

1 HB463  
2 128176-5  
3 By Representative Ball  
4 RFD: State Government  
5 First Read: 06-APR-11

1  
2 ENROLLED, An Act,

3           Relating to the office of the Attorney General; to  
4 amend Sections 36-15-1, 36-15-4.2, 36-15-5.1, 36-15-6,  
5 36-15-9, 36-15-10, 36-15-11.1, 36-15-14, 36-15-16, 36-15-17,  
6 36-15-21.1, 36-15-60, and 36-15-62, Code of Alabama 1975; to  
7 clarify the authority of the Governor to employ personal  
8 counsel; to delete the requirement that a written contract  
9 designating the Attorney General as the recipient of any fees,  
10 fines, restitution, forfeitures, penalties, costs, interest,  
11 or judgments be reviewed by the Contract Review Permanent  
12 Legislative Oversight Committee; to authorize the Attorney  
13 General, effective September 30, 2010, to accept attorney's  
14 fees, expenses, and penalties only up to an amount equal to  
15 the actual expenses of the office and to require the Attorney  
16 General to certify those amounts only to the Chairs of the  
17 Committee on Finance and Taxation General Fund and the Ways  
18 and Means General Fund Committee and the State Budget Officer;  
19 to permit attorneys licensed outside of Alabama to be  
20 appointed as deputy attorneys general; to update certain  
21 provisions relating to the employment of office employees; to  
22 remove certain provisions providing for the appointment of  
23 nonfull-time assistant attorneys general; to delete the  
24 requirement that such assistants maintain offices at the  
25 Capitol; to prohibit assistant and full-time deputy attorneys

1 general from maintaining private law offices; to increase the  
2 number of non-merit employees the Attorney General may  
3 appoint; to specify that when the Attorney General  
4 superintends and directs any criminal prosecution, the  
5 district attorney, if requested, shall assist; to authorize  
6 assistants to the Attorney General to render official opinions  
7 in the absence of the Attorney General and the chief deputy;  
8 to delete the requirement that certain specific information  
9 related to state litigation be organized in a particular  
10 manner; to provide for the status of investigators within the  
11 classified service of the state; to add Section 36-15-62.1 to  
12 the Code of Alabama 1975, to make it a crime to provide false  
13 statements relating to any matter under investigation by the  
14 Attorney General and provide penalties; and in connection  
15 therewith to have as its purpose or effect the requirement of  
16 a new or increased expenditure of local funds within the  
17 meaning of Amendment 621 of the Constitution of Alabama of  
18 1901, now appearing as Section 111.05 of the Official  
19 Recompilation of the Constitution of Alabama of 1901, as  
20 amended.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 36-15-1, 36-15-4.2, 36-15-5.1,  
23 36-15-6, 36-15-9, 36-15-10, 36-15-11.1, ~~36-15-13~~, 36-15-14,  
24 36-15-16, 36-15-17, 36-15-21.1, 36-15-60, and 36-15-62 of the  
25 Code of Alabama 1975, are amended to read as follows:

1           "§36-15-1.

2           "The Attorney General shall keep his or her office  
3 at the capital city and perform the following duties:

4           "(1)a. He or she ~~shall may~~ shall give his or her  
5 opinion in writing, or otherwise, on any question of law  
6 connected with the interests of the state or with the duties  
7 of any of ~~the departments, agencies, or instrumentalities when~~  
8 ~~required requested~~ by the Governor, Secretary of State,  
9 ~~Auditor, Treasurer, Superintendent of Education, Commissioner~~  
10 ~~of the departments, when required by the Governor, Secretary~~  
11 ~~of State, Auditor, Treasurer, Superintendent of Education,~~  
12 ~~Commissioner of Agriculture and Industries, Director of~~  
13 ~~Department of Finance, Comptroller, State Health Officer,~~  
14 ~~Public Service Commissioners, Commissioner of Conservation and~~  
15 ~~Natural Resources, or the Director of the Department of~~  
16 ~~Revenue or any other officer or department of the state~~  
17 ~~when it is made, by law, his or her duty so to do, and he or~~  
18 ~~she shall may also give his or her opinion to the Chairman~~  
19 ~~Chair of the Judiciary Committee of either house, when~~  
20 ~~required requested, upon any~~ Agriculture and Industries,  
21 Director of Department of Finance, Comptroller, State Health  
22 Officer, Public Service Commissioners, Commissioner of  
23 Conservation and Natural Resources, or the Director of the  
24 Department of Revenue or any other officer or department of  
25 the state when it is made, by law, his or her duty so to do,

1 and he or she shall also give his or her opinion to the  
2 Chairman of the Judiciary Committee of either house, when  
3 required, upon any matter under the consideration of the  
4 committee.

5 "b. The Attorney General ~~shall may~~ shall give his or  
6 her opinion, in writing or otherwise, as to any question of  
7 law connected with the duties of the following county or city  
8 officers when requested so to do in writing: Judge of probate,  
9 clerk of the circuit court, sheriff, city and county boards of  
10 education, county commission, ~~register of the circuit court,~~  
11 register of the circuit court, tax collector, tax assessor,  
12 ~~revenue commissioner,~~ mayor or chief executive officer of any  
13 incorporated municipality, city council or like governing body  
14 of any incorporated municipality, or any other officer  
15 required to collect, disburse, handle, or account for public  
16 funds.

17 "c. Any officer or governing body of a municipality  
18 or county or officer or governing body of any other elected or  
19 appointed body shall submit with the request for an opinion a  
20 resolution adopted by the governing body setting forth the  
21 facts showing the nature and character of the question which  
22 makes the advice or opinion sought necessary to the present  
23 performance of some official act that the officer or governing  
24 body must ~~immediately~~ perform.

1            "d. An officer or governing body shall not submit to  
2 the Attorney General moot, private, or personal questions in  
3 which the state, county, or public is not materially or  
4 primarily interested ~~to the Attorney General, and any or~~  
5 questions that are subject to ongoing litigation. Any officer  
6 shall submit, with the request for an opinion, a ~~certificate~~  
7 writing setting forth the facts showing the nature and  
8 character of the question which makes the advice sought  
9 necessary to present performance of some official act that the  
10 officer must ~~immediately~~ perform.

11            "(2) He or she shall attend, on the part of the  
12 state, to all criminal cases pending in the Supreme Court or  
13 Court of Criminal Appeals, and to all civil actions in which  
14 the state is a party in the Supreme Court or Court of Civil  
15 Appeals. He or she shall also attend to all cases other than  
16 criminal that may be pending in the courts of this state, in  
17 which the state may be in any manner concerned, and shall  
18 appear in the courts of other states or of the United States,  
19 in any case in which the state may be interested in the  
20 result.

21            "(3) He or she shall post on the Internet  
22 searchable, electronic copies of the written official opinions  
23 rendered by him or her pursuant to subdivision (1). On a  
24 timely basis, he or she shall also send electronic copies of  
25 the opinions to any public official who has asked to receive

1       them and who has provided a working e-mail address for that  
2       purpose.

3               "(4) He or she shall, in the month of October of the  
4       last year of his or her term of office, compile a report,  
5       which shall include suggestions for the suppression of crime  
6       and the improvement of the criminal administration as he or  
7       she may deem proper. Such report shall also contain a  
8       statement of the number of criminal cases disposed of in the  
9       entire state for the past four years, as shown by reports of  
10      district attorneys; and, taking each character of cases  
11      separately, it shall show the number disposed of in each  
12      judicial circuit and in each criminal court or other court or  
13      territory having a separate district attorney, the number of  
14      convictions, the number of acquittals, the number of nolle  
15      prosequis entered, the number of cases which were abated or  
16      otherwise disposed of, the number of sentences to death, the  
17      number of sentences to the ~~penitentiary~~ Department of  
18      Corrections, the number of other sentences, including fines  
19      imposed, and the totals under each head above mentioned. One  
20      copy of the report shall be retained in the permanent files of  
21      the office of the Attorney General, and one copy of the report  
22      shall be transmitted to the Governor, the Clerk of the House  
23      of Representatives, and the Secretary of the Senate, and two  
24      copies of the report shall be transmitted to the Department of  
25      Archives and History. The expense of printing and binding all

1 of the reports provided for in this section shall be paid by  
2 the state in the same manner as is now or hereafter may be  
3 provided for printing and binding for the state.

4 "(5) He or she shall keep and preserve, with proper  
5 indexes thereto, copies of all his or her official opinions  
6 and correspondence.

7 "(6) He or she shall keep, with proper index  
8 thereto, a docket of all civil actions and claims in which the  
9 state is in any manner concerned and to which he or she is  
10 required to give attention, showing the names and addresses of  
11 the parties, the nature and amount of the action or claim,  
12 when and in what court action was brought, and steps taken  
13 therein, and the final determination and result thereof, and,  
14 as to claims for collection, showing also when and from whom  
15 the claims were received and the name and address of any agent  
16 or attorney to whom sent for collection and the date thereof  
17 and, in all cases, the amount and date of each collection, the  
18 amount of commissions or other expenses deducted, if any, the  
19 net amount collected, when and to whom paid over, and the  
20 receipt of the officer therefor.

21 "(7) At such time as the Attorney General deems  
22 appropriate, the Attorney General ~~shall~~ may carefully examine  
23 all of the general statutes now in force, or which hereafter  
24 may be enacted by the Legislature from time to time, as to  
25 their clarity and constitutional validity.



1           "(8) At such time as the Attorney General deems  
2 appropriate, the Attorney General may make a report in writing  
3 to the Governor and to the Chairman of the Judiciary Committee  
4 of the House of Representatives and of the Senate, pointing  
5 out the laws or parts of laws of Alabama which have been held  
6 invalid by courts of last resort since the last session of the  
7 Legislature, and also making suggestions as to inaccuracies,  
8 inadvertences, mistakes, and omissions in statutes, which, in  
9 his or her opinion, should be corrected.

10           "~~(9) Upon the codification of the statutes provided~~  
11 ~~for in Section 85 of the constitution, he or she shall advise~~  
12 ~~with and assist the committees of the Senate and House of~~  
13 ~~Representatives or the joint committee of the Legislature~~  
14 ~~charged with the duty of examining and investigating the~~  
15 ~~documents submitted by the code commission or any other agency~~  
16 ~~provided by law for the preparation of a code of laws for~~  
17 ~~submission to the Legislature.~~

18           "(9) ~~(10)~~ He or she may, when requested to do so by  
19 the chief executive authority of any municipality in the State  
20 of Alabama, represent the municipality before the appellate  
21 courts of this state in any case appealed to such courts  
22 involving the constitutionality of a municipal ordinance.

23           "(10) ~~(11)~~ When extradition papers are presented to  
24 the Governor by the executive authority of another state  
25 seeking to extradite a person from Alabama, or by the proper

1 authority of the State of Alabama seeking to extradite a  
2 person from another state, the extradition papers shall be  
3 submitted to the Attorney General for examination and shall be  
4 approved by him or her both as to form and legality before the  
5 papers are acted upon by the Governor, and, when requested so  
6 to do by the Governor, the Attorney General shall advise him  
7 or her as to his or her action thereon.

8 "(11) ~~(12)~~ When requested so to do by the Governor,  
9 the Attorney General shall examine all bills, resolutions, and  
10 other documents submitted by the Legislature to the Governor  
11 for his or her consideration under Section 125 of the  
12 constitution, and advise him or her as to his or her action  
13 thereon.

14 "(12) ~~(13)~~ The duties imposed by this section upon  
15 the Attorney General and his or her assistants shall be  
16 performed by the ~~attorney general~~ Attorney General personally  
17 or by his or her assistants under his or her supervision,  
18 direction, and control.

19 "(13) ~~(14)~~ Any statute to the contrary  
20 notwithstanding, no attorney shall represent the State of  
21 Alabama, or any agency, department, or instrumentality of the  
22 state in any litigation in any court or tribunal unless the  
23 attorney has been appointed as a deputy attorney general or  
24 assistant attorney general. Nothing in this section shall

1 prevent the Governor from employing ~~personal~~ counsel pursuant  
2 to Section 36-13-2.

3 "§36-15-4.2.

4 "(a) There is established in the State Treasury a  
5 special fund to be known as the Attorney General's Litigation  
6 Support Fund.

7 "(b) The fund, ~~or other funds,~~ may consist of any  
8 and all monies designated by a court order as reasonable  
9 attorney fees and related expenses or negotiated fees and  
10 related expenses for matters settled out of court, and  
11 penalties paid in certain cases received by the Attorney  
12 General pursuant to this section as a result of any fees,  
13 fines, restitution, forfeitures, penalties, costs, interest,  
14 or judgments collected pursuant to any civil litigation, or  
15 any administrative proceedings, or in settlement of any claim  
16 asserted by or against the people of Alabama, the State of  
17 Alabama, or any of its departments, agencies, institutions,  
18 officers, employees, or political subdivisions thereof.  
19 ~~Notwithstanding the foregoing, the fees, fines, restitution,~~  
20 ~~forfeitures, penalties, costs, interest, or judgements shall~~  
21 ~~not be affected by this article unless the recipient entity of~~  
22 ~~the fees, fines, restitution, forfeitures, penalties, costs,~~  
23 ~~interest, or judgements agrees by written contract to~~  
24 ~~designate the receipt of such or a portion thereof to the~~  
25 ~~Attorney General. Such a written contract shall be reviewed by~~

1 Notwithstanding the foregoing, the fees, fines, restitution,  
2 forfeitures, penalties, costs, interest, or judgements shall  
3 not be affected by this article unless the recipient entity of  
4 the fees, fines, restitution, forfeitures, penalties, costs,  
5 interest, or judgements agrees by written contract to  
6 designate the receipt of such or a portion thereof to the  
7 Attorney General. Such a written contract shall be reviewed by  
8 the Contract Review Committee of the Legislature.

9 ~~Notwithstanding any provision of this subsection, or any other~~  
10 ~~provision of law, Effective as of October 1, 2009 September~~  
11 ~~30, 2010, the Attorney General may not accept judgments or~~  
12 ~~settlements of any kind, or any part thereof, court ordered~~  
13 ~~attorney fees and related expenses or negotiated settlements~~  
14 ~~and penalties for the use of the Office office of the~~  
15 ~~Attorney General in excess an amount of up to the total of~~  
16 ~~the actual expenses of the Office office of the Attorney~~  
17 ~~General, pursuant to the the use of the Office office of the~~  
18 ~~Attorney General in the fiscal year in which the sums are~~  
19 ~~received in a total cumulative amount of 50 percent of the sum~~  
20 ~~allocated to the office of the Attorney General from the State~~  
21 ~~General Fund for that fiscal year and may retain and carryover~~  
22 ~~up to 125 percent of the sum allocated to the office of the~~  
23 ~~Attorney General from the State General Fund to the next~~  
24 ~~fiscal year, which shall be taken into account by the~~  
25 ~~Legislature in future appropriations. Provided further,~~

1 however, any provision of this section shall not apply to any  
2 attorney fees and related expenses or negotiated settlements  
3 and penalties related to the 2010 gulf oil spill ~~excess of the~~  
4 ~~actual expenses of the Office of the Attorney General,~~  
5 ~~pursuant to the litigation or the issue settled plus 10~~  
6 ~~percent of the amount of such judgments or settlements.~~  
7 ~~Provided further, however, that the total amount above actual~~  
8 ~~expenses which may be retained by the Attorney General~~  
9 ~~pursuant to this section, shall not exceed one million dollars~~  
10 ~~(\$1,000,000) per fiscal year. Any judgments or settlements~~  
11 attorney fees and related expenses or penalties received by  
12 the office of the Attorney General in excess of the amount  
13 shall be remitted to the State General Fund. ~~The actual~~  
14 ~~expenses of~~ Any amount received pursuant to this subsection by  
15 the office of the the Attorney General ~~pursuant to litigation~~  
16 ~~or the issue settled~~ shall be certified by the Attorney  
17 General to the ~~Chairman of the Senate Committee on Finance and~~  
18 ~~Taxation and the Chairman of the House Ways and Means~~  
19 ~~Committee~~ Chairs of the Senate Committee on Finance and  
20 Taxation General Fund and the House Ways and Means General  
21 Fund Committee and the state ~~Comptroller~~ Budget Officer.

22 " (c) The Attorney General may expend monies  
23 appropriated by the Legislature from the fund for the purpose  
24 of implementing any provision of this article or for the

1 performance of any of the powers, functions, duties, and  
 2 responsibilities of the office of the Attorney General.

3 "(d) The fund shall be placed under the management  
 4 or administration of the Attorney General for the purpose of  
 5 implementing this article or for the purpose of performing any  
 6 of the functions, duties, powers, and responsibilities of the  
 7 office of the Attorney General and all monies deposited in the  
 8 fund are available for appropriation to the office of the  
 9 Attorney General. The appropriations shall be budgeted and  
 10 allotted pursuant to Article 4 of Chapter 4 of Title 41.

11 "(e) The appropriation of these monies shall be in  
 12 addition to any monies appropriated to the office of the  
 13 Attorney General from the State General Fund or from any other  
 14 sources.

15 "(f) Neither the Attorney General, nor any employee  
 16 of that office, shall have any financial interest in the  
 17 investment of monies in the fund nor receive any commission  
 18 with respect thereto.

19 "(g) It shall be the duty of the Attorney General to  
 20 keep ~~detailed permanent~~ records of all expenditures and  
 21 disbursements from the fund.

22 "§36-15-5.1.

23 "(a) The position of deputy attorney general of  
 24 Alabama is created and established.

1           "(b) The Attorney General may appoint, in such a  
2 manner or number as the Attorney General deems necessary,  
3 deputy attorneys general so long as the number of full-time  
4 deputy attorneys general employed in the office of the  
5 Attorney General does not exceed 12 and the number of  
6 full-time deputy attorneys general employed in any state  
7 department or agency does not exceed one. The compensation,  
8 salaries, expenses, and benefits of the deputy attorneys  
9 general shall be paid from funds available to the Attorney  
10 General or the department or agency employing the deputy  
11 attorney general.

12           "(c) All deputy attorneys general shall be appointed  
13 by and shall serve at the pleasure of the Attorney General and  
14 shall perform such duties and exercise such powers as the  
15 Attorney General may direct. Notwithstanding the foregoing,  
16 when the State Department of Transportation requires the  
17 service of a deputy attorney general for condemnation  
18 proceedings, the department shall request that the Attorney  
19 General appoint a deputy attorney general for the purpose and  
20 if the Attorney General does not make the appointment within  
21 30 days from the receipt of the request, the general counsel  
22 of the department shall make the appointment from a list of  
23 attorneys compiled by the Attorney General which he or she  
24 deems to be competent in handling condemnation proceedings.

1           "(d) No person shall be appointed a deputy attorney  
2 general who is not authorized to practice law ~~in the State of~~  
3 ~~Alabama.~~

4           "(e) Any attorney serving in the classified service  
5 of the State of Alabama may be considered by the Attorney  
6 General for appointment as a deputy attorney general. In the  
7 event that an attorney serving in the classified service of  
8 the State of Alabama shall accept appointment as a deputy  
9 attorney general and shall later be removed or resign from the  
10 position of deputy attorney general, the attorney shall revert  
11 to his or her former position in which he or she held status  
12 in the classified service. The reversion shall be without loss  
13 of salary or other benefits which would have accrued to the  
14 attorney and to which the attorney would have otherwise been  
15 entitled had he or she remained within the classified service.

16           "(f) A deputy attorney general employed in the  
17 office of the Attorney General shall be compensated at a rate  
18 to be designated by the Attorney General. A deputy attorney  
19 general assigned to another department or agency shall be  
20 compensated at a rate set by the chief executive officer of  
21 the department or agency after consultation with the Attorney  
22 General. The compensation of all other deputy attorneys  
23 general shall be at a rate set by executive order of the  
24 Governor. When designating salaries, the Attorney General  
25 shall choose from among the salary ranges set by the State



1 Personnel Board and published in the State of Alabama  
2 compensation plan. The establishment of the range and step  
3 within the range of the starting salary shall be at the  
4 discretion of the Attorney General upon the appointment of  
5 each deputy attorney general and may vary between persons so  
6 appointed. When so designated, the salaries, expenses, and  
7 benefits of a deputy attorney general shall be paid from the  
8 State Treasury in the same manner that the salary and expenses  
9 of employees in the classified service are paid.

10 "§36-15-6.

11 "(a) Subject to the Merit System, the Attorney  
12 General may appoint as many assistant attorneys general and  
13 ~~stenographers~~ other employees as the public interest requires  
14 by reason of the volume of work in his or her office.

15 "~~(b) Subject to the Merit System, the Attorney~~  
16 ~~General may employ as many clerical assistants as he or she~~  
17 ~~deems necessary to conduct the business of his or her office.~~

18 "(b) ~~(c)~~ Subject to the Merit System, the Attorney  
19 General may employ as many investigators in his or her office  
20 as may be necessary to perform investigatory functions for the  
21 office.

22 "(c) ~~(d)~~ Investigators appointed pursuant to this  
23 section shall have all the powers vested in deputy sheriffs  
24 and all other law enforcement officers of the State of  
25 Alabama, including, but not limited to, the powers of arrest

1 and the power to serve any and all process, and shall perform  
2 the duties, responsibilities, and functions as may be  
3 designated by the Attorney General.

4 "(d) ~~(e)~~ No person shall serve as an investigator  
5 who has not met the minimum standards established for law  
6 enforcement officers by the Alabama Peace Officers' Standards  
7 and Training Commission or other standards as may be hereafter  
8 provided by law. Investigators appointed pursuant to this  
9 section shall meet other additional standards as the Attorney  
10 General may adopt.

11 "(e) ~~(f)~~ All investigators appointed pursuant to  
12 this section shall be entitled to all benefits provided  
13 employees of the Alabama Department of Public Safety,  
14 including, but not limited to, participation in any retirement  
15 plan afforded state troopers.

16 "§36-15-9.

17 "All assistant and full-time deputy attorneys  
18 general of the State of Alabama appointed by the Attorney  
19 General, ~~or by the Attorney General with the approval of the~~  
20 ~~Governor,~~ are hereby prohibited from engaging in the private  
21 practice of the law during the time they are such assistant or  
22 full-time deputy attorneys general; ~~provided, however, that~~  
23 ~~this prohibition shall not apply to assistant attorneys~~  
24 ~~general employed by the Attorney General, with the approval of~~  
25 ~~the Governor, to perform legal services for the state in a~~

1 ~~designated case only.~~ All assistant and full-time deputy  
2 attorneys general appointed by the Attorney General, ~~or by the~~  
3 ~~Attorney General with the approval of the Governor, except~~  
4 ~~assistant attorneys general employed by the Attorney General~~  
5 ~~with the approval of the Governor to perform legal services~~  
6 ~~for the state in a designated case only, are hereby required~~  
7 ~~to maintain offices at the capitol during the time they are~~  
8 ~~assistant attorneys general and are hereby prohibited from~~  
9 maintaining private law offices ~~outside of the capitol~~ during  
10 such time.

11 "§36-15-10.

12 "(a) The position of executive assistant to the  
13 Attorney General of Alabama is created and established. The  
14 Attorney General may appoint up to ~~three~~ five executive  
15 assistants. An executive assistant shall not be subject to the  
16 merit act, but shall serve at the pleasure of the Attorney  
17 General and shall perform the duties assigned to him or her by  
18 the Attorney General.

19 "(b) An executive assistant shall receive an annual  
20 salary to be fixed by the Attorney General but not exceeding  
21 the maximum salary now or hereafter fixed for assistant  
22 attorneys general III. The salary and expenses of an executive  
23 assistant shall be paid from the State Treasury in the same  
24 manner that the salary and expenses of the Attorney General  
25 are paid.

1           "§36-15-11.1.

2           "The Attorney General may employ within his or her  
 3 office no more than ~~five~~ 10 paralegal employees whose  
 4 compensation, salaries, and expenses or benefits shall be paid  
 5 from funds available to the Attorney General in the same  
 6 amounts and manner as provided for special administrative  
 7 assistants under this article. The paralegal employees shall  
 8 be appointed by and serve at the pleasure of the Attorney  
 9 General.

10           "§36-15-13.

11           "~~(a) The Attorney General, either in person or by~~  
 12 ~~assistant, may appear before any grand jury in this state and~~  
 13 ~~present any matter or charge to them for investigation, and~~  
 14 ~~prepare and present to the grand jury indictments for any~~  
 15 ~~violation of the laws of this state and issue subpoenas for~~  
 16 ~~witnesses to appear in the same manner and to the same extent~~  
 17 ~~as district attorneys may now or hereafter do.~~

18           "~~(b) Any law to the contrary notwithstanding, in~~  
 19 ~~addition to the power granted in subsection (a), the Attorney~~  
 20 ~~General may issue subpoenas for any witness the Attorney~~  
 21 ~~General may require to come before the Attorney General for~~  
 22 ~~examination under oath administered by the Attorney General as~~  
 23 ~~to any violation of state law. The subpoena may also direct~~  
 24 ~~the person to whom it is directed to produce the books,~~  
 25 ~~papers, documents, or other objects which may be designated~~

1 ~~therein. Subpoenas may be issued at any time, whether or not a~~  
2 ~~grand jury is in session.~~

3 ~~"(c) Failure to appear at the time and place as~~  
4 ~~required by a subpoena, or failure to remain until released or~~  
5 ~~to provide testimony or documents, shall result in attachment~~  
6 ~~by order of the court. Enforcement of the subpoena or~~  
7 ~~objections thereto shall be heard in the circuit court where~~  
8 ~~the indictment, if any, is pending. If there is no indictment,~~  
9 ~~these matters shall be heard in the appropriate circuit court~~  
10 ~~at the location where the appearance or production was~~  
11 ~~directed to occur or in the Circuit Court of Montgomery County~~  
12 ~~at the option of the Attorney General.~~

13 ~~"(d) As used in this section, the term Attorney~~  
14 ~~General shall include the Attorney General, full-time deputy~~  
15 ~~attorneys general, and assistant attorneys general assigned to~~  
16 ~~the office of the Attorney General.~~

17 ~~"§36-15-14.~~

18 ~~"The Attorney General, either in person or by one of~~  
19 ~~his or her assistants, ~~may~~ at any time he or she deems ~~sees~~~~  
20 ~~proper, either before or after indictment, may superintend and~~  
21 ~~direct the prosecution of any criminal case in any of the~~  
22 ~~courts of this state. The district attorney prosecuting in~~  
23 ~~such court, upon request, shall assist and act in connection~~  
24 ~~with the Attorney General or his or her assistant in such~~  
25 ~~case.~~

1           "§36-15-16.

2           "The Attorney General may incur such expenses as may  
3 be necessary in the investigation of violations of the  
4 criminal law, in the prosecution of crime and in the conduct,  
5 investigation, and prosecution of any civil action in which  
6 the state is interested or ~~the state's revenue is~~ state funds  
7 are involved and such other incidental expenses of the office  
8 as may be necessary. All expenses incurred under the authority  
9 of this section ~~must~~ shall be approved by the Attorney General  
10 and the Governor and shall be paid by warrant as other state  
11 expenses are paid.

12           "§36-15-17.

13           "During the absence of the Attorney General and the  
14 chief deputy from the seat of government, or when so directed  
15 by ~~him~~ the Attorney General, the assistants to the Attorney  
16 General may render official opinions to such officers as the  
17 Attorney General is ~~required~~ permitted to advise, and may  
18 perform such other duties as may be directed by the Attorney  
19 General. During such absence, such authority shall be vested  
20 in the senior assistant to be designated by the Attorney  
21 General, and in the absence of the latter also, in the next  
22 ranking assistant. The performance of such duties by such  
23 assistants shall have the same force and effect as if  
24 performed by the Attorney General.

25           "§36-15-21.1.

1           "(a) Any laws to the contrary notwithstanding,  
 2 whenever any litigation is instituted against any state  
 3 department, division, board, bureau, commission, agency,  
 4 institution, or officer or employee in their official or  
 5 individual capacity relating to their official duties, such  
 6 entity shall promptly notify the office of the Attorney  
 7 General of the action. This notification shall include a  
 8 description of the controversy, the relief sought, and other  
 9 information the Attorney General deems necessary.

10           "(b) This information shall be maintained in a  
 11 central location within the office of the Attorney General.  
 12 ~~This material shall be organized in a manner so that all of~~  
 13 ~~the following information may be ascertained:~~

14           ~~"(1) The number of lawsuits pending against the~~  
 15 ~~state categorized by department.~~

16           ~~"(2) The nature of each lawsuit.~~

17           ~~"(3) The measure of relief sought.~~

18           ~~"(4) Information necessary to maintain a~~  
 19 ~~comprehensive information system concerning such litigation,~~  
 20 ~~as determined by the Attorney General.~~

21           ~~"(c) This section shall not apply to an institution~~  
 22 ~~of postsecondary education.~~

23           "§36-15-60.

24           "The Attorney General may appoint a chief  
 25 investigator for his or her office and up to ~~four~~ six

1 additional investigators as the Attorney General may from time  
2 to time deem necessary. The investigators shall serve at the  
3 pleasure of the Attorney General.

4 "§36-15-62.

5 "(a) The chief investigator and other investigators  
6 appointed pursuant to ~~the provisions of~~ this article shall be  
7 compensated at a rate to be set by the Attorney General. In  
8 setting the rate of compensation the Attorney General may take  
9 into consideration that amount paid to other law enforcement  
10 officers of the State of Alabama, including, but not limited  
11 to, those officers of corresponding duties, lengths of  
12 service, and responsibilities in the ~~state~~ Alabama Department  
13 of Public Safety.

14 "(b) In the event anyone serving in the classified  
15 service of the State of Alabama shall accept appointment as an  
16 investigator and shall later be removed or resign from the  
17 position of investigator, the person shall revert to his or  
18 her former position in which he or she held status in the  
19 classified service. The reversion shall be without loss of  
20 salary or other benefits which would have accrued to the  
21 person and to which he or she would have been entitled had he  
22 or she remained within the classified service.

23 "(c) When designating the salaries, the Attorney  
24 General shall choose from among the salary ranges set by the



1 State Personnel Board for employees of the Alabama Department  
 2 of Public Safety.

3 "(d) The establishment of the range and step within  
 4 the range of the starting salary shall be at the discretion of  
 5 the Attorney General upon the appointment of each investigator  
 6 and may vary between persons so appointed.

7 "(e) All investigators appointed pursuant to ~~the~~  
 8 ~~provisions of~~ this article shall be entitled to all benefits  
 9 provided employees of the Alabama Department of Public Safety,  
 10 including, but not limited to, participation in any retirement  
 11 plan afforded state troopers. ~~Provided, however, such~~ Such  
 12 investigators shall be appointed by and serve at the pleasure  
 13 of the Attorney General.

14 "(f) The salaries, expenses, and benefits of the  
 15 investigators appointed pursuant to ~~the provisions of~~ this  
 16 article shall be paid from the State Treasury in the same  
 17 manner that the salaries, expenses, and benefits of employees  
 18 in the classified service are paid."

19 Section 2. Section 36-15-62.1 is added to the Code  
 20 of Alabama 1975, to read as follows:

21 (a) Any person who knowingly commits any of the  
 22 following in any matter under investigation by the Attorney  
 23 General, or a ~~member~~ prosecutor or investigator of his or her  
 24 office, upon conviction shall be guilty of a Class C felony:

1           (1) Falsifying, concealing, or covering up a  
2 material fact by any trick, scheme, or device.

3           (2) Making a materially false, fictitious, or  
4 fraudulent statement or representation.

5           (3) Making or using a false writing or document,  
6 knowing the same to contain any materially false, fictitious,  
7 or fraudulent entry.

8           (4) Destroying, concealing, or secreting any  
9 document or other physical evidence.

10           (b) Conviction, arrest, or prosecution of the matter  
11 originally under investigation is not a prerequisite to  
12 conviction under this section.

13           Section 3. Although this bill would have as its  
14 purpose or effect the requirement of a new or increased  
15 expenditure of local funds, the bill is excluded from further  
16 requirements and application under Amendment 621, now  
17 appearing as Section 111.05 of the Official Recompilation of  
18 the Constitution of Alabama of 1901, as amended, because the  
19 bill defines a new crime or amends the definition of an  
20 existing crime.

21           Section 4. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 26-APR-11, as amended.

Greg Pappas  
Clerk

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Senate

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02-JUN-11

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Passed