

**RULES REVIEW COMMISSION MEETING
MINUTES
February 18, 2021**

The Rules Review Commission met on Thursday, February 18, 2021 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive Orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioners present via WebEx were Bobby Bryan, Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell.

Staff member Alex Burgos was present in the Commission room. Commission Counsel Amber May, Amanda Reeder, and Ashley Snyder were present via WebEx.

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 21, 2021 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 6. 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 for the State Board of Education Tabs C and D, and Department of Transportation Tab E.

FOLLOW UP MATTERS

Department of Public Safety

14B NCAC 19A .0101, .0102, .0103, .0104; 19B .0101, .0102, .0103, .0104, .0105, .0106, .0107; and 19C .0101 - The agency is addressing the technical change requests from the January meeting. No action was required by the Commission.

State Board of Education

16 NCAC 06B .0114 - The agency is addressing the objection from the January meeting. No action was required by the Commission.

State Board of Education

16 NCAC 06D .0307, .0308, .0311; 06E .0204, and .0206 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

16 NCAC 06D .0311 - The rule received over 10 letters of objection and will be subject to legislative review and a delayed effective date in accordance with G.S. 150B-21.3.

16 NCAC 06G .0508 – In November, the Commission determined the rewritten version of 16 NCAC 06G .0508 met the Commission’s objections but the changes were substantial, and the agency would need to re-publish the rule. No action was required by the Commission.

State Board of Education

16 NCAC 06D .0309 – Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The rule received over 10 letters of objection and will be subject to legislative review and a delayed effective date in accordance with G.S. 150B-21.3.

Department of Transportation

Prior to the review of the rules from the Department of Transportation, Commissioner Bryan recused himself and did not participate in any discussion or vote concerning the rules because his family is currently involved in litigation with the Department.

Upon the call of the Chair, the Commission waived Rule 26 NCAC 05 .0103 and allowed the submission of untimely written comments regarding the rules by a roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 6. Voting in the negative: None.

During the review of the rules from the Department of Transportation, Commissioner Choi left the meeting and did not return.

19A NCAC 02E .0204 - Upon the call of the Chair, the rule was approved contingent upon a technical change of adding G.S. 160D-912 to the history note by roll-call vote, ayes 4, noes 1 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, and Randy Overton – 4. Voting in the negative: Paul Powell.

The technical change was subsequently received.

19A NCAC 02E .0206 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 5. Voting in the negative: None.

19A NCAC 02E .0225 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 4, noes 1 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, and Randy Overton – 4. Voting in the negative: Paul Powell.

The rules received over 10 letters of objection and will be subject to legislative review and a delayed effective date in accordance with G.S. 150B-21.3.

TJ Bugbee, Executive Director with the North Carolina Outdoor Advertising Association, addressed the Commission.

Craig Justus with Van Winkle, Buck, Wall, Starnes, and Davis, P.A., addressed the Commission.

Dale McKeel, Board member with Scenic North Carolina, addressed the Commission.

Tom Miller, retired from the Department of Justice, addressed the Commission.

Jack Cozort, representing the Town of Cary and City of Wilson, addressed the Commission.

Jennifer Robinson, City Council member from the Town of Cary and President of the League of Municipalities, addressed the Commission.

Karen Sindelar, Retired Senior Assistant Attorney with the City of Durham, addressed the Commission.

Ebony Pittman with the Department of Justice and representing the agency, addressed the Commission.

LOG OF FILINGS (PERMANENT RULES)

Gasoline and Oil Inspection Board

02 NCAC 42 .0201 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Commission for Mental Health, Development Disabilities, and Substance Abuse Services

10A NCAC 26F .0106 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Industrial Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Alcoholic Beverage Control Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Environmental Management Commission

15A NCAC 02Q .0203 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The rule received over 10 letters of objection and will be subject to legislative review and a delayed effective date in accordance with G.S. 150B-21.3.

Department of Environmental Quality

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

State Board of Education

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Board of Funeral Service

Prior to the review of the rules from the Board of Funeral Service, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm provides general legal advice to the Board, including matters involving rulemaking.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 6. Voting in the negative: None.

Building Code Council

Residential Code, N1101.13(R401.2) – Upon the call of the Chair the Commission voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management (OSBM) to determine if the rule has a substantial economic impact and therefore requires a fiscal note. A response from OSBM to this request pursuant to G.S. 150B-21.9 will assist the Commission in determining whether the agency adopted the rule in accordance with the Administrative Procedure Act. The determination to send the rule to OSBM was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

This rule will remain under the Commission's review until after review by OSBM and subsequent action by the agency pursuant to G.S. 150B-21.12.

Upon the call of the Chair, the remaining rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

COMMISSION BUSINESS

Commissioners Atkins and Bryan were appointed to review the OAH rule coming before the Commission at the March meeting.

The meeting adjourned at 11:23 a.m.

The next regularly scheduled meeting of the Commission is Thursday, March 18, 2021 at 9:00 a.m.

Alexander Burgos, Paralegal

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

**Rules Review Commission Meeting February 18, 2021
Held Via WebEx**

Name	Agency
Kevin Harrison	SBOE
Ryke Longest	Duke University
Grey Vick	Grey Outdoor
Mark Stocks	
Ervin Lane	DENR
Dennis Seavers	Barber Examiners
Jessica Macari	DOJ
Kim Evans	SBOE
Robert Nauseef	ABC
Pudge	BC Company
Carl Martin	SBOE
Emily Jones	DOT
Renee Metz	ABC
Chris Colvin	Lamar Advertising
Allison Meade	Meade Law
Sarah Bales	Brubaker & Associates
Chris And Robin	
Deanna Townsend-Smith	SBOE
Elizabeth Ouzts	
P W	NCACC
Michael Peters	Adams Outdoor
Cassie Gavin	Sierra Club
Mary Asbill	Schweitzer Engineering Laboratories
Jennifer Everett	DEQ
Amy Mull	OAH
Jessica Montie	DENR
Daniel Johnson	DOT
Tj Bugbee	NCOAA
Patrick Knowlson	DENR
Renee Metz	ABC
Stephen Benjamin	Agriculture
Robert Privott	NCHBA
John Schafer	
Thomas Ziko	SBOE
Lou Martin	SBOE
Ebony Pittman	DOT
Walker Reagan	ABC

Jennifer Robinson	SAS: Analytics
Vincent Fazio	
Joelle Burleson	DENR
Emily McGraw	DOT
Jack Cozort	Town of Cary and City of Wilson
Crista Cuccaro	City of Durham
Dale McKeel	
Craig Justus	Van Winkle, Buck, Wall, Starnes, and Davis, P.A
Tom Miller	
Karen Sindelar	
Gina Cammarano	IC
Seth Kandl	ABC
Katherine Quinlan	
Denise Baker	DHHS
Brandon Walker	SBOE