



OHIO ETHICS COMMISSION
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DOING BUSINESS WITH RETIREMENT SYSTEMS IN OHIO

Ethics Commission Information Sheet

Introduction

In 2004, the Ohio General Assembly enacted amendments to the laws that govern the regulation of Ohio's five public retirement systems, effective September 15, 2004 (Sub. S.B. 133, 125th General Assembly). The General Assembly consulted with the Ethics Commission in considering the ethics-related amendments in Sub. S.B. 133. Included are provisions that attempt to protect against conflicts of interest for certain individuals and entities doing or seeking to do business with the retirement systems through new limitations and requirements to register or file disclosure statements with the State of Ohio. In Sub. S.B. 133, the General Assembly enacted a new provision in Ohio's Ethics Law that relates specifically to retirement system officials and employees.

Subsequent to the enactment of these amendments, the Ohio Ethics Commission has received numerous inquiries about these provisions as they apply to persons and entities doing business or seeking to do business with Ohio's retirement systems. The Commission welcomes any questions that are posed. This memorandum was prepared to provide general information in response to those inquiries.

Restrictions in the Ethics Law

At the outset, persons and entities doing business with, or seeking to do business with, public agencies in Ohio, including any of the five state retirement systems, have been and continue to be subject to the Ethics Law and related statutes. Generally, R.C. 102.03(F) prohibits any person or entity doing or seeking to do business with state retirement systems from promising or giving any public official or employee anything of value that could have a substantial and improper influence on the official or employee with respect to the performance of that person's duties. This restriction applies to any company doing or seeking to do business with a state retirement system, and all of its officials, employees, and agents. The restriction has been in place since 1986, has criminal sanctions, and was not altered by the recent amendments in Sub. S.B. 133.

Therefore, any person or entity doing or seeking to do business with a state retirement system (or any public agency in Ohio) is prohibited from promising or giving board members, officials, and employees of the retirement system anything of substantial value, including goods, travel, meals and lodging, gifts, entertainment, or outside employment or consulting fees, and all other things of value. Ohio Ethics Commission Advisory Opinions No. 90-001 and 2001-03, which are available on the Commission's Web site, can provide more information about these restrictions.

With Sub. S.B. 133, the General Assembly enacted R.C. 102.03(H)(2), which provides:

No person who is a member of the board of a state retirement system, a state retirement system investment officer, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds shall solicit or accept, and no person shall give to that board member, officer, or employee, payment of actual travel expenses, including expenses incurred with the travel for lodging, meals, food, and beverages.

This provision reinforces the existing standard and extends it further by prohibiting any person or entity doing or seeking to do business with a state retirement system from giving any retirement system board member, investment officer, or employee of a retirement system whose position involves substantial and material exercise of discretion in the investment of the system's funds, any payment of actual travel expenses, including expenses incurred for lodging, meals, food, and beverages. As noted above, this restriction applies both to any corporation or other business entity doing or seeking to do business with a retirement system, and all of its officials, employees, and agents.

Persons doing business in Ohio should also be aware of R.C. 2921.43(A)(1), another statute unaltered by Sub. S.B. 133, which provides:

- (A) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:
 - (1) Any compensation, other than as allowed by divisions (G), (H), and (I) of section 102.03 of the Revised Code or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;
 - (2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

Therefore, any person or entity doing or seeking to do business with a state retirement system is prohibited from promising or giving any compensation to an official or employee of a state retirement system for the performance of that person's public duties.

The provisions in R.C. 102.03(F) and (H)(2), and R.C. 2921.43(A), which prohibit any person from promising or giving anything of value or supplemental compensation to a public official or employee, apply to private and non-profit entities and persons. However, there are related provisions that prohibit public officials and employees from soliciting or accepting these types of things of value. All of these statutes have criminal sanctions for the most serious misconduct and do not require quid pro quo in the actions of either party.

Registration and Disclosure

Sub. S.B. 133 contains requirements regarding registration and disclosure by persons and entities doing or seeking to do business with Ohio's state retirement systems. For more information about registration and disclosure, any person doing or seeking to do business with a state retirement system, or making campaign contributions to or on behalf of a candidate for a position on a retirement system board, should contact the Joint Legislative Ethics Committee (JLEC) and the Secretary of State's Office. The contact information for those agencies is listed below.

There is currently no requirement, under any of the provisions of the Ethics Law, that persons or entities doing or seeking to do business with retirement systems file any type of registration or disclosure with the Ethics Commission. You should, however, remain in contact with the individual public retirement systems for compliance measures they may require.

Conclusion

The Ethics Commission appreciates the opportunity to provide you with information on this issue. For your information, the Commission's Web site [www.ethics.ohio.gov] contains a variety of informational materials about the Ethics Commission and the Ethics Law to assist any person or entity doing business in Ohio. You can find the information under the Education & Public Information Tab on the site.

Please contact the Commission if you have questions about this memorandum or the Ohio Ethics Law and related statutes. This memorandum is not an advisory opinion, and is not intended to provide advice on specific facts. For an advisory opinion, or for additional information, you can reach the Ohio Ethics Commission at:

Ohio Ethics Commission
30 W. Spring Street
Columbus, Ohio 43215-2940
(614) 466-7090 (telephone)
www.ethics.ohio.gov

Other Resources:

Joint Legislative Ethics Committee (JLEC)
Office of the Legislative Inspector General
50 West Broad Street, Suite 1308
Columbus, Ohio 43215
(614) 728-5100 (telephone)
www.jlec-olig.state.oh.us

Ohio Secretary of State
Elections Services Division
180 East Broad Street, 16th Floor
Columbus, Ohio 43215
(614) 466-2585 (telephone)
www.sos.state.oh.us