

**RULES REVIEW COMMISSION MEETING  
MINUTES  
February 16, 2023**

The Rules Review Commission met on Thursday, February 16, 2023, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Jeanette Doran, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho were present in the Commission Room. Commissioner Jay Hemphill was present via WebEx.

Staff member Alexander Burgos, and Commission Counsel Seth Ascher, Lawrence Duke, Brian Liebman, and Bill Peaslee were present in the room.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

**APPROVAL OF MINUTES**

The Chair asked for any discussion, comments, or corrections concerning the minutes of the January 19, 2023 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow up matters Tabs H, I, and J for Coastal Resources Commission.

**FOLLOW UP MATTERS**

**Medical Care Commission**

10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, and .5411 – These Rules remain on the agenda pending the agency's intention to seek a legislative fix to address the overarching statutory objection. No action was required by the Commission.

**Medical Care Commission**

Upon the call of the Chair, 10A NCAC 13F .0904 and 13G .0904 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Megan Lamphere, with the Division of Health Service Regulation, addressed the Commission.

**Department of Public Safety**

14B NCAC 03 .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, .0409, and .0410 - The Commission extended the period of review for these Rules at the January meeting. No action was required by the Commission.

**Department of Environmental Quality**

15A NCAC 01E .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0114, and .0115 - The Commission extended the period of review for these Rules at the January meeting. No action was required by the Commission.

**Environmental Management Commission**

15A NCAC 02B .0208, .0212, .0214, .0215, .0216, and .0218 - The rules were returned at the request of the agency. No action was required by the Commission.

**Environmental Management Commission**

Upon the call of the Chair, 15A NCAC 02E .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, and .0409 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**Environmental Management Commission**

15A NCAC 02H .1301, .1401, .1402, .1403, .1404, and .1405 - The Commission objected to these Rules at the May 2022 meeting. The agency has not responded to the Commission's objection since August 2022. No action was required by the Commission.

**Coastal Resources Commission**

Upon the call of the Chair, 15A NCAC 07I .0508 and .0511 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

The Commission determined that the agency had not satisfied the September 2022 RRC objections and continues to object pursuant to G.S. 150B-21.12(c). Upon the call of the Chair, the Commission voted to continue the objections from the September 2022 meeting for 15A NCAC 07H .0501, .0502, .0503, .0505, .0506, .0507, .0508, .0509, .0510; 07I .0406, .0506, .0702; 07J .0203, .0204, .0206, .0207, .0208, and .0312 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Mary Lucasse with the Department of Justice, and representing the agency, addressed the Commission.

**Coastal Resources Commission**

The Commission determined that the agency had not satisfied the September 2022 RRC objections and continues to object pursuant to G.S. 150B-21.12(c). Upon the call of the Chair, the Commission voted to continue the objection from the September 2022 meeting for 15A NCAC 07H .2305 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**Coastal Resources Commission**

Upon the call of the Chair, 15A NCAC 07M .1102 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

The Commission determined that the agency had not satisfied the September 2022 RRC objections and continues to object pursuant to G.S. 150B-21.12(c). Further, the RRC determined that, as written, 07M .0201, and .0202 have substantially changed pursuant to G.S. 150B-21.12(c).

Upon the call of the Chair, the Commission voted to continue the objections from the September 2022 meeting for 15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0701, .0703, .0704, .1001, .1002, and .1101 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Wildlife Resources Commission**

Upon the call of the Chair, 15A NCAC 10F .0201 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **TSERS and LGERS Board of Trustees**

Upon the call of the Chair, 20 NCAC 02A .0101, .0102, .0103, .0104, .0201, .0202, .0301, .0302, .0303, .0401, .0503, .0504, and .0505 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **TSERS Board of Trustees**

Upon the call of the Chair, 20 NCAC 02B .0101, .0202, .0210, .0211, .0213, .0301, .0302, .0303, .0304, .0305, .0307, .0308, .0401, .0402, .0404, .0405, .0501, .0502, .0503, .0504, .0510, .0701, .0706, .0801, .0802, .0803, .0804, .0805, .0806, .0807, .0810, .0901, .0902, .0903, .0904, .0905, .0906, .1003, .1004, .1005, .1006, .1007, .1101, .1102, .1104, .1204, .1205, and .1207 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **LGERS Board of Trustees**

Upon the call of the Chair, 20 NCAC 02C .0101, .0201, .0204, .0205, .0301, .0302, .0303, .0304, .0306, .0307, .0402, .0403, .0404, .0405, .0501, .0502, .0503, .0504, .0704, .0901, .0902, .0904, .0906, .0907, .0908, .0909, .1001, .1002, .1003, .1004, .1006, .1007, .1201, .1301, .1302, .1501, .1503, .1504, .1505, and .1506 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **TSERS Board of Trustees**

Upon the call of the Chair, 20 NCAC 02F .0101, .0104, .0107, and .0108 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **TSERS Board of Trustees**

Upon the call of the Chair, 20 NCAC 02L .0101, .0103, .0202, .0302; 02M .0101, .0102, .0104, .0201, .0202, .0206, .0301, .0302, .0303, .0304, .0305, and .0307 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **LGERS Board of Trustees**

Upon the call of the Chair, 20 NCAC 02N .0106, .0108, .0208, .0215, .0218, and .0219 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Board of Examiners for Engineers and Surveyors**

Upon the call of the Chair, 21 NCAC 56 .0303, .0601, .0608, .1702, .1703, .1704, .1705, .1707, and .1713 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew

Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

### **LOG OF FILINGS (PERMANENT RULES)**

#### **Department of Labor**

Upon the call of the Chair, 13 NCAC 18 .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, and .0110 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Environmental Management Commission**

15A NCAC 02H .0804 was withdrawn at the request of the agency. No action was required by the Commission.

#### **State Board of Education**

Upon the call of the Chair, the Commission extended the period of review for 16 NCAC 06E .0204 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Board of Examiners of Electrical Contractors**

Upon the call of the Chair, 21 NCAC 18B .0201, .0213, and .0308 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Board of Examiners in Optometry**

Upon the call of the Chair, 21 NCAC 42B .0101, .0303; 42D .0101, .0102; 42M .0101 and .0106 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Board of Pharmacy**

Upon the call of the Chair, 21 NCAC 46 .1819 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors**

Upon the call of the Chair, 21 NCAC 50 .0403, .0415, .0519, and .1101 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

#### **Building Code Council**

Upon the call of the Chair, 2018 NC Fire Code, Sections 510.4.2, 510.5, 510.5.4, and Chapter 80 and the 2020 NC Electrical Code, Article 100 Definitions were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Pursuant to Session Law 2021-121, Rules 2018 NC Fire Code, Section D107.1, D107.2; 2018 NC Plumbing Code, Table 605.3 Water Service Pipe, and 2018 NC Residential Code Table P2906.4 Water Service Pipe are subject to legislative review and are exempt from review by the Commission. Therefore, the agency withdrew these rules from Commission review and no action was taken on these Rules by the Commission.

## **LOG OF FILINGS (TEMPORARY RULES)**

### **Building Code Council**

Upon the call of the Chair, 2018 NC Residential Code: N1103.3.1; 2018 NC Energy Conservation Code: R403.3.1; and 2018 Energy Conservation Code: C403.2.9 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

### **COMMISSION BUSINESS**

Chair Doran notified the Commissioners of a letter by the Codifier of Rules Ashley Snyder. The letter explained an issue pertaining to the delayed effective dates for 15A NCAC 02D .0535 and .0545.

The meeting adjourned at 10:04 a.m.

The next regularly scheduled meeting of the Commission is Thursday, March 16, 2023, at 9:00 a.m.

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Alexander Burgos, Paralegal

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Minutes approved by the Rules Review Commission:  
Jeanette Doran, Chair

February 16, 2023

Rules Review Commission  
Meeting  
Please Print Legibly

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**Rules Review Commission Meeting February 16, 2022**  
**Via WebEx**

<b>Name</b>	<b>Agency</b>
Daniel Johnson	DOT
Todd Crawford	DEQ
Virginia Niehaus	CPH
EJ Wiley	DOT
Dauna Bartley	Dental Board
Karen Higgins	EMC
Rachel A Love-Adrick	DEQ
Will Polk	DPS
Helen Landi	DOT
David Wainwright	EMC
Hannah Jernigan	hjernigan@ncdot.gov
Julie Ventaloro	OSBM
Janice Peterson	Optometry
Anna Hayworth	Agriculture
Joelle Burleson	DEQ
Libby Kinsey	DHHS
Makeda Harris	NCHA
Laura Lansford	NCDOR
Shalisa Jones	DHHS
Thomas Ziko	DPI
Christopher Ventaloro	DEQ
Megan Lamphere	DHHS
Carla Rose	Labor
David Rittlinger	BCC
Marlika Hairston	NCCOB
Madison Mackenzie	DHHS
Angela Willis	CRC
Ross Smith	NCMA
Linwood Peele	EMC
Johnny Loper	Optometry
Anne Coan	NCFB
Carrie Ruhlman	WRC
Thomas Causey	Treasurer