

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 18 - ELECTRICAL CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners of Electrical Contractors intends to amend the rule cited as 21 NCAC 18B .0306.

Agency Website Pursuant to G.S. 150B-19.1(c): www.ncbeec.org

Proposed Effective Date: *January 1, 2026*

Public Hearing:

Date: *October 2, 2025*

Time: *8:30 a.m.*

Location: *505 North Greenfield Parkway, Suite 100, Garner, NC 27529*

Reason For Proposed Action: To provide the regulated contractors further guidance as to requirements of individuals to be classified as bona fide employees and regarding the use of labor staffing firms.

Comments May Be Submitted To:

Mail: *Tim Norman*
505 North Greenfield Parkway, Suite 100
Garner, NC 27529

Phone: *(919) 733-9042*

Email: *tim.norman@ncbeec.org*

Comment Period Ends: *October 2, 2025*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

Amended Rule:

SUBCHAPTER 18B - BOARD'S RULES FOR THE IMPLEMENTATION OF THE ELECTRICAL

SECTION .0300 - DEFINITIONS AND EXPLANATIONS OF TERMS APPLICABLE TO LICENSING

21 NCAC 18B .0306 BONA FIDE EMPLOYEE

(a) For the exemption for electrical work done as a bona fide employee of a license under G.S. 87-43.1(3), the following conditions must be met:

- (1) The restrictions of the employing licensee's license apply to any employee of the licensee.
- (2) The employing licensee shall have control and direction of the details, methods and manner of performing the electrical work being done by the employee. ~~The manner of payment, if any, to the person shall not be the sole determining factor concerning whether the person is an employee.~~
- (3) The electrical work shall be performed under the supervision and direction of a listed qualified individual who is the employing licensee, or under the supervision and direction of a listed qualified individual regularly employed by the employing licensee.
- (4) Persons acting as independent contractors, consultants or subcontractors, or paid as such, are not bona fide employees.

- (5) Licensed contractors may utilize employees shared with a labor supplier but only under a written contract which allocates payroll or tax withholding obligations to the labor supplier while also placing the responsibilities of control and supervision of all electrical work upon the listed qualified individual and licensed firm who remain obligated to the owner or general contractor for all electrical installations, and further provided that the listed qualified individual is a bona fide employee of the licensed firm.
- (b) ~~The employing licensee, the employee, and every listed qualified individual of the licensee.~~ Every listed qualified individual and all employees of the licensed firm shall furnish any information the Board may require, including affidavits, to evaluate and determine a claim of employee exemption.
- (c) When the information furnished to the Board does not substantiate compliance with this Rule, the individual shall be deemed to be an independent contractor rather than an employee and shall be subject to G.S. Chapter 87, Article 4.

History Note: Authority G.S. 87-42;
Eff. October 1, 1988;
Amended Eff. April 1, 1993; February 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.