

1 SB348  
2 158400-1  
3 By Senators Reed, Blackwell, Smitherman and Ward  
4 RFD: Constitution, Campaign Finance, Ethics, and Elections  
5 First Read: 12-FEB-14

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8 SYNOPSIS: Under existing law, a public employee who  
9 receives a reward from a third party for exemplary  
10 public service may be considered as using his or  
11 her official position for personal gain.

12 This bill would provide that a public  
13 employee who receives a reward from a third party  
14 for exemplary public service would not be  
15 considered as using his or her official position  
16 for personal gain.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

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22 To amend Section 36-25-5 of the Code Alabama 1975,  
23 relating to the use of official position or office for  
24 personal gain; to provide that a public employee who receives  
25 a reward from a third party for exemplary public service would  
26 not be considered as using his or her official position for  
27 personal gain.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act may be known and may be cited as  
3 the "Rewarding Exemplary Service by Public Employee Act."

4 Section 2. Section 36-25-5 of the Code Alabama 1975,  
5 is amended to read as follows:

6 "§36-25-5.

7 "(a) No public official or public employee shall use  
8 or cause to be used his or her official position or office to  
9 obtain personal gain for himself or herself, or family member  
10 of the public employee or family member of the public  
11 official, or any business with which the person is associated  
12 unless the use and gain are otherwise specifically authorized  
13 by law. Personal gain is achieved when the public official,  
14 public employee, or a family member thereof receives, obtains,  
15 exerts control over, or otherwise converts to personal use the  
16 object constituting such personal gain.

17 "(b) Unless prohibited by the Constitution of  
18 Alabama of 1901, nothing herein shall be construed to prohibit  
19 a public official from introducing bills, ordinances,  
20 resolutions, or other legislative matters, serving on  
21 committees, or making statements or taking action in the  
22 exercise of his or her duties as a public official. A member  
23 of a legislative body may not vote for any legislation in  
24 which he or she knows or should have known that he or she has  
25 a conflict of interest.

26 "(c) No public official or public employee shall use  
27 or cause to be used equipment, facilities, time, materials,

1 human labor, or other public property under his or her  
2 discretion or control for the private benefit or business  
3 benefit of the public official, public employee, any other  
4 person, or principal campaign committee as defined in Section  
5 17-22A-2, which would materially affect his or her financial  
6 interest, except as otherwise provided by law or as provided  
7 pursuant to a lawful employment agreement regulated by agency  
8 policy. Provided, however, nothing in this subsection shall be  
9 deemed to limit or otherwise prohibit communication between  
10 public officials or public employees and eleemosynary or  
11 membership organizations or such organizations communicating  
12 with public officials or public employees.

13 "(d) No person shall solicit a public official or  
14 public employee to use or cause to be used equipment,  
15 facilities, time, materials, human labor, or other public  
16 property for such person's private benefit or business  
17 benefit, which would materially affect his or her financial  
18 interest, except as otherwise provided by law.

19 "(e) No public official or public employee shall,  
20 other than in the ordinary course of business, solicit a thing  
21 of value from a subordinate or person or business with whom he  
22 or she directly inspects, regulates, or supervises in his or  
23 her official capacity.

24 "(f) A conflict of interest shall exist when a  
25 member of a legislative body, public official, or public  
26 employee has a substantial financial interest by reason of  
27 ownership of, control of, or the exercise of power over any

1 interest greater than five percent of the value of any  
2 corporation, company, association, or firm, partnership,  
3 proprietorship, or any other business entity of any kind or  
4 character which is uniquely affected by proposed or pending  
5 legislation; or who is an officer or director for any such  
6 corporation, company, association, or firm, partnership,  
7 proprietorship, or any other business entity of any kind or  
8 character which is uniquely affected by proposed or pending  
9 legislation.

10 "(g) A public employee may not be deemed to be using  
11 his or her official position for personal gain if a third  
12 party wishes to provide a reward for exemplary service by the  
13 public employee if each of the following conditions are met:

14 "(1) The reward is unsolicited.

15 "(2) Solely in the opinion of the rewarding  
16 individual or entity, the public employee has provided  
17 exemplary public service.

18 "(3) The Ethics Commission is notified by the  
19 rewarding individual or entity of the name of the public  
20 employee to be rewarded, the exemplary public service provided  
21 to justify the reward, and the dollar amount of the reward  
22 prior to the reward being issued."

23 Section 3. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law.