



STATE ETHICS COMMISSION

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RALEIGH, NC 27611

PHONE: 919-814-3600

Via Email

March 29, 2021

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

**Re: Evaluation of Statement of Economic Interest by Mr. Wyndon A. Hibler
Prospective Appointee to the Supplemental Retirement Board of Trustees**

Dear Governor Cooper:

Our office has received **Mr. Wyndon A. Hibler's** 2021 Statement of Economic Interest as a prospective appointee to the **Supplemental Retirement Board of Trustees (the "Board")**. We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Supplemental Retirement Board of Trustees was established through the Department of State Treasurer to coordinate and administer various supplemental retirement programs, including 457 plans, 401(k) plans and other similar investment vehicles. The Board has the authority to review contracts, agreements or arrangements pertaining to the administrative services and investment of deferred funds under the plans with service providers. Further, the Board may recommend continuation of or changes to such contracts.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Hibler would fill the role of a member with experience in finance and investments. Because he is employed by Wells Fargo, he has the potential for a conflict of interest. Therefore, Mr. Hibler should exercise appropriate caution in the performance of his public duties should issues involving Wells Fargo come before the Board for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

A handwritten signature in cursive script that reads "Mary Roerden".

Mary Roerden, SEI Unit
State Ethics Commission

cc: Wyndon A. Hibler
Attachment: Ethics Education Guide