



**North Carolina Department of Natural and Cultural Resources  
Office of the Secretary**

Governor Pat McCrory

Secretary Susan Kluttz

TO: Rules Review Commission

FROM: General Counsel's Office, Department of Natural and Cultural Resources

RE: Roanoke Island Commission

DATE: September 15, 2016

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Title 07, Chapter 11 of the Administrative Code, which governs the Roanoke Island Commission, is scheduled for review in May 2017. The Roanoke Island Commission, through the Department of Natural and Cultural Resources, respectfully requests removal from the rules review schedule set forth in 26 NCAC 05 .0211.

The Roanoke Island Commission's main duties are to preserve and enhance the Highway 26 and 264 travel corridors and to advise the Secretary on operating the Elizabeth II State Historic Site. *See* N.C. Gen. Stat. § 143B-131.2. As part of the 1995 budget, the legislature amended the Roanoke Island Commission's duties to add an exemption from Chapter 150B of the General Statutes. N.C. Sess. Laws 1995-507, Sec. 12.6(a). The exemption currently reads: "Chapter 150B of the General Statutes does not apply to the adoption of rules by the Commission." N.C. Gen. Stat. § 143B-131.2(b)(9). The General Assembly amended the statutes governing the Roanoke Island Commission in 2011, 2014, and 2015 without removing the exemption from Chapter 150B. N.C. Sess. Laws 2011-145, Sec. 21.2; 2014-100, Sec. 19.8; 2015-241, Sec. 14.30.

The existing rules review process requires "each agency subject to this Article" to review its rules at least once every ten years. N.C. Gen. Stat. § 150B-21.3A(c). By virtue of its exclusion from Chapter 150B, the Roanoke Island Commission contends it is not subject to Article 2A of Chapter 150B and should therefore be removed from the May 2017 existing rules calendar.

**§ 143B-131.2. Roanoke Island Commission - Purpose, powers, and duties.**

(a) The Commission is created to fundraise for and to operate and administer the Roanoke Island Festival Park and all other properties under the administration of the Department of Natural and Cultural Resources located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo, except as otherwise determined by the Department.

(b) The Commission shall have the following powers and duties under the direction and control of the Secretary:

- (1) To advise the Secretary of the Department of Transportation and adopt rules on matters pertaining to, affecting, and encouraging restoration, preservation, and enhancement of the appearance, maintenance, and aesthetic quality of U.S. Highway 64/264 and the U.S. 64/264 Bypass travel corridor on Roanoke Island and the grounds on Roanoke Island Festival Park. However, the local government that has jurisdiction over the affected portion of the travel corridor shall process the applications for and issue the certificates of appropriateness and shall be responsible for the enforcement of those certificates and any rules adopted pursuant to this subdivision that apply to the portion of the travel corridor within the jurisdiction of the local government. No reimbursement shall be made by the Commission to the local government for the processing of applications or issuance of certificates of appropriateness, or the enforcement of those certificates or the rules.
- (2) To operate Roanoke Island Festival Park, including the Elizabeth II State Historic Site and Visitor Center and the Elizabeth II as permanent memorials commemorating the Roanoke Voyages, 1584-1587.
- (3) Repealed by Session Laws 2014-100, s. 19.8(a), effective July 1, 2014.
- (4) To advise the Secretary of Natural and Cultural Resources on matters pertinent to historical and cultural events on Roanoke Island.
- (5) With the assistance of the Department of Natural and Cultural Resources, to identify, preserve, and protect properties located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo consistent with applicable State laws and rules.
- (6) With the approval of the Secretary of Natural and Cultural Resources, establish and collect a charge for admission to any property or event operated by the Commission.
- (7) Repealed by Session Laws 2014-100, s. 19.8(a), effective July 1, 2014.
- (8) To cooperate with the Secretary and Department of Natural and Cultural Resources, the Secretary and Department of Transportation, the Secretary and Department of Environmental Quality, and other governmental agencies, officials, and entities, and provide them with assistance and advice.
- (9) To adopt and enforce the bylaws, rules, and guidelines, not inconsistent with the rules and guidelines of the Department of Natural and Cultural Resources, that the Commission deems to be reasonably necessary in order to carry out its powers and duties. Notwithstanding the foregoing, Chapter 150B of the General Statutes does not apply to the adoption of rules by the Commission.
- (10) To fundraise, accept monies, gifts, donations, grants, or devises, which funds will be used by the Commission for purposes of carrying out its duties and purposes herein set forth. The Friends of Elizabeth II, Inc., shall use the

balance of any unencumbered funds that were transferred to it pursuant to this subdivision only for expenses of the Commission or the properties operated by the Commission that are identified as operating or for maintenance costs by the Commission and that are requested by the Commission.

- (11) By cooperative arrangement with other agencies, groups, individuals, and other entities, to coordinate and schedule historical and cultural events on Roanoke Island.
- (12) Make recommendations to the Secretary of Natural and Cultural Resources concerning personnel and budgetary matters.
- (13)-(15) Repealed by Session Laws 2014-100, s. 19.8(a), effective July 1, 2014. (1993 (Reg. Sess., 1994), c. 769, s. 12.5(a); 1995, c. 507, s. 12.6(b); 1997-443, ss. 11A.119(a), 30.1; 1998-212, ss. 21.1(a), 21.1(b); 2006-259, s. 25; 2010-194, s. 26; 2011-145, s. 21.2(d), (e), (h); 2011-284, s. 98; 2011-326, s. 15(aa); 2014-100, s. 19.8(a); 2015-241, ss. 14.30(s), (t), (u), (x).)