

**JOINT LEGISLATIVE
ADMINISTRATIVE PROCEDURE
OVERSIGHT COMMITTEE**



*REPORT TO THE
2006 SESSION OF THE
2005 GENERAL ASSEMBLY
OF NORTH CAROLINA*

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May 9, 2006

TO THE MEMBERS OF THE 2005-2006 GENERAL ASSEMBLY

The Joint Legislative Administrative Procedure Oversight Committee herewith submits to you for your consideration its report pursuant to G.S. 120-70.101(8).

Respectfully submitted,

Senator Martin L. Nesbitt

Representative Melanie Wade Goodwin

Co-Chairs
Joint Legislative Administrative Procedure Oversight Committee

MEMBERSHIP

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AUTHORIZING LEGISLATION

ARTICLE 12K.

Joint Legislative Administrative Procedure Oversight Committee

§ 120-70.100. Creation and membership of Joint Legislative Administrative Procedure Oversight Committee.

(a) The Joint Legislative Administrative Procedure Oversight Committee is established. The Committee consists of 16 members as follows:

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least three of whom are members of the minority party.
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

(b) Members of the Committee shall serve a term of two years beginning on January 15 of each odd-numbered year. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

§ 120-70.101. Purpose and powers of Committee.

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

- (1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.
- (2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.
- (3) To prepare a notebook that contains the administrative rules that have been approved by the Rules Review Commission and reported to the Committee and to notify each member of the General Assembly of the availability of the notebook.
- (4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.
- (5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.
- (6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.
- (7) To review any other concerns about administrative law to determine if statutory changes are needed.
- (8) To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes.

§ 120-70.102. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Administrative Procedure Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be paid by the Committee.

§ 120-70.103. Exercise of duty to maintain a notebook of approved rules.

With the approval of the Legislative Services Commission, the Joint Legislative Administrative Procedure Oversight Committee may delegate to the Legislative Library the duty to maintain a notebook containing rules approved by the Rules Review Commission. Whether the notebook is maintained by the Committee or by the Legislative Library, rules shall be filed in the notebook in accordance with the numbering system used in the North Carolina Administrative Code.

COMMITTEE PROCEEDINGS

The Joint Legislative Administrative Procedure Oversight Committee met four times from January 12, 2006 until April 20, 2006. The committee heard presentations from the following:

January 12, 2006:

- Karen Cochrane-Brown, Committee Counsel, gave the committee a comprehensive overview of the Administrative Procedure Oversight Act detailing the act's exemptions, structure, and procedure.
- Bobby White, Chief Operating Officer for the North Carolina Board of Dental Examiners, explained the board's position on proposed rules which would increase state certification testing fees for dental hygienists. Further, he detailed the board's position that it has the authority to delegate the dental hygiene exam to a third party under the existing state statutes.
- William Potter representing the North Carolina Dental Society said the organization supports the North Carolina Dental Board's actions and explained that there is a national trend to administer a national exam for uniformity and mobility.
- Judge Julian Mann, Chief Administrative Law Judge and Director of the Office of Administrative Hearings, gave an overview of the administrative hearings process and the 3 divisions within the office. He further detailed the office's need for greater budgetary allocations to fulfill the office's needs.

February 9, 2006:

- Joe Deluca, Counsel to the Rules Review Commission, gave the committee an overview of the commission's structure, how the commission works, and its' history.
- Jennie Hayman, Chair of the Rules Review Commission, provided the committee the names and locations of the commissioners.
- Susan Spears Ellis, Dental Hygiene Coordinator for Fayetteville Technical Community College, outlined the major concerns of the educators and students regarding the Dental Board's proposal to delegate the dental hygiene exam to a third party.
- Sonya Hicks, dental hygienist student at Fayetteville Technical Community College, offered her concerns as a student about the increase in the dental hygienist exam if the exam is administered by a third party.
- Betsy Hardin, President of the North Carolina Dental Hygienists Association, presented her organization's position on proposed rule changes by the North Carolina State Board of Dental Examiners. She stated the organization agrees in concept with the changes.
- Bobby White, Chief Operating Officer for the North Carolina Board of Dental Examiners, distributed handouts to the committee and discussed specific language in the Dental Hygiene Act that he claims gives the Board the statutory authority to allow a third party to administer the dental hygienists' exam.
- Dr. Stan Hardesty with the NC Dental Board was recognized and he described the current national trend which is moving toward a uniform national clinical exam both in dentistry and dental hygiene.
- Barbara Nelson appeared before the committee to complain about the way her claim against a chiropractor was treated by the Board of Chiropractic Examiners during a probable cause hearing. Ms. Nelson requested the committee direct the board to hold a hearing that gives her an opportunity to challenge the doctor's evidence.
- Vance C. Kinlaw, Counsel to the Board of Chiropractic Examiners, presented the board's position and offered to answer any questions. He also reminded the committee that this was the second time Ms. Nelson had appeared before the committee about her dispute.

March 9, 2006:

- Bobby White, Chief Operating Officer for the North Carolina Board of Dental Examiners, once again appeared before the Committee and presented a proposal to address the concerns raised regarding the Board's use and acceptance of a third party regional dental hygiene examination.
- Susan Spears Ellis, Dental Hygiene Program Coordinator for Fayetteville Technical Community College, explained she was present to represent the position of the community colleges and gave the Committee a historical overview of the issue. She also spoke in defense of Dr. Martin Lancaster's letter to Mr. White.
- Martha Taylor with the North Carolina Dental Hygienists Association was recognized and she clarified the Association's position on several issues.
- William Potter representing the North Carolina Dental Society described how the dental hygienist's exam had been kept artificially low by the Board at the request of the Dental Society for a variety of reasons.
- Patrick L. Boyd, President of Carolina Eye Prosthetics, Inc., addressed the Committee and distributed several handouts. He discussed a proposal to allow accredited ocular prosthetists to be eligible for Medicaid reimbursements.

April 20, 2006:

- Connie Wilson representing the Employers' Coalition of North Carolina addressed the Committee. She stated her group's support for the Small Business Regulatory Improvement Act (SB 664).
- Pat Garland of the United States Small Business Administration also discussed the ramifications of SB 664 on the small business community.
- Jeffrey Hudson, Committee Counsel, discussed a plan to revise occupational licensing board reports. He also advised the Committee on a draft proposal to allow accredited ocular prosthetists to be eligible for Medicaid reimbursement.
- Karen Cochrane-Brown, Committee Counsel, advised the Committee on proposed legislation to make technical changes to the agency fee consultation requirement. She also facilitated a discussion on draft proposals regarding increased funding for the Office of Administrative Hearings and an increase in funding for facilities for the Office's hearings.
- Dr. Stanley Allen, Chair of the North Carolina Board of Dental Examiners, and Dr. Delma Kinlaw, President of CITA, discussed and expressed support for a draft proposal regarding examination of dental hygienists in the state.
- Susan Spears Ellis, Dental Hygiene Program Coordinator for Fayetteville Technical Community College, also expressed broad support for the draft proposal pointing out only a few minor issues which could be amended during the legislative process.



LEGISLATIVE PROPOSAL # 1: Dental Hygiene Law Changes.

BILL ANALYSIS

Committee:	Joint Legislative Administrative Procedure Oversight Committee	Date:	May 8, 2006
Introduced by:		Summary by:	Karen Cochrane-Brown
Version:	2005-ROz-14{v.8}		Committee Co-Counsel

SUMMARY: *This bill would authorize the State Board of Dental Examiners to accept the results of Board-approved regional or national independent third-party clinical examinations for applicants seeking a dental hygiene license. The bill also authorizes the Board to charge applicants the actual cost of the third-party testing service.*

CURRENT LAW: The NC Dental Hygiene Act governs the licensure of dental hygienists. The Act authorizes the Board to conduct examinations for licensure and to establish rules for:

1. The form of application.
2. The time and place of examination.
3. The type of examination.
4. The qualifications for passing the examination.

There is no specific authorization for the Board to contract with third parties to provide examinations. During the 2005 Session of the General Assembly, the Dental Practice Act (the law governing dentists) was amended to authorize the Board to use outside testing agencies for the examination of dentists. However, no such statutory amendment was made to the Dental Hygiene Act.

BILL ANALYSIS: This bill would authorize the Board to contract with third-party testing agencies to conduct clinical exams for dental hygiene applicants. It sets a number of criteria to be considered by the Board before entering such a contract, including the number of states that recognize the test, the cost, how long the testing agency had been conducting exams, and whether the exam includes procedures performed on human subjects. The Board may require applicants to pay the actual cost of the third-party administered exam.

The bill further directs the Board to continue to conduct its own exams until at least September 30, 2007. Also, the Board may accept applications for this year's exam that were received by the Board on or before March 31, 2006.

EFFECTIVE DATE: This act becomes effective July 1, 2005.

H0001res-SMRO

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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BILL DRAFT 2005-ROz-14 [v.8] (04/07)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/1/2006 11:00:50 AM**

Short Title: Dental Hygiene Law Changes.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS TO ACCEPT, IN ADDITION TO EXAMINATIONS CONDUCTED BY THE BOARD, THE RESULTS OF OTHER BOARD-APPROVED REGIONAL OR NATIONAL INDEPENDENT THIRD-PARTY CLINICAL EXAMINATIONS OF APPLICANTS SEEKING A LICENSE TO PRACTICE AS A DENTAL HYGIENIST, AND AUTHORIZING THE BOARD TO CHARGE THE ACTUAL COST OF THE THIRD-PARTY TESTING SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-223(a) reads as rewritten:

"(a) The Board is authorized and empowered to:

- (1) Conduct examinations for licensure,
- (2) Issue licenses and provisional licenses,
- (3) Issue annual renewal certificates, ~~and~~
- (4) Renew expired ~~licenses.~~ licenses, and
- (5) Contract with a regional or national testing agency to conduct clinical examinations. Prior to entering a contract with a regional or national testing agency, the Board shall evaluate the agency based on the following criteria:
 - a. The number of states that recognize the results of the testing agency's examination.
 - b. The cost to the applicant of the examination.
 - c. How long the testing agency has been conducting examinations.
 - d. Whether the examination includes procedures performed on human subjects as part of the assessment of restorative clinical competencies.

1 **SECTION 2.** G.S. 90-224 reads as rewritten:

2 "**§ 90-224. Examination.**

3 (a) The applicant for licensure must be of good moral character, have graduated
4 from an accredited high school or hold a high school equivalency certificate duly issued
5 by a governmental agency or unit authorized to issue the same, and be a graduate of a
6 program of dental hygiene in a school or college approved by the Board.

7 (b) The Board shall have the authority to establish in its rules and regulations:

- 8 (1) The form of application;
- 9 (2) The time and place of examination;
- 10 (3) The type of examination;
- 11 (4) The qualifications for passing the examination.

12 **(b1)** The Board also may grant a license to an applicant who is found to have
13 passed an examination given by a Board-approved regional or national dental hygiene
14 testing agency, provided that the Board deems the regional or national examination to
15 be substantially equivalent to or an improvement upon the examination given by the
16 Board, and the applicant meets the other qualifications set forth in this Article.

17 (c) The Department of Justice may provide a criminal record check to the Board
18 for a person who has applied for a new or renewal license through the Board. The Board
19 shall provide to the Department of Justice, along with the request, the fingerprints of the
20 applicant, any additional information required by the Department of Justice, and a form
21 signed by the applicant consenting to the check of the criminal record and to the use of
22 the fingerprints and other identifying information required by the State or national
23 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
24 Investigation for a search of the State's criminal history record file, and the State Bureau
25 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
26 Investigation for a national criminal history check. The Board shall keep all information
27 pursuant to this subsection privileged, in accordance with applicable State law and
28 federal guidelines, and the information shall be confidential and shall not be a public
29 record under Chapter 132 of the General Statutes.

30 The Department of Justice may charge each applicant a fee for conducting the
31 checks of criminal history records authorized by this subsection."

32 **SECTION 3.** G.S. 90-232 reads as rewritten:

33 "**§ 90-232. Fees.**

34 (a) In order to provide the means of carrying out and enforcing the provisions of
35 this Article and the duties devolving upon the North Carolina State Board of Dental
36 Examiners, it is authorized to charge and collect fees established by its rules not
37 exceeding the following:

- 38 (1) Each applicant for examination\$350.00
- 39 (2) Each renewal certificate, which fee shall be annually
40 fixed by the Board and not later than November 30 of each
41 year it shall give written notice of the amount of the renewal
42 fee to each dental hygienist licensed to practice in this State
43 by mailing such notice to the last address of record with
44 the Board of each such dental hygienist250.00

- 1 (3) Each restoration of license.....150.00
- 2 (4) Each provisional license150.00
- 3 (5) Each certificate of license to a resident dental hygienist
- 4 desiring to change to another state or territory.....50.00
- 5 (6) Annual fee to be paid upon license renewal to assist in
- 6 funding programs for impaired dental hygienists.....80.00
- 7 (7) Each license by credentials.....1,500.

8 **(b)** In all instances where the Board uses the services of a regional or national
9 testing agency for preparation, administration, or grading of examinations, the Board
10 may require applicants to pay the actual cost of the testing agency in lieu of the fee
11 authorized in subdivision (a)(1) of this section.

12 **(c)** In no event may the annual fee imposed on dental hygienists to fund the
13 impaired dental hygienists program exceed the annual fee imposed on dentists to fund
14 the impaired dentist program. All fees shall be payable in advance to the Board and
15 shall be disposed of by the Board in the discharge of its duties under this Article."

16 **SECTION 4.** The North Carolina State Board of Dental Examiners shall
17 continue to conduct clinical examinations for applicants seeking a license to practice
18 dental hygiene until at least September 30, 2007. No applicant for a dental hygiene
19 license shall be required to take a Board-approved regional or national independent
20 third-party clinical examination prior to September 30, 2007.

21 **SECTION 5.** Notwithstanding any provision to the contrary, the North
22 Carolina State Board of Dental Examiners may accept any application for the dental
23 hygiene clinical examination to be conducted on June 8, 2006, if the application was
24 received on or before March 31, 2006.

25 **SECTION 6.** This act is effective when it becomes law.
26 .



LEGISLATIVE PROPOSAL # 2: Technical Changes/Agency Fees.

BILL ANALYSIS

Committee:	Joint Legislative Administrative Procedure Oversight Committee	Date:	May 8, 2006
Introduced by:		Summary by:	Karen Cochrane-Brown
Version:	2005-ROz-15{v.2}		Committee Co-Counsel

SUMMARY: *This bill would make technical changes to the law relating to the establishment or increase of fees or charges by State agencies.*

CURRENT LAW: Under current law, an agency may not establish or increase a fee or charge for rendering a service to the public unless the General Assembly has expressly granted authority to the agency to establish or increase the fee. If the agency adopts a rule to establish or increase the fee, the rule cannot go into effect until the agency has consulted with the Joint Legislative Commission on Governmental Operations. The law also provides that if the Commission does not hold a meeting to hear the consultation within 90 days after the notice of text has been published, and the agency has submitted a request for consultation, the consultation requirement is deemed satisfied.

BILL ANALYSIS: This bill clarifies that any rule to establish or increase a fee adopted by an agency must be adopted in accordance with the Administrative Procedure Act (Chap. 150B).

In addition, the bill deletes obsolete portions of the law that provided for definitions and exceptions. The definitions of the terms "agency" and "rule" are inconsistent with the definitions of those terms contained in Chapter 150B, and the exceptions are unnecessary because Chapter 150B already includes these exceptions.

EFFECTIVE DATE: This act is effective when it becomes law.

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1 GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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BILL DRAFT 2005-ROz-15 [v.2] (04/09)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/1/2006 10:55:51 AM

Short Title: Technical Changes/Agency Fees.

(Public)

Sponsors: .

Referred to:

2 A BILL TO BE ENTITLED

3 AN ACT TO MAKE TECHNICAL CHANGES TO THE LAW RELATING TO THE
4 ESTABLISHMENT OR INCREASE OF FEES OR CHARGES BY STATE
5 AGENCIES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 12-3.1 reads as rewritten:

8 "**§ 12-3.1. Fees and charges by agencies.**

9 (a) Authority. – Only the General Assembly has the power to authorize an
10 agency to establish or increase a fee or charge for the rendering of any service or
11 fulfilling of any duty to the public. In the construction of a statute, unless that
12 construction would be inconsistent with the manifest intent of the General Assembly or
13 repugnant to the context of the statute, the legislative grant of authority to an agency to
14 adopt rules shall not be construed as a grant of authority to the agency to establish by
15 rule a fee or a charge for the rendering of any service or fulfilling of any duty to the
16 public, unless the statute expressly provides for the grant of authority to establish a fee
17 or charge for that specific service. Notwithstanding any other law, a rule adopted by an
18 agency in accordance with Article 2A of Chapter 150B of the General Statutes to
19 establish or increase a fee or charge shall not go into effect until the agency has
20 consulted with the Joint Legislative Commission on Governmental Operations on the
21 amount and purpose of the fee or charge to be established or increased. The agency shall
22 submit a request for consultation to all members of the Commission, the Commission
23 Assistant, and the Fiscal Research Division of the General Assembly on the same date
24 the notice of text of the rule is published. The request for consultation shall consist of a
25 written report stating (i) the amount of the current fee or charge, if applicable, (ii) the
26 amount of the proposed new or increased fee or charge, (iii) the statutory authority for
27 the fee or charge, and (iv) a detailed explanation of the need for the establishment or
28 increase of the fee or charge.

1 (a1) If the Commission does not hold a meeting to hear the consultation required
2 by subsection (a) of this section within 90 days after the notice of text of the rule has
3 been published and the consultation request required by subsection (a) of this section
4 has been submitted, the consultation requirement is satisfied.

5 ~~(b) Definitions. The following definitions apply in this section:~~

6 ~~(1) Agency. Every agency, institution, board, commission, bureau,~~
7 ~~department, division, council, member of the Council of State, or~~
8 ~~officer of the legislative, executive or judicial branches of State~~
9 ~~government. The term does not include counties, cities, towns,~~
10 ~~villages, other municipal corporations or political subdivisions of the~~
11 ~~State or any agencies of these subdivisions, the University of North~~
12 ~~Carolina, community colleges, hospitals, county or city boards of~~
13 ~~education, other local public districts, units, or bodies of any kind, or~~
14 ~~private corporations created by act of the General Assembly.~~

15 ~~(2) Rule. Every rule, regulation, ordinance, standard, and amendment~~
16 ~~thereto adopted by any agency, including rules and regulations~~
17 ~~regarding substantive matters, standards for products, procedural rules~~
18 ~~for complying with statutory or regulatory authority or requirements~~
19 ~~and executive orders of the Governor.~~

20 ~~(c) Exceptions. This section does not apply to any of the following:~~

21 ~~(1) Rules establishing fees or charges to State, federal or local~~
22 ~~governmental units.~~

23 ~~(2) A reasonable fee or charge for copying, transcripts of public hearings,~~
24 ~~State publications, or mailing a document or other item.~~

25 ~~(3) Reasonable registration fees covering the cost of a conference or~~
26 ~~workshop.~~

27 ~~(4) Reasonable user fees covering the cost of providing data processing~~
28 ~~services.~~

29 (d) In lieu of the requirements of subsections (a) and (a1) of this section, the
30 North Carolina State Ports Authority shall report the establishment or increase of any
31 fee to the Joint Legislative Commission on Governmental Operations as provided in
32 G.S. 143B-454(a)(11)."

33 **SECTION 2.** This act is effective when it becomes law.



LEGISLATIVE PROPOSAL #3: OAH Position Funds

BILL ANALYSIS

Committee:	Joint Legislative Administrative Procedure Oversight Committee	Date:	May 8, 2006
Introduced by:		Summary by:	Joe Moore
Version:	2005-ROz-17 [v.2]		Committee Staff

SUMMARY: *This legislative proposal allocates funds to restore positions previously removed from the Office of Administrative Hearings budget.*

BILL ANALYSIS: With the rapid increase in contested case petitions, the Office of Administrative Hearings is concerned about its ability to maintain delay reductions within its case load. Allocated for the 2006-2007 fiscal year, the legislative proposal will apportion a sum of four hundred ninety-five thousand fifty nine dollars (\$495,059) to restore five (5) positions within the OAH Hearing Division.

The positions are: Two (2) Administrative Law Judges; a trial court administrator; an administrative assistant; and a clerk typist.

EFFECTIVE DATE: This legislative proposal would become effective July 1, 2006.

2005-RO-17-SMSR

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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D

BILL DRAFT 2005-ROz-17 [v.2] (04/19)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/1/2006 10:56:39 AM**

Short Title: OAH Position Funds.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE OFFICE OF ADMINISTRATIVE
HEARINGS TO RESTORE NECESSARY POSITIONS IN THE HEARINGS
DIVISION.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Office of
Administrative Hearings the sum of four hundred ninety-five thousand fifty nine dollars
(\$495,059) for the 2006-2007 fiscal year to restore several positions in the Hearings
Division, including:

- (a) Two Administrative Law Judges.
- (b) A Trial Court Administrator.
- (c) An Administrative Assistant.
- (d) A Clerk Typist.

SECTION 2. This act becomes effective July 1, 2006.



LEGISLATIVE PROPOSAL #4: OAH Hearing Facilities

BILL ANALYSIS

Committee:	Joint Legislative Administrative Procedure Oversight Committee	Date:	May 8, 2006
Introduced by:		Summary by:	Joe Moore
Version:	2005-ROz-18 [v.2]		Committee Staff

SUMMARY: *This legislative proposal permits Senior Resident Superior Court Judges to offer appropriate facilities and coordinate security for hearings performed by the Office of Administrative Hearings.*

BILL ANALYSIS: With the increase in demands for Courthouse space, the Office of Administrative Hearings has found reserving satisfactory hearing rooms increasingly difficult. The legislative proposal affords the OAH flexibility in scheduling hearings in neutral secure venues convenient to the parties concerned by allowing senior resident superior court judges the opportunity to assign space at will in Courthouses and other judicial buildings.

EFFECTIVE DATE: This legislative proposal would become effective October 1, 2006.

2005-RO-18-SMSR

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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D

BILL DRAFT 2005-ROz-18 [v.2] (04/19)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/1/2006 10:57:22 AM

Short Title: OAH Hearing Facilities.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SENIOR RESIDENT SUPERIOR COURT JUDGES TO
PROVIDE FACILITIES FOR HEARINGS CONDUCTED BY THE OFFICE OF
ADMINISTRATIVE HEARINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-24 reads as rewritten::

"§ 150B-24. Venue of hearing.

(a) The hearing of a contested case shall be conducted:

- (1) In the county in this State in which any person whose property or rights are the subject matter of the hearing maintains his residence;
- (2) In the county where the agency maintains its principal office if the property or rights that are the subject matter of the hearing do not affect any person or if the subject matter of the hearing is the property or rights of residents of more than one county; or
- (3) In any county determined by the administrative law judge in his discretion to promote the ends of justice or better serve the convenience of witnesses.

(b) Any person whose property or rights are the subject matter of the hearing waives his objection to venue by proceeding in the hearing.

(c) To the extent practicable, the senior resident superior court judge may provide suitable facilities for the conduct of hearings under this Article in the county or counties within the judge's district at the time that a hearing is scheduled therein. The senior resident superior court judge may, to the extent the judge determines necessary and practicable, provide or arrange for security at hearings upon the request of an administrative law judge.

SECTION 2. This act becomes effective October 1, 2006.

LEGISLATIVE PROPOSAL #5

Occupational Licensing Board Reports.

Committee:	Joint Legislative Administrative Procedure Oversight Committee	Date:	May 8, 2006
Introduced by:		Summary by:	Jeff Hudson
Version:	2005-SBz-22 [v.6]		Committee Counsel

SUMMARY: *This legislative proposal requires each occupational licensing board to file an annual report and an annual financial report with the Joint Legislative Administrative Procedure Oversight Committee.*

CURRENT LAW: Under current G.S. 93B-2, each occupational licensing board must file an annual report and an annual financial report with the Secretary of State and with the Attorney General.

BILL ANALYSIS: This legislative proposal would add the Joint Legislative Administrative Procedure Oversight Committee to the entities to which each occupational licensing board must file an annual report and an annual financial report. The legislative proposal would add to the information that must be contained in the annual report the substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board and the substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board. The legislative proposal would require that the annual financial report include the sources and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous 12-month period.

EFFECTIVE DATE: This legislative proposal would become effective July 1, 2006. The first reports would be due no later than July 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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BILL DRAFT 2005-SBz-22 [v.6] (03/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Occupational Licensing Board Reports. (Public)

Sponsors: Unknown.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE OCCUPATIONAL LICENSING BOARDS TO ANNUALLY
REPORT CERTAIN INFORMATION TO THE JOINT LEGISLATIVE
ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93B-2 reads as rewritten:

"§ 93B-2. Annual reports required; contents; open to inspection.

(a) Each occupational licensing board shall file with the Secretary of State ~~and with the Attorney General an annual financial report, and State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee~~ an annual report containing all of the following information:

- (1) The address of the board, and the names of its members and ~~officers; officers.~~
- (2) The number of persons who applied to the board for ~~examination; examination.~~
- (3) The number who were refused ~~examination; examination.~~
- (4) The number who took the ~~examination; examination.~~
- (5) The number to whom initial licenses were ~~issued; issued.~~
- (6) The number who applied for license by reciprocity or ~~eomity; comity.~~
- (7) The number who were granted licenses by reciprocity or ~~eomity; comity.~~
- (8) The number of licenses suspended or ~~revoked; and revoked.~~
- (9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.
- (10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

1 (11) The substance of any anticipated change in rules adopted by the
2 occupational licensing board or the substance of any anticipated
3 adoption of new rules by the occupational licensing board.

4 (b) Each occupational licensing board shall file with the Secretary of State, the
5 Attorney General, and the Joint Legislative Administrative Procedure Oversight
6 Committee a financial report that includes the source and amount of all funds credited to
7 the occupational licensing board and the purpose and amount of all funds disbursed by
8 the occupational licensing board during the previous 12-month period.

9 (c) The reports required by this section shall be open to public inspection."

10 **SECTION 2.** This act becomes effective July 1, 2006. The first reports
11 required by G.S. 93B-2, as amended by Section 1 of this act, are due no later than July
12 1, 2007.



LEGISLATIVE PROPOSAL #6: Medicaid Reimbursement for Ocular Prosthetists

BILL ANALYSIS

Committee:	Joint Legislative Administrative Procedure Oversight Committee	Date:	May 8, 2006
Introduced by:		Summary by:	Joe Moore
Version:	2005-SBz-25 [v.4]		Committee Staff

SUMMARY: *This legislative proposal permits accredited ocular prosthetists to be eligible for Medicaid reimbursement by clarifying the statute regarding medically necessary prosthetics or orthotics.*

BILL ANALYSIS: When rules for participating prosthetic providers were developed, the State of North Carolina opted for language different from the federal guidelines outlined in the Medicare Modernization Act of 2003 by requiring that ocular prosthetists be only board certified. To correspond with federal guidelines so that providers may be paid under Medicaid, the statute is rewritten to provide that ocular prosthetists be board certified *or* accredited.

EFFECTIVE DATE: This legislative proposal would become effective July 1, 2006.

2005-SB-25-SMSR

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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BILL DRAFT 2005-SBz-25 [v.4] (04/19)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Medicaid Reimburse. for Ocular Prosthetists. (Public)

Sponsors: Senator Webster.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY MEDICAID REIMBURSEMENTS FOR OCULAR
PROSTHETISTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 10.11(a)(23) of S.L. 2005-276 reads as rewritten:

"(23) Medically necessary prosthetics or orthotics. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services, except that in order to be eligible for reimbursement, providers must be Board ~~certified~~ certified, or in the case of ocular prosthetists Board certified or accredited, not later than July 1, 2005. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review."

SECTION 2. This act becomes effective July 1, 2006

