



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

**OAH USE ONLY**

**VOLUME:**

**ISSUE:**

<b>1. Rule-Making Agency:</b> State Board of Examiners of Electrical Contractors	
<b>2. Rule citation &amp; name:</b> 21 NCAC 18B.308 Bidding Projects Pursuant to G.S. 87-1.1	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>Effective date:</b>	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: 10/1/2021 b. Proposed Temporary Rule published on the OAH website: 10/5/2021 c. Public Hearing date: 10/22/2021 d. Comment Period: 10/1/2021 - 10/28/2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 10/1/21 by posting on the Board's webpage which is the normal method of communication f. Adoption by agency on: 11/15/21 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: 2021-122 Effective date: 10/1/2021 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Session law 2021-122 allows for the bidding of projects by licensees of the State Board of Examiners of Electrical Contractors even if those projects include work requiring a license issued by either the State Licensing Board for General Contractors or the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors under certain conditions and subject to rules adopted by the State Board of Examiners of Electrical Contractors. Temporary rules are needed to provide clarity to the marketplace for contractors.	

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

SL 2021-122 allows for the bidding of projects to begin on October 1, 2021 and allows for Rulemaking to clarify the requirements for bidding projects under this new authority by licensees of this Board. Waiting for additional time to pass before putting in place a rule will result in confusion in the marketplace. Regulatory clarity will eliminate confusion. There is no known opposition.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

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**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Richard Jones

**Title:**

Chairman

**E-Mail:** Richard.Jone@bryantdurham.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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21 NCAC 18B .0308 ~~is proposed as a temporary rule~~ is adopted under temporary procedures with changes as follows:

**21 NCAC 18B .0308 BIDDING PROJECTS PURSUANT TO G.S. 87-1.1**

If a building project is bid or performed pursuant to G.S. ~~87-1.1, 87-1.1:~~

- (1) the total amount of work to be performed by all licensed general contractors shall not exceed 25% of the total bid price; ~~and~~
- (2) the total amount of work to be performed by all licensed contractors issued a license by the State Board of Plumbing, Heating and Fire Sprinkler Contractors under Article 2 of Chapter 87 of the North Carolina General Statutes shall not exceed 25% of the total bid price.

*Authority S.L. 2021-122; G.S. 87-1.1; G.S. 87-42*