

1 HB54  
2 116225-4  
3 By Representative Holmes  
4 RFD: Judiciary  
5 First Read: 12-JAN-10  
6 PFD: 12/08/2009



1 lobbying activities are limited to providing public testimony  
2 to a legislative body or regulatory body or committee thereof.  
3 No member of the commission shall be eligible for  
4 reappointment to succeed himself or herself. The members of  
5 the commission shall be appointed by the following officers:  
6 the Governor, the Lieutenant Governor, or in the absence of a  
7 Lieutenant Governor, the Presiding Officer of the Senate, and  
8 the Speaker of the House of Representatives and shall assume  
9 their duties upon confirmation by the Senate. The members of  
10 the first commission shall be appointed for terms of office  
11 expiring one, two, three, four, and five years, respectively,  
12 from September 1, 1975. Successors to the members of the first  
13 commission shall serve for a term of five years beginning  
14 service on September 1 of the year appointed and serving until  
15 their successors are appointed and confirmed. If at any time  
16 there should be a vacancy on the commission, a successor  
17 member to serve for the unexpired term applicable to such  
18 vacancy shall be appointed by the Governor. The commission  
19 shall elect one member to serve as chair of the commission and  
20 one member to serve as vice chair. The vice chair shall act as  
21 chair in the absence or disability of the chair or in the  
22 event of a vacancy in that office.

23 "Beginning with the first vacancy on the Ethics  
24 Commission after October 1, 1995, if there is not a Black  
25 member serving on the commission, that vacancy shall be filled  
26 by a Black appointee. Any vacancy thereafter occurring on the

1 commission, shall also be filled by a Black appointee if there  
2 is no Black member serving on the commission at that time.

3 "(b) A vacancy in the commission shall not impair  
4 the right of the remaining members to exercise all the powers  
5 of the commission, and three members thereof shall constitute  
6 a quorum.

7 "(c) The commission shall at the close of each  
8 fiscal year, or as soon thereafter as practicable, report to  
9 the Legislature and the Governor concerning the actions it has  
10 taken, the name, salary, and duties of the director, the names  
11 and duties of all individuals in its employ, the money it has  
12 disbursed, other relevant matters within its jurisdiction, and  
13 such recommendations for legislation as the commission deems  
14 appropriate.

15 "(d) Members of the commission shall, while serving  
16 on the business of the commission, be entitled to receive  
17 compensation at the rate of fifty dollars (\$50) per day, and  
18 each member shall be paid his or her travel expenses incurred  
19 in the performance of his or her duties as a member of the  
20 commission as other state employees and officials are paid  
21 when approved by the chair. If for any reason a member of the  
22 commission wishes not to claim and accept the compensation or  
23 travel expenses, the member shall inform the director, in  
24 writing, of the refusal. The member may at any time during his  
25 or her term begin accepting compensation or travel expenses;

1       however, the member's refusal for any covered period shall act  
2       as an irrevocable waiver for that period.

3               "(e) All members, officers, agents, attorneys, and  
4       employees of the commission shall be subject to this chapter.  
5       The director, members of the commission, and all employees of  
6       the commission shall not engage in direct partisan political  
7       activity, including the making of campaign contributions, on  
8       the state, county, and local levels. The prohibition shall in  
9       no way act to limit or restrict such persons' ability to vote  
10       in any election.

11               "(f) The commission shall appoint a full-time  
12       director. The director shall serve at the pleasure of the  
13       commission and shall appoint such other employees as needed.  
14       All such employees, except the director, shall be employed  
15       subject to the provisions of the state Merit System law, and  
16       their compensation shall be prescribed pursuant to such law.  
17       The employment of attorneys shall be subject to subsection  
18       (h). The compensation of the director shall be fixed by the  
19       commission, payable as the salaries of other state employees.  
20       The director shall be responsible for the administrative  
21       operations of the commission and shall administer this chapter  
22       in accordance with the commission's policies. No regulation  
23       shall be implemented by the director until adopted by the  
24       commission in accordance with Sections 41-22-1 to 41-22-27,  
25       inclusive, the Alabama Administrative Procedure Act.

1           "(g) The director may appoint part-time stenographic  
2 reporters or certified court reporters, as needed, to take and  
3 transcribe the testimony in any formal or informal hearing or  
4 investigation before the commission or before any person  
5 authorized by the commission. The reporters shall not be  
6 full-time employees of the commission and shall not be subject  
7 to the Merit System law and may not participate in the State  
8 Retirement System.

9           "(h) The director may, with the approval of the  
10 Attorney General, appoint a competent attorney as legal  
11 counsel for the commission. The legal counsel shall be of good  
12 moral and ethical character, licensed to practice law in this  
13 state, and a member in good standing of the Alabama Bar  
14 Association. The legal counsel shall be commissioned as an  
15 assistant or deputy attorney general and shall, in addition to  
16 the powers and duties herein conferred, have the authority and  
17 duties of an assistant or deputy attorney general, except,  
18 that his or her entire time shall be devoted to the  
19 commission. The attorney shall act as an attorney for the  
20 commission in actions or proceedings brought by or against the  
21 commission pursuant to any provisions of law under the  
22 commission's jurisdiction, or in which the commission joins or  
23 intervenes as to a matter within the commission's  
24 jurisdiction, or as a friend of the court or otherwise;  
25 ~~provided however, nothing in this chapter shall be deemed as a~~  
26 ~~direct grant of subpoena power to the commission. The~~

1 commission shall have subpoena power. Subpoenas shall be  
2 issued only in cases where complaints have been filed that  
3 have proceeded beyond the preliminary inquiry stage. In the  
4 course of an investigation, the commission may subpoena  
5 witnesses and compel their attendance, and may also require  
6 the production of books, papers, documents, and other  
7 evidence. If any person fails to comply with any subpoena  
8 lawfully issued, or if any witness refuses to produce evidence  
9 or to testify as to any matter relevant to the investigation,  
10 it shall be the duty of any court of competent jurisdiction or  
11 the judge thereof, upon the application of the director to  
12 compel obedience by attachment proceedings for contempt, as in  
13 the case of disobedience of the requirements of a subpoena  
14 issued for such court or a refusal to testify therein. A  
15 subpoena shall be issued only upon the express written  
16 authorization of the director and upon the affirmative vote of  
17 at least 4/5 of the members of the commission.

18           "(i) The director shall designate in writing the  
19 chief investigator, should there be one, and a maximum of six  
20 full-time investigators who shall be and are hereby  
21 constituted law enforcement officers of the State of Alabama  
22 with full and unlimited police power and jurisdiction to  
23 enforce the laws of this state pertaining to the operation and  
24 administration of the commission and this chapter.  
25 Investigators shall meet the requirements of the Alabama Peace  
26 Officers' Standards and Training Act, Sections 36-21-40 to

1 36-21-51, inclusive, and shall in all ways and for all  
2 purposes be considered law enforcement officers entitled to  
3 all benefits provided in Section 36-15-6(f); provided however  
4 such investigators shall only exercise their power of arrest  
5 as granted under this chapter pursuant to an order issued by a  
6 court of competent jurisdiction."

7 Section 2. This act shall become effective  
8 immediately following its passage and approval by the  
9 Governor, or its otherwise becoming law.



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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Judiciary ..... 12-JAN-10

Read for the second time and placed  
on the calendar with 1 substitute  
and ..... 14-JAN-10

Read for the third time and passed  
as amended ..... 21-JAN-10

Yeas 93, Nays 1, Abstains 2

Greg Pappas  
Clerk