

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 174

Rules and Operations of the Senate Committee Substitute Adopted 5/14/13
PROPOSED HOUSE COMMITTEE SUBSTITUTE S174-PCS85250-RO-36

Short Title: Disapprove Industrial Commission Rules.

(Public)

Sponsors:

Referred to:

March 5, 2013

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE CERTAIN RULES ADOPTED BY THE NORTH CAROLINA INDUSTRIAL COMMISSION, TO PROVIDE SPECIFIC DIRECTIONS TO THE INDUSTRIAL COMMISSION TO REPLACE THE RULES, AND TO AMEND CERTAIN PROVISIONS OF THE WORKERS' COMPENSATION LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 04 NCAC 10A .0102 (Official Forms), 04 NCAC 10A .0105 (Electronic Payment of Costs), 04 NCAC 10A .0405 (Reinstatement of Compensation), 04 NCAC 10A .0601 (Employer's Obligations Upon Notice; Denial of Liability...), 04 NCAC 10A .0603 (Responding to a Party's Request for Hearing), 04 NCAC 10A .0605 (Discovery), 04 NCAC 10A .0608 (Statement of Incident Leading to Claim), 04 NCAC 10A .0609A (Medical Motions and Emergency Medical Motions), 04 NCAC 10A .0612 (Depositions and Additional Hearings), 04 NCAC 10A .0613 (Expert Witnesses and Fees), 04 NCAC 10A .0701 (Review by Full Commission), 04 NCAC 10A .0704 (Remand from the Appellate Courts), 04 NCAC 10C .0103 (Definitions), 04 NCAC 10C .0109 (Vocational Rehabilitation Services Return to Work), 04 NCAC 10E .0201 (Document and Record Fees), 04 NCAC 10E .0202 (Hearing Costs or Fees), 04 NCAC 10E .0203 (Fees Set by the Commission), 04 NCAC 10G .0104A (Foreign Language Interpreters), as adopted by the Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on October 18, 2012, are disapproved.

SECTION 2. Pursuant to G.S. 150B-21.3(b1), 04 NCAC 10A .0801 (Suspension of Rules), 04 NCAC 10B .0501 (Suspension of Rules), 04 NCAC 10C .0108 (Interaction with Physicians), 04 NCAC 10C .0201 (Suspension of Rules), 04 NCAC 10D .0110 (Suspension of Rules), 04 NCAC 10E .0301 (Suspension of Rules), 04 NCAC 10G .0107 (Compensation of the Mediator), 04 NCAC 10G .0110 (Waiver of Rules), 04 NCAC 10H .0206 (Waiver of Rules), 04 NCAC 10I .0204 (Suspension of Rules), as adopted by the Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on November 15, 2012, are disapproved.

SECTION 3. G.S. 97-18(k) reads as rewritten:

"(k) In addition to any other methods for reinstatement of compensation available under the Act, whenever the employer or insurer has admitted the employee's right to compensation, or liability has been established, the employee may move for reinstatement of compensation on a form prescribed by the Commission. ~~If the employer or insurer contests the employee's request for reinstatement, the matter shall be scheduled on a preemptive basis.~~ The form prescribed by the Commission shall contain the reasons for the proposed reinstatement of



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1 compensation, be supported by available documentation, and inform the employer of the
2 employer's right to contest the reinstatement of compensation by filing an objection in writing
3 with the Commission within 14 days of the date the employee's notice is filed with the
4 Commission or within such additional reasonable time as the Commission may allow. If the
5 employer or insurer contests the employee's request for reinstatement, the Commission shall
6 conduct an informal hearing by telephone with the parties or their counsel. If either party
7 objects to conducting the hearing by telephone, the Commission may conduct the hearing in
8 person in Raleigh or at another location selected by the Commission. The parties shall be
9 afforded an opportunity to state their position and to submit documentary evidence at the
10 informal hearing. The employee may waive the right to an informal hearing and proceed to the
11 formal hearing. The Commission's decision in the informal hearing is not binding in the
12 subsequent hearings. If the application for Reinstatement of Payment of Disability
13 Compensation is approved or not contested, then compensation shall be reinstated immediately
14 and continue until further order of the Commission. The employer or employee may request a
15 formal hearing pursuant to G.S. 97-83 on the Commission's decision approving or denying the
16 employee's application for reinstatement. A formal hearing under G.S. 97-83 ordered or
17 requested pursuant to this subsection shall be a hearing de novo on the employee's application
18 for reinstatement of compensation and may be scheduled by the Commission on a preemptive
19 basis. This subsection shall not apply to a request for a review of an award on the grounds of a
20 change in condition pursuant to G.S. 97-47."

21 **SECTION 4.** G.S. 97-25 reads as rewritten:

22 **"§ 97-25. Medical treatment and supplies.**

23 (a) Medical compensation shall be provided by the employer.

24 (b) Upon the written request of the employee to the employer, the employer may agree
25 to authorize and pay for a second opinion examination with a duly qualified physician licensed
26 to practice in North Carolina, or licensed in another state if agreed to by the parties or ordered
27 by the Commission. If, within 14 calendar days of the receipt of the written request, the request
28 is denied or the parties, in good faith, are unable to agree upon a health care provider to
29 perform a second opinion examination, the employee may request that the Industrial
30 Commission order a second opinion examination. The expense thereof shall be borne by the
31 employer upon the same terms and conditions as provided in this section for medical
32 compensation.

33 (c) Provided, however, if the employee so desires, an injured employee may select a
34 health care provider of the employee's own choosing to attend, prescribe, and assume the care
35 and charge of the employee's case subject to the approval of the Industrial Commission. In
36 addition, in case of a controversy arising between the employer and the employee, the
37 Industrial Commission may order necessary treatment. In order for the Commission to grant an
38 employee's request to change treatment or health care provider, the employee must show by a
39 preponderance of the evidence that the change is reasonably necessary to effect a cure, provide
40 relief, or lessen the period of disability. When deciding whether to grant an employee's request
41 to change treatment or health care provider, the Commission may disregard or give less weight
42 to the opinion of a health care provider from whom the employee sought evaluation, diagnosis,
43 or treatment before the employee first requested authorization in writing from the employer,
44 insurer, or Commission.

45 (d) The refusal of the employee to accept any medical compensation when ordered by
46 the Industrial Commission shall bar the employee from further compensation until such refusal
47 ceases, and no compensation shall at any time be paid for the period of suspension unless in the
48 opinion of the Industrial Commission the circumstances justified the refusal. Any order issued
49 by the Commission suspending compensation pursuant to G.S. 97-18.1 shall specify what
50 action the employee should take to end the suspension and reinstate the compensation.

1 (e) If in an emergency on account of the employer's failure to provide medical
2 compensation, a physician other than provided by the employer is called to treat the injured
3 employee, the reasonable cost of such service shall be paid by the employer if so ordered by the
4 Industrial Commission.

5 (f) In claims subject to G.S. 97-18(b) and (d), a party may file an expedited,
6 emergency, or other medical motion with the Office of the Chief Deputy Commissioner. The
7 nonmoving party shall have the right to contest the motion. Motions and responses shall be
8 submitted via electronic mail to the Commission, the opposing party and the opposing party's
9 attorney, simultaneously. The Commission shall conduct an informal telephonic pretrial
10 conference to determine if the motion warrants an expedited or emergency hearing. If the
11 Commission determines that the motion does not warrant an expedited or emergency hearing,
12 the motion shall be decided administratively within 60 days of the date the motion was filed
13 pursuant to rules governing motions practices in contested cases. If the Commission determines
14 that any party has acted unreasonably by initiating or objecting to a medical motion, the
15 Commission may assess costs associated with any proceeding, including reasonable attorneys'
16 fees and deposition costs, against the offending party.

17 (g) If the Commission determines that a medical motion should be expedited, each
18 party shall be afforded an opportunity to state its position and to submit documentary evidence
19 at an informal telephonic hearing. The medical motion shall contain documentation and support
20 of the request, including the most relevant medical records and a representation that informal
21 means of resolving the issue have been attempted in good faith, and the opposing parties'
22 position, if known. The Commission shall determine whether deposition testimony of medical
23 and other experts is necessary and if so shall order that the testimony be taken within 35 days of
24 the date the motion is filed. For good cause shown, the Commission may reduce or enlarge the
25 time to complete depositions of medical and other experts. Transcripts of depositions shall be
26 expedited and paid for by the administrator, carrier, or employer. Transcripts shall be submitted
27 electronically to the Commission within 40 days of the date the motion is filed unless the
28 Commission has reduced or enlarged the time to complete the depositions. The Commission
29 shall render a decision on the motion within five days of the date transcripts are due to the
30 Commission.

31 (h) If the Commission determines that a medical motion is an emergency, the
32 Commission shall make a determination on the motion within five days of receipt by the
33 Commission of the medical motion. Motions requesting emergency medical relief shall contain
34 the following:

- 35 (1) An explanation of the medical diagnosis and treatment recommendation of
36 the health care provider that requires emergency attention.
- 37 (2) A specific statement detailing the time-sensitive nature of the request to
38 include relevant dates and the potential for adverse consequences to the
39 employee if the recommended treatment is not provided emergently.
- 40 (3) An explanation of opinions known and in the possession of the employee of
41 additional medical or other relevant experts, independent medical examiners,
42 and second opinion examiners.
- 43 (4) Documentation known and in the possession of the employee in support of
44 the request, including relevant medical records.
- 45 (5) A representation that informal means of resolving the issue have been
46 attempted."

47 **SECTION 5.** G.S. 97-79 is amended by adding a new subsection to read:

48 "(g) The Commission shall adopt rules, in accordance with Article 2A of Chapter 150B
49 of the General Statutes, for administrative motions, including practices and procedures for
50 carrying out the provisions of this Article."

51 **SECTION 6.** G.S. 97-80 reads as rewritten:

1 "§ 97-80. Rules and regulations; subpoena of witnesses; examination of books and
2 records; depositions; costs.

3 (a) The Commission shall adopt rules, in accordance with Article 2A of Chapter 150B
4 of the General Statutes and not inconsistent with this Article, for carrying out the provisions of
5 this Article.

6 The Commission shall adopt rules establishing processes and procedure to be used under
7 this Article.

8 Processes, procedure, and discovery under this Article shall be as summary and simple as
9 reasonably may be.

10 (b) The Commission or any member thereof, or any person deputized by it, shall have
11 the power, for the purpose of this Article, to tax costs against the parties, to administer or cause
12 to have administered oaths, to preserve order at hearings, to compel the attendance and
13 testimony of witnesses, and to compel the production of books, papers, records, and other
14 tangible things.

15 (c) The Commission may order parties to participate in mediation, under rules
16 substantially similar to those approved by the Supreme Court for use in the Superior Court
17 division, except the Commission shall determine the manner in which payment of the costs of
18 the mediated settlement conference is assessed.

19 (d) The Commission may order testimony to be taken by deposition and any party to a
20 proceeding under this Article may, upon application to the Commission, which application
21 shall set forth the materiality of the evidence to be given, cause the depositions of witnesses
22 residing within or without the State to be taken, the costs to be taxed as other costs by
23 Commission. Depositions ordered by the Commission upon application of a party shall be
24 taken after giving the notice and in the manner prescribed by law for depositions in action at
25 law, except that they shall be directed to the Commission, the commissioner, or the deputy
26 commissioner before whom the proceedings may be pending.

27 (e) A subpoena may be issued by the Commission and served in accordance with
28 G.S. 1A-1, Rule 45. A party shall not issue a subpoena duces tecum less than 30 days prior to
29 the hearing date except upon prior approval of the Commission. Upon a motion, the
30 Commission may quash a subpoena if it finds that the evidence the production of which is
31 required does not relate to a matter in issue, the subpoena does not describe with sufficient
32 particularity the evidence the production of which is required, or for any other reason sufficient
33 in law the subpoena may be quashed. Each witness who appears in obedience to such subpoena
34 of the Commission shall receive for attendance the fees and mileage for witnesses in civil cases
35 in courts of the county where the hearing is held.

36 (f) The Commission may by rule provide for and limit the use of interrogatories and
37 other forms of discovery, including production of books, papers, records, and other tangible
38 things, and it may provide reasonable sanctions for failure to comply with a Commission order
39 compelling discovery.

40 (g) The Commission or any member or deputy thereof shall have the same power as a
41 judicial officer pursuant to Chapter 5A of the General Statutes to hold a person in civil
42 contempt, as provided thereunder, for failure to comply with an order of the Commission,
43 Commission member, or deputy. A person held in civil contempt may appeal in the manner
44 provided for appeals pursuant to G.S. 97-85 and G.S. 97-86. The provisions of G.S. 5A-24 shall
45 not apply to appeals pursuant to this subsection.

46 (h) The Commission or any member or deputy thereof shall also have the same power
47 as a judicial officer pursuant to Chapter 5A of the General Statutes to punish for criminal
48 contempt, subject to the limitations thereunder, (i) for ~~wilful~~-willful behavior committed during
49 the sitting of the commissioner or deputy commissioner and directly tending to interrupt the
50 proceedings; (ii) for ~~wilful~~-willful disobedience of a lawful order of the Commission or a
51 member or deputy thereof; or (iii) for ~~wilful~~-willful refusal to be sworn or affirmed as a

1 witness, or, when so sworn or affirmed, ~~wilful~~-willful refusal to answer any legal and proper
2 question when refusal is not legally justified. The Commission or any member or deputy
3 thereof may issue an order of arrest as provided by G.S. 15A-305 when authorized by
4 G.S. 5A-16 in connection with contempt proceedings. When the commissioner or deputy
5 commissioner chooses not to proceed summarily pursuant to G.S. 5A-14, the proceedings shall
6 be before a district court judge, and venue lies throughout the district where the order was
7 issued directing the person charged to appear. A person found in criminal contempt may appeal
8 in the manner provided for appeals in criminal actions to the superior court of the district in
9 which the order of contempt was issued, and the appeal is by hearing de novo before a superior
10 court judge."

11 **SECTION 7.** G.S. 97-81(a) reads as rewritten:

12 "(a) The Commission shall prepare and cause to be printed, and upon request furnish,
13 free of charge to any employee or employer, such blank forms and literature as it shall deem
14 requisite to facilitate or prompt the efficient administration of this Article. Notwithstanding
15 G.S. 150B-2(8a)d., any new forms or substantive amendments to old forms adopted after July
16 1, 2013, shall be adopted in accordance with Article 2A of Chapter 150B of the General
17 Statutes. The Commission may authorize the use of electronic submission of forms and other
18 means of transmittal of forms and notices when it deems appropriate."

19 **SECTION 8.** The Industrial Commission shall adopt rules to replace the rules
20 disapproved by Sections 1 and 2 of this act, in accordance with the following directions:

- 21 (1) With regard to 04 NCAC 10A .0601 (Employer's Obligations Upon Notice;
22 Additional Medical Comp.), the Commission shall amend subsection (b) of
23 the rule to provide that the letter of denial shall be sent to all known health
24 care providers who have submitted bills and provided medical records to the
25 employer or carrier.
- 26 (2) With regard to 04 NCAC 10A .0603 (Responding to a Party's Request for
27 Hearing), the Commission shall amend subsection (a) of the rule to delete
28 the sentence "If a defendant files a request for hearing, the employee is not
29 required to respond." The Commission shall amend subsection (b) of the rule
30 to delete all references to "plaintiff" and substitute "moving party," and all
31 references to "defendant" and substitute "nonmoving party."
- 32 (3) With regard to 04 NCAC 10A .0605 (Discovery), the Commission shall
33 amend the rule by deleting the following phrase from subdivision (4):
34 "including the sanctions specified in G.S. 1A-1, Rule 37."; and by deleting
35 the following from subdivision (9): "The parties shall not submit motions to
36 compel production of information otherwise obtainable under G.S. 97-25.6."
- 37 (4) With regard to 04 NCAC 10A .0608 (Statement of Incident Leading to
38 Claim), the Commission shall amend subsection (b) of the rule by adding the
39 word "unreasonably" between the words "corporation" and "fails."
- 40 (5) With regard to 04 NCAC 10A .0701 (Review by Full Commission), the
41 Commission shall establish a procedure to track an appellant's electronic
42 receipt of a Form 44 and notice of appeal from the Commission.
- 43 (6) With regard to 04 NCAC 10A .0704 (Remand from the Appellate Courts),
44 the Commission shall rewrite the rule to specifically allow for a stay of the
45 deadline to submit a statement to the Commission on remand when a party
46 files a petition for discretionary review or rehearing.
- 47 (7) With regard to 04 NCAC 10C .0103 (Definitions), the Commission shall
48 amend subdivision (3) to read as follows: ""Vocational rehabilitation" means
49 the delivery and coordination of services under an individualized written
50 plan, with the goal of assisting the injured worker to return to suitable

- 1 employment or participate in education or retraining, as defined by
2 subsection (5) of this rule or applicable statute."
- 3 (8) With regard to 04 NCAC 10C .0108 (Interaction with Physicians), the
4 Commission shall amend subsection (e)(1) by inserting the phrase "that is
5 authorized or ordered" after the word "examination."
- 6 (9) With regard to 04 NCAC 10C .0109 (Vocational Rehabilitation Services
7 Return to Work), the Commission shall delete subsection (i) of the rule.
- 8 (10) With regard to 04 NCAC 10A .0405 (Reinstatement of Compensation), the
9 Commission shall delete subsections (a) through (g) and substitute the
10 following:
- 11 (a) In a claim in which the employer, carrier, or administrator has
12 admitted liability, when an employee seeks reinstatement of
13 compensation pursuant to G.S. 97-18(k), the employee may notify
14 the employer, carrier, or administrator, and the employer's, carrier's,
15 or administrator's attorney of record, on a Form 23 Application to
16 Reinstatement Payment of Disability Compensation, or by the filing of a
17 Form 33 Request that Claim be Assigned for Hearing.
- 18 (b) When reinstatement is sought by the filing of a Form 23 Application
19 to Reinstatement Payment of Disability Compensation, the original Form
20 23 Application to Reinstatement Payment of Disability Compensation and
21 the attached documents shall be sent to the Commission at the same
22 time and by the same method by which a copy of the Form 23 and
23 attached documents are sent to the employer, carrier, or administrator
24 and the employer's, carrier's, or administrator's attorney of record.
25 The employee shall specify the grounds and the alleged facts
26 supporting the application and shall complete the blank space in the
27 "Important Notice to Employer" portion of Form 23 Application to
28 Reinstatement Payment of Disability Compensation by inserting a date 17
29 days from the date the employee serves the completed Form 23
30 Application to Reinstatement Payment of Disability Compensation on the
31 employer, carrier, or administrator and the attorney of record, if any.
32 The Form 23 Application to Reinstatement Payment of Disability
33 Compensation shall specify the number of pages of documents
34 attached that are to be considered by the Commission. Within 17
35 days from the date the employee serves the completed Form 23
36 Application to Reinstatement Payment of Disability Compensation on the
37 employer, carrier, or administrator and the attorney of record, if any,
38 the employer, carrier, or administrator shall complete Section B of
39 the Form 23 Application to Reinstatement Payment of Disability
40 Compensation and send it to the Commission and to the employee, or
41 the employee's attorney of record, at the same time and by the same
42 method by which the form is sent to the Commission.
- 43 (c) If the employer, carrier, or administrator does not object within the
44 time allowed, the Commission shall review the Form 23 Application
45 to Reinstatement Payment of Disability Compensation and attached
46 documentation and, without an informal hearing, render an
47 Administrative Decision or Order as to whether there is sufficient
48 basis under the Workers' Compensation Act to reinstate
49 compensation. This Administrative Decision and Order shall be
50 rendered within five days of the expiration of the time within which
51 the employer, carrier, or administrator could have filed a response to

- 1 the Form 23 Application to Reinstate Payment of Disability
2 Compensation. Either party may seek review of the Administrative
3 Decision and Order as provided by Rule .0703 of this subchapter.
- 4 (d) If the employer, carrier, or administrator timely objects to the Form
5 23 Application to Reinstate Payment of Disability Compensation, the
6 Commission shall conduct an informal hearing within 25 days of the
7 receipt by the Commission of the Form 23 Application to Reinstate
8 Payment of Disability Compensation unless the time is extended for
9 good cause shown. The informal hearing may be conducted with the
10 parties or their attorneys of record personally present with the
11 Commission. The Commission shall make arrangements for the
12 informal hearing with a view toward conducting the hearing in the
13 most expeditious manner. The informal hearing shall be no more
14 than 30 minutes, with each side being given 10 minutes to present its
15 case and five minutes for rebuttal. Notwithstanding the foregoing, the
16 employee may waive the right to an informal hearing and proceed to
17 a formal hearing by filing a request for hearing on a Form 33 Request
18 that Claim be Assigned for Hearing. Either party may appeal the
19 Administrative Decision and Order of the Commission as provided
20 by Rule .0703 of this subchapter. A Deputy Commissioner shall
21 conduct a hearing which shall be a hearing de novo. The hearing
22 shall be peremptorily set and shall not require a Form 33 Request that
23 Claim be Assigned for Hearing. The employee has the burden of
24 producing evidence on the issue of the employee's application to
25 reinstate compensation. If the Deputy Commissioner reverses an
26 order previously granting a Form 23 Application to Reinstate
27 Payment of Disability Compensation motion, the employer shall
28 promptly terminate compensation or otherwise comply with the
29 Deputy Commissioner's decision, notwithstanding any appeal or
30 application for review to the Full Commission under G.S. 97-85.
- 31 (e) If the Commission is unable to render a decision after the informal
32 hearing, the Commission shall issue an order to that effect, that shall
33 be in lieu of a Form 33 Request that Claim be Assigned for Hearing,
34 and the case shall be placed on the formal hearing docket. If
35 additional issues are to be addressed, the employee, employer,
36 carrier, or administrator shall file a Form 33 Request that Claim be
37 Assigned for Hearing or notify the Commission that a formal hearing
38 is not currently necessary, within 30 days of the date of the
39 Administrative Decision or Order. The effect of placing the case on
40 the docket shall be the same as if the Form 23 Application to
41 Reinstate Payment of Disability Compensation was denied, and
42 compensation shall not be reinstated until such time as the case is
43 decided by a Commissioner or a Deputy Commissioner following a
44 formal hearing."
- 45 (11) With regard to 04 NCAC 10A .0609A (Medical Motions and Emergency
46 Medical Motions), the Commission shall rewrite the rule in accordance with
47 G.S. 97-25, as amended by Section 4 of this act.
- 48 (12) With regard to 04 NCAC 10A .0102 (Official Forms), the Commission shall
49 adopt a form for use as a subpoena that is in compliance with current North
50 Carolina law. The Commission shall also review all prior minutes and
51 administrative rulings of the Commission and where necessary adopt rules

1 related to the processes and procedures outlined in the prior minutes and
2 administrative rulings. The rules shall be adopted in accordance with Article
3 2A of Chapter 150B of the General Statutes.

4 **SECTION 9.** The Industrial Commission shall adopt rules to replace the following
5 disapproved rules which relate to when the Commission may waive rules. In each case, the
6 Commission shall amend references to granting a waiver "upon its own initiative" to read
7 "upon its own initiative only if the employee is not represented by counsel."

8 04 NCAC 10A .0801 (Waiver of Rules)

9 04 NCAC 10B .0501 (Waiver of Rules)

10 04 NCAC 10C .0201 (Waiver of Rules)

11 04 NCAC 10D .0110 (Waiver of Rules)

12 04 NCAC 10E .0301 (Waiver of Rules)

13 04 NCAC 10G .0110 (Waiver of Rules)

14 04 NCAC 10H .0206 (Waiver of Rules)

15 04 NCAC 10I .0204 (Waiver of Rules)

16 **SECTION 10.** The Industrial Commission shall study the financial and economic
17 impact and operational burdens on all parties of mandating that costs and fees be submitted
18 electronically as provided by 04 NCAC 10A .0105. The Commission shall submit a report of
19 its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

20 **SECTION 11.** Notwithstanding G.S. 150B-21.2, the Industrial Commission shall
21 adopt permanent rules in accordance with the provisions of this act using the procedure and
22 time lines for temporary rules set forth in G.S. 150B-21.1(a3). Rules adopted by the Industrial
23 Commission in accordance with this section shall be subject to review by the Rules Review
24 Commission as provided by G.S. 150B-21.1(b); provided however, that if the rules are
25 approved by the Rules Review Commission, they shall become effective as provided by
26 G.S. 150B-21.3(b). Rules adopted pursuant to this section shall not be subject to
27 G.S. 150B-19.1(h) or G.S. 150B-21.4. The Industrial Commission shall consult with the Office
28 of Administrative Hearings to ensure that rules adopted in accordance with this section are
29 submitted to the Rules Review Commission in time to be eligible for legislative disapproval in
30 the 2014 Regular Session of the 2013 General Assembly. The rules of the Industrial
31 Commission that were in effect on the effective date of S.L. 2011-287 shall remain in effect
32 with regard to rules disapproved by Sections 1 and 2 of this act until rules adopted to replace
33 the disapproved rules become effective pursuant to this section.

34 **SECTION 12.** This act is effective when it becomes law.