



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

October 22, 2018

Margaret McDonald, Rulemaking Coordinator
Department of Public Safety
Sent via email only: Margaret.McDonald@ncdps.gov

Re: Objection to Rules 14B NCAC 01C .0401 and .0402

Dear Ms. McDonald:

At its meeting last week, the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to Rule 14B NCAC 01C .0401 based upon lack of statutory authority.

Specifically, the Commission found that a statute cited to as authority for this Rule, G.S. 160A-288.1, requires the rule to be "necessary to establish a plan under which temporary State law-enforcement assistance will be provided to the cities and counties." This Rule does not do that; instead, it establishes agreements for the city or county to reimburse the costs after the Secretary provided the assistance. Therefore, there was no authority cited for this Rule.

In addition, G.S. 160A-288.1(c) states that all times, the State law-enforcement officer shall be considered an employee of the State for all purposes. However, in Items (1) through (3), the Rule states that the costs of employment, including pay, workers compensation, and fringe benefits, may be paid by the local government. There was no authority presented for the agency to offset all State employment requirements to local governments through rulemaking

The Commission objected to Rule 14B NCAC 01C .0402 based upon lack of statutory authority and ambiguity.

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Rules Review
Commission
919/431-3000
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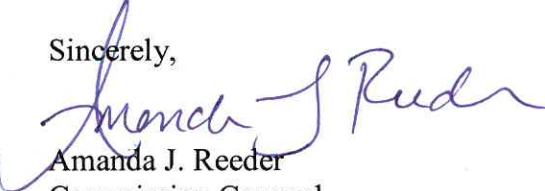
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Specifically, one of the statutes cited as authority for this Rule, G.S. 160A-288.1, states the rules shall be "necessary to establish a plan under which temporary State law-enforcement assistance will be provided to the cities and counties." This Rule does not do that, but instead establishes the billing method for payment of an agreement. Therefore, there was no authority cited for this Rule.

In addition, the Rule is unclear as written, as it states that the Secretary shall send the notice "at such time as he determines." There is no guidance in the Rule as to when this will happen and it is left entirely within the discretion of the Secretary.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel



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October 23, 2018

Margaret McDonald, Rulemaking Coordinator
Department of Public Safety
Sent via email only: Margaret.McDonald@ncdps.gov

Re: Extension of the Period of Review for Rules 14B NCAC 07A .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0114, .0115, .0116, .0118, and .0119.

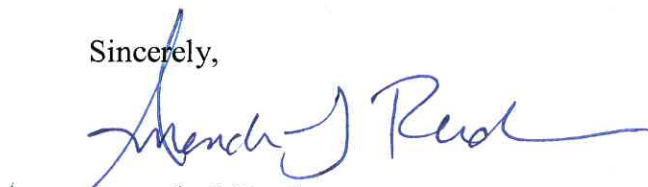
Dear Ms. McDonald:

At its meeting last week, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address requests for technical changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

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