

RULES REVIEW COMMISSION MEETING
MINUTES
August 18, 2022

The Rules Review Commission met on Thursday, August 18, 2022, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeanette Doran, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho were present in the Commission Room. Commissioner Jeff Hyde was present via WebEx.

Staff members Alexander Burgos; Commission Counsel Lawrence Duke, Brian Liebman, and Bill Peaslee were present in the room.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

Chair Doran introduced Chief Administrative Law Judge, Donald R. van der Vaart, to the Commission.

Chief Administrative Law Judge, Donald R. van der Vaart administered the Oath of Office to reappointed Commissioners Jeanette Doran, Randy Overton, and Paul Powell.

Reappointed Commissioner Jeff Hyde was sworn in before the meeting.

The Chair read into the record the Evaluation of Statement of Economic Interest for Jeanette Doran, which states the NC Ethics Commission 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 Chair read into the record the Evaluation of Statement of Economic Interest for Randy Overton which states the NC Ethics Commission did not find an actual conflict of interest or the likelihood for a conflict of interest.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the July 21, 2022, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow up matters for the Board of Agriculture Tab A and Medical Care Commission Tab B, Temporary Rules for Wildlife Resources Commission.

FOLLOW UP MATTERS

Board of Agriculture

02 NCAC 52J .0101, .0102, .0103, .0104, .0105, .0202, .0203, .0204, .0206, .0207, .0209, .0210, .0302, .0303, .0304, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0409, .0410, .0411, .0412, .0413, .0414, .0415, .0416, .0417, .0501, .0701, .0703, .0705, .0801, .0802, .0803, .0901, and .0902
- Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting

in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Upon the call of the Chair, the Commission objected to 02 NCAC 52J .0201, .0205, .0208, .0301, .0408, .0418, .0419, .0702, and .0704 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None

The Commission objected to 02 NCAC 52J .0201, .0208, .0408, .0418, .0419, .0702, and .0704 pursuant to G.S. 150B-21.9(a)(2) finding the rules as written, to be unclear or ambiguous. Specifically, the RRC adopted the opinion of counsel by reference regarding the issue of ambiguity.

The Commission objected to 02 NCAC 52J .0205 and .0301 pursuant to G.S. 150B-21.9(a)(1) finding that the rules exceed the agency's authority. Specifically, the RRC adopted the opinion of counsel by reference regarding the issue of lack of statutory authority.

Chris McClennan with the Department of Justice and representing the agency, addressed the Commission.

Medical Care Commission

Upon the call of the Chair, the Commission objected to 10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, and .5411 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None

The RRC objected to the rules finding that the rules were not within the statutory authority delegated to the Medical Care Commission pursuant to G.S. 150B-21.9(a)(1). Additionally, the RRC objected to Rule .4805 on the basis that the Rule was not clear and unambiguous pursuant to G.S. 150B-21.9(a)(2). Specifically, the RRC adopted the staff opinion of counsel incorporated by reference.

Dr. John Meier with the agency, addressed the Commission.

Kim Randolph with the Department of Justice, and representing the agency, addressed the Commission.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, 12 NCAC 09G .0205 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Sheriffs' Education and Training Standards Commission

12 NCAC 10B .0704 - The agency is addressing the objection from the July meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02B .0208, .0212, .0214, .0215, .0216, and .0218 - The agency is addressing the objection from the May meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02H .1301, .1401, .1402, .1403, .1404, and .1405 - The agency is addressing the objection from the May meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02Q .0103, .0503, .0504, .0505, .0507, .0508, .0509, .0514, .0516, .0518, .0521, .0522, .0525, and .0526 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Coastal Resources Commission

15A NCAC 07H .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0601, .0602, .0603, .0604; 07I .0204, .0302, .0305, .0306, .0401, .0402, .0406, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0511, .0601, .0602, .0701, .0702; 07J .0102, .0201, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0312, .0602, .0603, .0604, .0605, .0701, .0702, and .0703 - The agency is addressing the request for changes from the July meeting. No action was required by the Commission.

Coastal Resources Commission

Upon the call of the Chair, 15A NCAC 07H .1805 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

15A NCAC 07H .1301, .1302, .1303, .1304, .1305, .1401, .1402, .1403, .1404, .1405, .1501, .1502, .1503, .1504, .1505, .1601, .1602, .1603, .1604, .1605, .2001, .2002, .2003, .2004, .2005, .2101, .2102, .2103, .2104, .2105, .2201, .2202, .2203, .2204, .2205, .2301, .2302, .2303, .2304, .2305, .2401, .2402, .2403, .2404, .2405, .2601, .2602, .2603, .2604, .2605, .2701, .2702, .2703, .2704, and .2705 - The agency is addressing the request for changes from the July meeting. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0503, .0601, .0602, .0603, .0701, .0702, .0703, .0704, .0705, .0801, .0802, .0902, .1001, .1002, .1101, .1102, .1201, and .1202 2705 - The agency is addressing the request for changes from the July meeting. No action was required by the Commission.

Board of Physical Therapy Examiners

21 NCAC 48B .0102; 48E .0104; 48F .0101, .0103; 48G .0105, .0203, and .0504 were withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Credit Union Division

Upon the call of the Chair, 04 NCAC 06C was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Environmental Management Commission 15A NCAC 02B, 02P

Upon the call of the Chair, the Commission extended the period of review for 15A NCAC 02B .0211; 02P .0101, .0102, .0103, .0201, .0202, .0301, .0302, .0401, .0402, .0403, .0404, .0405, .0406, and .0407 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R.

Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Upon the call of the Chair, the Commission entered a motion to reconsider Rule 15A NCAC 02B .0211 for approval at this meeting and rescind the prior vote to grant an extension on the rule by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None. The motion was granted.

Upon the call of the Chair, 15A NCAC 02B .0211 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Upon the call of the Chair, the Commission extended the period of review for 15A NCAC 02P .0101, .0102, .0103, .0201, .0202, .0301, .0302, .0401, .0402, .0403, .0404, .0405, .0406, and .0407 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Jennifer Everett, the rulemaking coordinator with the agency, addressed the Commission.

Marine Fisheries Commission/Wildlife Resources Commission 15A NCAC 03Q

Wildlife Resources Commission/Marine Fisheries Commission 15A NCAC 10C

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10D .0201, .0202, .0203, .0206, .0208, .0209, .0210, .0213, .0214, .0215, .0216, .0217, .0218, .0219, .0220, .0221, .0222, .0224, .0226, .0227, .0228, .0229, .0230, .0232, .0233, .0237, .0239, .0240, .0241, .0243, .0245, .0246, .0247, .0248, .0249, .0250, .0251, .0252, .0254, .0255, .0256, .0257, .0258, .0259, .0260, .0261, .0267, .0270, .0271, .0272, .0275, .0276, .0277, .0279, .0282, .0283, .0284, .0285, .0286, .0288, .0292, and .0293 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

15A NCAC 10D .0211 and .0278 were withdrawn at the request of the agency. No action was required by the Commission.

In accordance with G.S. 150B-21.3(b2), the Commission received over ten letters of objection requesting legislative review and a delayed effective date of 15A NCAC 10D .0229.

Environmental Management Commission 15A NCAC 13B

Upon the call of the Chair, the amendments to 15A NCAC 13B .0535(b) and 15A NCAC 13B .1617(b) submitted pursuant to S.L. 2021-153 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None. The Commission did not review the rules in their entirety but only those portions submitted for review.

Department of Transportation

Prior to the review of the rule from the Department of Transportation, Commissioner Bryan recused himself and did not participate in any discussion or vote concerning the rule because his family is in litigation with the Department of Transportation.

Upon the call of the Chair, 19A NCAC 02D .0803 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Building Code Council

Upon the call of the Chair, 2018 NC Building Code/Oil Separators Required 1003.4 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)**Wildlife Resources Commission**

Upon the call of the Chair, 15A NCAC 10C .0307, .0314, .0325, .0326, .0401, .0402, .0409, .0410, .0411, .0412, .0413, .0414, .0415, .0416, .0417, .0418, .0419, .0420, .0421, .0422, .0423, .0424, .0425, .0426, .0427, .0428, .0429, .0430, .0701; and 10D .0240 were approved by roll-call vote, ayes 7, noes 1 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Paul Powell, and Bob Rucho – 7. Voting in the negative: Randy Overton - 1.

Philip Reynolds, with the Department of Justice and representing Marine Fisheries Commission and the DEQ -Division of Marine Fisheries, addressed the Commission.

Christian Waters with the Wildlife Resources Commission, addressed the Commission.

The Chair called the meeting into a brief recess at 10:27 a.m.
The meeting resumed at 10:37 a.m.

Following recess and prior to Commission Business, the Commission agreed to take comments on Follow-up matters Tabs E and F for the Environmental Management Commission at the request of Philip Reynolds with the Department of Justice representing the agency in these matters.

Philip Reynolds with the Department of Justice and representing the agency, addressed the Commission.

Chris Millis with the North Carolina Home Builders Association addressed the Commission.

Robert El-Jaouhari with Cranfill Sumner LLP., representing the City of Reidsville, addressed the Commission.

Julie Youngman with the Southern Environmental Law Center addressed the Commission.

COMMISSION BUSINESS

The Commission voted to amend Rule 26 NCAC 05 .0211 to add reports from the Mining Commission to the periodic review schedule by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

The Chair continued the pre-review discussion and took comments from the public in attendance.

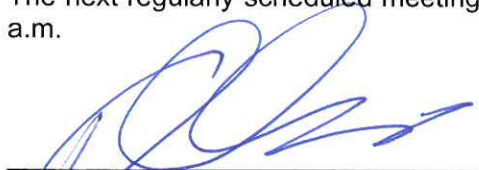
Bain Jones of the North Carolina Bar Association addressed the Commission.

Fred Moreno of the North Carolina Real Estate Commission addressed the Commission.

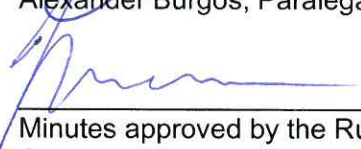
The Commission voted to schedule a special meeting on Thursday, August 25, 2022, at 10:30 a.m. to review temporary rules filed by the State Board of Elections by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

The meeting adjourned at 11:31 a.m.

The next regularly scheduled meeting of the Commission is Thursday, September 15, 2022, at 9:00 a.m.



Alexander Burgos, Paralegal



Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

August 18, 2022

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Jennifer Everett	DEQ
Hannah Jennigan	DOT
Nadine Pfeiffer	DHHS/DHSR
Kim Randolph	DOS
Phillip Reynolds	DOJ
Don B. Wall	S.O.A.
Peter Daniel	NC Chamber
CHRIS MILLIS	NCHBA
Patricia Norris	NCDA
Robert E-JACQUETTE	Cranfill Sumner LLP
Chris McLennan	NCDOJ
CHRIS VENTALORO	NCDEQ
Carrie Ruhlman	NCWRC
Christian Waters	NCWRC
Patrick Mincey	Attorney
Don Ambrosi	NCGA
Cheryl Conley	NLDHHS / DHSR
Anna Haywood	NCDA+CS
Julie Youngman	SELC
Madison Allgood	NCGA
Karen Higgins	NC DEQ

August 18, 2022

Rules Review Commission
Meeting
Please Print Legibly

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Rules Review Commission Meeting August 18, 2022
Via WebEx

Name	Agency
John Mchugh	aspca.org
Christine Ryan	Auditor
Dennis Seavers	Barbers Examiners
Alexander Elkan	brookspierce.com
George House	brookspierce.com
Leslie Dismukes	CJETS
Michelle Schilling	CJETS
Vince Eisinger	cshlaw.com
Christine Goebel	DEQ
Jessica Montie	DEQ
Chris Ventaloro	DEQ
Shelton Sullivan	DEQ
Bridget Shelton	DEQ
Katherine Quinlan	DEQ
Sue Homewood	DEQ
Joey Hester	DEQ
Elizabeth Kountis	DEQ
Craig Bromby	DEQ
Craig Bromby	DEQ
Janssen White	DHHS
Shazia Keller	DHHS
Greta Hill	DHHS
Mark Payne	DHHS
Shelby Taylor	DHHS
Tammy Sylverster	DHHS
Debbie Mccarty	DHHS
Bethany Burgon	DOJ
Rana Badwan	DOJ
Christine Ryan	DOJ
David Rittlinger	DOJ
S Jones	DOJ
Richard Squires	DOJ
Daniel Johnson	DOT
Patrick Knowlson	EMC
Paul Wojoski	EMC
Dustin Doty	faypwc.com
James West	faypwc.com
Amy Varinoski	greensboro-nc.gov
Alicia Goots	greensboro-nc.gov

Martie Groome	greensboro-nc.gov
Catherine Blum	MFC
Ross Smith	myncma.org
Ross Smith	myncma.org
Jasper Stem	ncaggregates.org
Michael Martin	ncagr.gov
Grady O'brien	ncconservationnetwork.org
Grady McCallie	ncconservationnetwork.org
Tony Knox	Credit Union
Laura Lansford	NCDOR
Anne Coan	ncfb.org
Makeda Harris	NCHA
Karen Hammonds-Blanks	ncleg.gov
Susan Camilleri	ncleg.gov
Joshua Yost	ncleg.gov
Julie Ventaloro	osbm.nc.gov
Mary Maclean Asbill	selcnc.org
Hannah Nelson	selcnc.org
Kelly Moser	selcnc.org
Laura Rowe	Treasurer



STATE ETHICS COMMISSION

POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

August 12, 2022

The Honorable Phil Berger
President Pro Tempore of the Senate
16 West Jones Street, Room 2008
Raleigh, North Carolina 27601

Re: Evaluation of Statement of Economic Interest Filed by Ms. Jeanette K. Doran
Member of the Rules Review Commission

Dear Senator Berger:

Our office has received **Ms. Jeanette K. Doran's** 2022 Statement of Economic Interest as a member of the **Rules Review Commission (the "Commission")**. We have reviewed it 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 Rules Review Commission has authority to review all temporary and permanent rules proposed by North Carolina government agencies, including the authority to veto rules that fail to satisfy specific statutory criteria. Generally speaking; those rules are intended to implement or interpret laws adopted by the General Assembly or Congress or certain federal regulations. Temporary or permanent rules approved by the Commission are filed with the Office of Administrative Hearings to be included in the North Carolina Administrative Code.

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).

The Honorable Phil Berger
August 12, 2022
Page 2 of 2

Ms. Doran fills the role of a public member on the Commission. She is the President and General Counsel for the North Carolina Institute for Constitutional Law (NCICL). In addition, Ms. Doran serves as a board member of the Conservatives for Criminal Justice Reform. Because the NCICL could represent clients who come before the Commission during the rulemaking process, she has the potential for a conflict of interest. Therefore, Ms. Doran should exercise appropriate caution in the performance of her public duties should issues involving the NCICL or any of its clients come before the Commission 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,



Mary Roerden, SEI Unit
State Ethics Commission

cc: Jeanette K. Doran
Alexander Burgos, Ethics Liaison

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION

POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

August 12, 2022

The Honorable Tim Moore
Speaker of the House of Representatives
16 West Jones Street, Room 2304
Raleigh, North Carolina 27601-1096

Re: Evaluation of Statement of Economic Interest Filed by Mr. Randy O. Overton
Member of the Rules Review Commission

Dear Speaker Moore:

Our office has received **Mr. Randy O. Overton's** 2021 Statement of Economic Interest and 2022 No-Change form as a member of the **Rules Review Commission (the "Commission")**. We have reviewed the 2021 Statement of Economic Interest 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 or the likelihood for a conflict of interest.

The Rules Review Commission has authority to review all temporary and permanent rules proposed by North Carolina government agencies, including the authority to veto rules that fail to satisfy specific statutory criteria. Generally speaking, those rules are intended to implement or interpret laws adopted by the General Assembly or Congress or certain federal regulations. Temporary or permanent rules approved by the Commission are filed with the Office of Administrative Hearings to be included in the North Carolina Administrative Code.

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. Overton fills the role of a public member on the Commission.

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,



Mary Roerden, SEI Unit
State Ethics Commission

cc: Randy O. Overton
Alexander Burgos, Ethics Liaison

Attachment: Ethics Education Guide



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH OF OFFICE

I, Jeanette K. Doran, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Jeanette K. Doran, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Jeanette K. Doran, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.

SIGNATURE

Donald R. van der Vaart
Chief Administrative Law Judge
Office of Administrative Hearings
State of North Carolina

Wake County, North Carolina

Sworn and subscribed before me this the 18th day of August 2022.

Andrew Hatch
Andrew Hatch, Notary Public

My Commission Expires: 6-16-24





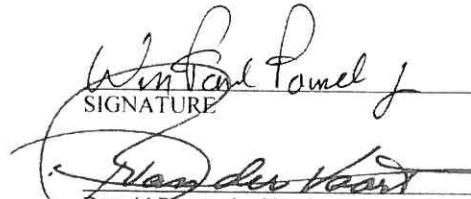
STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH OF OFFICE

I, Paul Powell, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Paul Powell, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Paul Powell, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


SIGNATURE
Donald R. van der Vaart
Chief Administrative Law Judge
Office of Administrative Hearings
State of North Carolina

Wake County, North Carolina

Sworn and subscribed before me this the 18th day of August 2022.


Andrew Hatch, Notary Public

My Commission Expires: 6-16-24





STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

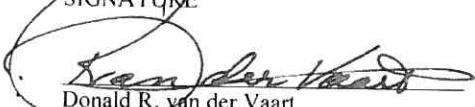
OATH OF OFFICE

I, Randy O. Overton, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Randy O. Overton, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

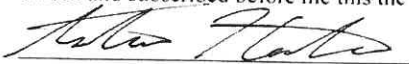
I, Randy O. Overton, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


SIGNATURE


Donald R. van der Vaart
Chief Administrative Law Judge
Office of Administrative Hearings
State of North Carolina

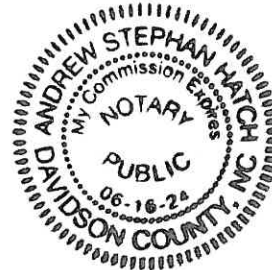
Wake County, North Carolina

Sworn and subscribed before me this the 18th day of August 2022.



Andrew Hatch, Notary Public

My Commission Expires: 6-16-24





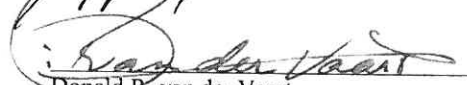
STATE OF NORTH CAROLINA
OFFICE OF THE ADMINISTRATIVE HEARINGS

OATH OF OFFICE

I, Jeffery Hyde, do solemnly swear (affirm) that I will support the Constitution of the United States.

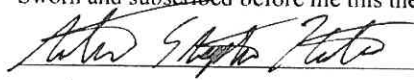
I, Jeffery Hyde, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Jeffery Hyde, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


SIGNATURE

Donald R. van der Vaart
Chief Administrative Law Judge
Office of Administrative Hearings
State of North Carolina

Grifford County, North Carolina

Sworn and subscribed before me this the 17th day of August 2022.


Andrew Stephen Hatch, Notary Public
My Commission Expires: 6-16-24

