deems advisable;

NOW, THEREFORE, BE IT RESOLVED that those short-term leases at the Senator Bob Martin Eastern North Carolina Agriculture Center at Williamston, Martin County and Southeastern Agriculture Center at Lumberton, Robeson County are hereby exempt from the provisions of Article 7 of Chapter 146 of the North Carolina General Statutes and the Department of Agriculture and Consumer Services is hereby authorized to enter into short-term leases and contracts for said facilities in the best interest of the State of North Carolina.

No leases entered into under the authority of this Resolution shall exceed a term of fifteen (15) days and provisions for earlier termination by the State shall be obtained whenever possible.

Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, December 8, 2023 9:27 AM
To: Strong, Donya M
Cc: Burgos, Alexander N
Subject: RE: 01 NCAC 06B .0307
Attachments: 12.23 01 NCAC 06B .0307 Staff opinion.doc

Good morning,

Attached please find the staff opinion on the above captioned rule which will be considered at the RRC's December meeting.

As always, if you have any questions please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Strong, Donya M <donya.strong@doa.nc.gov>
Sent: Thursday, December 7, 2023 4:07 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: RE: 01 NCAC 06B .0307 RFC

Mr. Peaslee,

Please see the attached revised rule and responses to the request for changes, along with supporting documentation requested, attached to this email message.

Thank you,

Donya Strong



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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, November 21, 2023 3:14 PM
To: Strong, Donya M <donya.strong@doa.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 01 NCAC 06B .0307 RFC

Hi Donya,

I hope this email finds you well.

Attached please find the Request for Changes on the above captioned rule.

I hope you have a happy Thanksgiving.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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