

1 SB279
2 174395-1
3 By Senator Dial
4 RFD: Governmental Affairs
5 First Read: 23-FEB-16

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8 SYNOPSIS: Under existing law, the State Ethics
9 Commission may issue advisory opinions which
10 provide immunity to the person requesting the
11 opinion and any other person relying on the opinion
12 in good faith. Existing rules of the commission
13 authorize the director and general counsel of the
14 commission to issue informal opinions on the
15 application of the Code of Ethics to a particular
16 individual, but an informal opinion does not
17 provide immunity.

18 This bill would establish a procedure for
19 the issuance by the director or an attorney of the
20 commission of written informal opinions to public
21 officers or employees that would provide immunity
22 to the officer or employee making the request if
23 all pertinent information was presented and the
24 officer or employee acted in accordance with the
25 relevant circumstances, factors, and requirements
26 set forth in the opinion.

1 Under existing law, an elected public
2 official may not lobby or represent a client,
3 including his or her employer, before any
4 legislative body or any branch of state or local
5 government during the term for which he or she was
6 elected and is prohibited from lobbying before the
7 board, agency, commission, department, or
8 legislative body of which he or she is a former
9 member for two years after the end of the term for
10 which he or she was elected. The bill would limit
11 the provision prohibiting an elected public
12 official from lobbying or representing a client
13 before any legislative body or any branch of state
14 or local government during the term for which the
15 elected public official was elected to state office
16 holders.

17 Under existing law, enforcement of the Code
18 of Ethics is vested in the State Ethics Commission
19 but the Attorney General and district attorneys
20 also are authorized to enforce it.

21 This bill would condition enforcement of the
22 Code of Ethics by the Attorney General or a
23 district attorney on a determination by the
24 commission that a violation of the Code of Ethics
25 has occurred. The bill would also revise the
26 definition of a thing of value for purposes of the
27 Code of Ethics.

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2 A BILL
3 TO BE ENTITLED
4 AN ACT

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6 Relating to the Code of Ethics; to amend Sections
7 36-25-1, 36-25-13, 36-25-23, and 36-25-27 of, and to add
8 Section 36-25-4.4 to, the Code of Alabama 1975, to provide for
9 informal opinions by the State Ethics Commission; to revise
10 the prohibition on lobbying by elected public officials; to
11 require a determination by the commission that a violation of
12 the Code of Ethics has occurred prior to an action by the
13 Attorney General or a district attorney; and to revise the
14 definition of a thing of value.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 36-25-1 of the Code of Alabama
17 1975, is amended to read as follows:

18 "§36-25-1.

19 "Whenever used in this chapter, the following words
20 and terms shall have the following meanings:

21 "(1) BUSINESS. Any corporation, partnership,
22 proprietorship, firm, enterprise, franchise, association,
23 organization, self-employed individual, or any other legal
24 entity.

25 "(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED.
26 Any business of which the person or a member of his or her
27 family is an officer, owner, partner, board of director

1 member, employee, or holder of more than five percent of the
2 fair market value of the business.

3 "(3) CANDIDATE. This term as used in this chapter
4 shall have the same meaning ascribed to it in Section
5 17-22A-2.

6 "(4) COMMISSION. The State Ethics Commission.

7 "(5) COMPLAINT. Written allegation or allegations
8 that a violation of this chapter has occurred.

9 "(6) COMPLAINANT. A person who alleges a violation
10 or violations of this chapter by filing a complaint against a
11 respondent.

12 "(7) CONFIDENTIAL INFORMATION. A complaint filed
13 pursuant to this chapter, together with any statement,
14 conversations, knowledge of evidence, or information received
15 from the complainant, witness, or other person related to such
16 complaint.

17 "(8) CONFLICT OF INTEREST. A conflict on the part of
18 a public official or public employee between his or her
19 private interests and the official responsibilities inherent
20 in an office of public trust. A conflict of interest involves
21 any action, inaction, or decision by a public official or
22 public employee in the discharge of his or her official duties
23 which would materially affect his or her financial interest or
24 those of his or her family members or any business with which
25 the person is associated in a manner different from the manner
26 it affects the other members of the class to which he or she

1 belongs. A conflict of interest shall not include any of the
2 following:

3 "a. A loan or financial transaction made or
4 conducted in the ordinary course of business.

5 "b. An occasional nonpecuniary award publicly
6 presented by an organization for performance of public
7 service.

8 "c. Payment of or reimbursement for actual and
9 necessary expenditures for travel and subsistence for the
10 personal attendance of a public official or public employee at
11 a convention or other meeting at which he or she is scheduled
12 to meaningfully participate in connection with his or her
13 official duties and for which attendance no reimbursement is
14 made by the state.

15 "d. Any campaign contribution, including the
16 purchase of tickets to, or advertisements in journals, for
17 political or testimonial dinners, if the contribution is
18 actually used for political purposes and is not given under
19 circumstances from which it could reasonably be inferred that
20 the purpose of the contribution is to substantially influence
21 a public official in the performance of his or her official
22 duties.

23 "(9) DAY. Calendar day.

24 "(10) DEPENDENT. Any person, regardless of his or
25 her legal residence or domicile, who receives 50 percent or
26 more of his or her support from the public official or public
27 employee or his or her spouse or who resided with the public

1 official or public employee for more than 180 days during the
2 reporting period.

3 "(11) DE MINIMIS. A value twenty-five dollars (\$25)
4 or less per occasion and an aggregate of fifty dollars (\$50)
5 or less in a calendar year from any single provider, or such
6 other amounts as may be prescribed by the Ethics Commission
7 from time to time by rule pursuant to the Administrative
8 Procedure Act or adjusted each four years from August 1, 2012,
9 to reflect any increase in the cost of living as indicated by
10 the United States Department of Labor Consumer Price Index or
11 any succeeding equivalent index.

12 "(12) ECONOMIC DEVELOPMENT FUNCTION. Any function
13 reasonably and directly related to the advancement of a
14 specific, good-faith economic development or trade promotion
15 project or objective.

16 "(13) EDUCATIONAL FUNCTION. A meeting, event, or
17 activity held within the State of Alabama, or if the function
18 is predominantly attended by participants from other states,
19 held within the continental United States, which is organized
20 around a formal program or agenda of educational or
21 informational speeches, debates, panel discussions, or other
22 presentations concerning matters within the scope of the
23 participants' official duties or other matters of public
24 policy, including social services and community development
25 policies, economic development or trade, ethics, government
26 services or programs, or government operations, and which,
27 taking into account the totality of the program or agenda,

1 could not reasonably be perceived as a subterfuge for a purely
2 social, recreational, or entertainment function.

3 "(14) FAMILY MEMBER OF THE PUBLIC EMPLOYEE. The
4 spouse or a dependent of the public employee.

5 "(15) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The
6 spouse, a dependent, an adult child and his or her spouse, a
7 parent, a spouse's parents, a sibling and his or her spouse,
8 of the public official.

9 "(16) GOVERNMENTAL CORPORATIONS AND AUTHORITIES.
10 Public or private corporations and authorities, including but
11 not limited to, hospitals or other health care corporations,
12 established pursuant to state law by state, county or
13 municipal governments for the purpose of carrying out a
14 specific governmental function. Notwithstanding the foregoing,
15 all employees, including contract employees, of hospitals or
16 other health care corporations and authorities are exempt from
17 the provisions of this chapter.

18 "(17) HOUSEHOLD. The public official, public
19 employee, and his or her spouse and dependents.

20 "(18) LAW ENFORCEMENT OFFICER. A full-time employee
21 of a governmental unit responsible for the prevention or
22 investigation of crime who is authorized by law to carry
23 firearms, execute search warrants, and make arrests.

24 "(19) LEGISLATIVE BODY. The term "legislative body"
25 includes the following:

26 "a. The Legislature of Alabama, which includes both
27 the Senate of Alabama and the House of Representatives of

1 Alabama, unless specified otherwise by the express language of
2 any provision herein, and any committee or subcommittee
3 thereof.

4 "b. A county commission, and any committee or
5 subcommittee thereof.

6 "c. A city council, city commission, town council,
7 or other municipal council or commission, and any committee or
8 subcommittee thereof.

9 "(20) LOBBY or LOBBYING. The practice of promoting,
10 opposing, or in any manner influencing or attempting to
11 influence the introduction, defeat, or enactment of
12 legislation before any legislative body; opposing or in any
13 manner influencing the executive approval, veto, or amendment
14 of legislation; or the practice of promoting, opposing, or in
15 any manner influencing or attempting to influence the
16 enactment, promulgation, modification, or deletion of
17 regulations before any regulatory body. The term does not
18 include providing public testimony before a legislative body
19 or regulatory body or any committee thereof.

20 "(21) LOBBYIST.

21 "a. The term lobbyist includes any of the following:

22 "1. A person who receives compensation or
23 reimbursement from another person, group, or entity to lobby.

24 "2. A person who lobbies as a regular and usual part
25 of employment, whether or not any compensation in addition to
26 regular salary and benefits is received.

1 "3. A consultant to the state, county, or municipal
2 levels of government or their instrumentalities, in any manner
3 employed to influence legislation or regulation, regardless
4 whether the consultant is paid in whole or part from state,
5 county, municipal, or private funds.

6 "4. An employee, a paid consultant, or a member of
7 the staff of a lobbyist, whether or not he or she is paid, who
8 regularly communicates with members of a legislative body
9 regarding pending legislation and other matters while the
10 legislative body is in session.

11 "b. The term lobbyist does not include any of the
12 following:

13 "1. An elected official on a matter which involves
14 that person's official duties.

15 "2. A person or attorney rendering professional
16 services in drafting bills or in advising clients and in
17 rendering opinions as to the construction and effect of
18 proposed or pending legislation, executive action, or rules or
19 regulations, where those professional services are not
20 otherwise connected with legislative, executive, or regulatory
21 action.

22 "3. Reporters and editors while pursuing normal
23 reportorial and editorial duties.

24 "4. Any citizen not lobbying for compensation who
25 contacts a member of a legislative body, or gives public
26 testimony on a particular issue or on particular legislation,
27 or for the purpose of influencing legislation and who is

1 merely exercising his or her constitutional right to
2 communicate with members of a legislative body.

3 "5. A person who appears before a legislative body,
4 a regulatory body, or an executive agency to either sell or
5 purchase goods or services.

6 "6. A person whose primary duties or
7 responsibilities do not include lobbying, but who may, from
8 time to time, organize social events for members of a
9 legislative body to meet and confer with members of
10 professional organizations and who may have only irregular
11 contacts with members of a legislative body when the body is
12 not in session or when the body is in recess.

13 "7. A person who is a member of a business,
14 professional, or membership organization by virtue of the
15 person's contribution to or payment of dues to the
16 organization even though the organization engages in lobbying
17 activities.

18 "8. A state governmental agency head or his or her
19 designee who provides or communicates, or both, information
20 relating to policy or positions, or both, affecting the
21 governmental agencies which he or she represents.

22 "(22) MINOR VIOLATION. Any violation of this chapter
23 in which the public official or public employee receives an
24 economic gain in an amount less than two hundred fifty dollars
25 (\$250) or the governmental entity has an economic loss of less
26 than two hundred fifty dollars (\$250).

1 "(23) PERSON. A business, individual, corporation,
2 partnership, union, association, firm, committee, club, or
3 other organization or group of persons.

4 "(24) PRINCIPAL. A person or business which employs,
5 hires, or otherwise retains a lobbyist. A principal is not a
6 lobbyist but is not allowed to give a thing of value.

7 "(25) PROBABLE CAUSE. A finding that the allegations
8 are more likely than not to have occurred.

9 "(26) PUBLIC EMPLOYEE. Any person employed at the
10 state, county, or municipal level of government or their
11 instrumentalities, including governmental corporations and
12 authorities, but excluding employees of hospitals or other
13 health care corporations including contract employees of those
14 hospitals or other health care corporations, who is paid in
15 whole or in part from state, county, or municipal funds. For
16 purposes of this chapter, a public employee does not include a
17 person employed on a part-time basis whose employment is
18 limited to providing professional services other than
19 lobbying, the compensation for which constitutes less than 50
20 percent of the part-time employee's income.

21 "(27) PUBLIC OFFICIAL. Any person elected to public
22 office, whether or not that person has taken office, by the
23 vote of the people at state, county, or municipal level of
24 government or their instrumentalities, including governmental
25 corporations, and any person appointed to a position at the
26 state, county, or municipal level of government or their
27 instrumentalities, including governmental corporations. For

1 purposes of this chapter, a public official includes the
2 chairs and vice-chairs or the equivalent offices of each state
3 political party as defined in Section 17-13-40.

4 "(28) REGULATORY BODY. A state agency which issues
5 regulations in accordance with the Alabama Administrative
6 Procedure Act or a state, county, or municipal department,
7 agency, board, or commission which controls, according to rule
8 or regulation, the activities, business licensure, or
9 functions of any group, person, or persons.

10 "(29) REPORTING PERIOD. The reporting official's or
11 employee's fiscal tax year as it applies to his or her United
12 States personal income tax return.

13 "(30) REPORTING YEAR. The reporting official's or
14 employee's fiscal tax year as it applies to his or her United
15 States personal income tax return.

16 "(31) RESPONDENT. A person alleged to have violated
17 a provision of this chapter and against whom a complaint has
18 been filed with the commission.

19 "(32) STATEMENT OF ECONOMIC INTERESTS. A financial
20 disclosure form made available by the commission which shall
21 be completed and filed with the commission prior to April 30
22 of each year covering the preceding calendar year by certain
23 public officials and public employees.

24 "(33) SUPERVISOR. Any person having authority to
25 hire, transfer, suspend, lay off, recall, promote, discharge,
26 assign, or discipline other public employees, or any person
27 responsible to direct them, or to adjust their grievances, or

1 to recommend personnel action, if, in connection with the
2 foregoing, the exercise of the authority is not of a merely
3 routine or clerical nature but requires the use of independent
4 judgment.

5 "(34) THING OF VALUE.

6 "a. Any gift, benefit, favor, service, gratuity,
7 tickets or passes to an entertainment, social or sporting
8 event, unsecured loan, other than those loans and forbearances
9 made in the ordinary course of business, reward, promise of
10 future employment, or honoraria or other item of monetary
11 value.

12 "b. The term, thing of value, does not include any
13 of the following, provided that no particular course of
14 action, inaction, or decision by the public official or public
15 employee in the discharge of his or her official duties is
16 required as a condition to the receipt thereof:

17 "1. A contribution reported under Chapter 5 of Title
18 17 or a contribution to an inaugural or transition committee.

19 "2. Anything given by a family member of the
20 recipient under circumstances which make it clear that it is
21 motivated by a family relationship.

22 "3. Anything given by a friend of the recipient
23 under circumstances which make it clear that it is motivated
24 by a friendship and not given because of the recipient's
25 official position in order to materially influence the public
26 official in the performance of his or her official duties.

27 Relevant factors include, but are not limited to, whether the

1 friendship preexisted the recipient's status as a public
2 employee, public official, or candidate and whether gifts have
3 been previously exchanged between them.

4 "4. Greeting cards, and other items, services with
5 little intrinsic value which are intended solely for
6 presentation, such as plaques, certificates, and trophies,
7 promotional items commonly distributed to the general public,
8 and items or services of de minimis value.

9 "5. Loans from banks and other financial
10 institutions on terms generally available to the public.

11 "6. Opportunities and benefits, including favorable
12 rates and commercial discounts, available to the public or to
13 a class consisting of all government employees.

14 "7. Rewards and prizes given to competitors in
15 contests or events, including random drawings, which are open
16 to the public.

17 "8. Anything that is paid for by a governmental
18 entity or an entity created by a governmental entity to
19 support the governmental entity or secured by a governmental
20 entity under contract, except for tickets to a sporting event
21 offered by an educational institution to anyone other than
22 faculty, staff, or administration of the institution.

23 "9. Anything for which the recipient pays full
24 value.

25 "10. Compensation and other benefits earned or
26 received from a non-government employer, vendor, client,
27 prospective employer, or other business relationship in the

1 ordinary course of employment or non-governmental business
2 activities under circumstances which make it clear that the
3 thing ~~is provided for reasons unrelated to the recipient's~~
4 ~~public service as a~~ does not require or involve any action,
5 inaction, or decision by the public official or public
6 employee in the discharge of his or her official duties, and
7 is not given under circumstances from which it could
8 reasonably be inferred that the purpose of the contribution is
9 to influence a public official in the performance of his or
10 her official duties.

11 "11. Any assistance provided or rendered in
12 connection with a safety or a health emergency.

13 "12. Payment of or reimbursement for actual and
14 necessary transportation and lodging expenses, as well as
15 waiver of registration fees and similar costs, to facilitate
16 the attendance of a public official or public employee, and
17 the spouse of the public official or public employee, at an
18 educational function or widely attended event of which the
19 person is a primary sponsor. This exclusion applies only if
20 the public official or public employee meaningfully
21 participates in the event as a speaker or a panel participant,
22 by presenting information related to his or her agency or
23 matters pending before his or her agency, or by performing a
24 ceremonial function appropriate to his or her official
25 position; or if the public official's or public employee's
26 attendance at the event is appropriate to the performance of
27 his or her official duties or representative function.

1 "13. Payment of or reimbursement for actual and
2 necessary transportation and lodging expenses to facilitate a
3 public official's or public employee's participation in an
4 economic development function.

5 "14. Hospitality, meals, and other food and
6 beverages provided to a public official or public employee,
7 and the spouse of the public official or public employee, as
8 an integral part of an educational function, economic
9 development function, work session, or widely attended event,
10 such as a luncheon, banquet, or reception hosted by a civic
11 club, chamber of commerce, charitable or educational
12 organization, or trade or professional association.

13 "15. Any function or activity pre-certified by the
14 Director of the Ethics Commission as a function that meets any
15 of the above criteria.

16 "16. Meals and other food and beverages provided to
17 a public official or public employee in a setting other than
18 any of the above functions not to exceed for a lobbyist
19 twenty-five dollars (\$25) per meal ~~with a limit of one hundred~~
20 ~~fifty dollars (\$150) per year;~~ and not to exceed for a
21 principal fifty dollars (\$50) per meal ~~with a limit of two~~
22 ~~hundred fifty dollars (\$250) per year.~~ Notwithstanding the
23 foregoing, the lobbyist's limits herein shall not count
24 against the principal's limits and likewise, the principal's
25 limits shall not count against the lobbyist's limits.

26 "17. Anything either (i) provided by an association
27 or organization to which the state or, in the case of a local

1 government official or employee, the local government pays
2 annual dues as a membership requirement or (ii) provided by an
3 association or organization to a public official who is a
4 member of the association or organization and, as a result of
5 his or her service to the association or organization, is
6 deemed to be a public official. Further included in this
7 exception is payment of reasonable compensation by a
8 professional or local government association or corporation to
9 a public official who is also an elected officer or director
10 of the professional or local government association or
11 corporation for services actually provided to the association
12 or corporation in his or her capacity as an officer or
13 director.

14 "18. Any benefit received as a discount on
15 accommodations, when the discount is given to the public
16 official because the public official is a member of an
17 organization or association whose entire membership receives
18 the discount.

19 "19. A gift to a teacher by a student under
20 circumstances which make it clear the gift does not require or
21 involve any action, inaction, or decision by the teacher in
22 the discharge of his or her official duties.

23 "c. Nothing in this chapter shall be deemed to
24 limit, prohibit, or otherwise require the disclosure of gifts
25 through inheritance received by a public employee or public
26 official.

1 "(35) VALUE. The fair market price of a like item if
2 purchased by a private citizen. In the case of tickets to
3 social and sporting events and associated passes, the value is
4 the face value printed on the ticket.

5 "(36) WIDELY ATTENDED EVENT. A gathering, dinner,
6 reception, or other event of mutual interest to a number of
7 parties at which it is reasonably expected that more than ~~12~~
8 the number of individuals in the smallest legislative caucus
9 will attend and that individuals with a diversity of views or
10 interest will be present.

11 Section 2. Section 36-25-4.4 is added to the Code of
12 Alabama 1975, to read as follows:

13 §36-25-4.4.

14 (a) The executive director or a person performing
15 staff duties for the commission as an attorney may issue an
16 unpublished informal opinion to public officials and public
17 employees who request an informal opinion on the requirements
18 of this chapter, based on a real or hypothetical set of
19 circumstances.

20 (b) An informal opinion may be requested verbally or
21 in writing, including by means of electronic mail. The
22 issuance of an informal opinion pursuant to this section shall
23 be in writing, including by means of electronic mail, to the
24 requester, with a copy sent to the members of the commission.
25 An informal opinion issued pursuant to this section shall
26 protect the person at whose request the opinion was issued
27 from liability to the state, a county, a municipality, or any

1 other subdivision of the state because of any action performed
2 or action refrained from in good faith reliance upon the
3 informal opinion if the person who requested the opinion
4 provided all pertinent information in the request upon which
5 the opinion was based, and if that person's behavior conformed
6 to the relevant circumstances, factors, and requirements set
7 forth in the opinion.

8 (c) Each informal opinion shall be issued to the
9 requesting person, and any copies provided to any other
10 persons as required herein, within 21 days of the request, and
11 shall do all of the following:

12 (1) Set forth the relevant facts, circumstances, or
13 factors, real or hypothetical, contained in the request and
14 upon which the opinion is based.

15 (2) Cite the relevant operative statutory section or
16 sections and the language in the section or sections upon
17 which the opinion is based.

18 (3) Refer to any relevant advisory opinions issued
19 by the commission that relate to the request and resulting
20 opinion.

21 Section 3. Sections 36-25-13, 36-25-23, and 36-25-27
22 of the Code of Alabama 1975, are amended to read as follows:

23 "§36-25-13.

24 "(a) For a period of two years after he or she
25 leaves office, no ~~No~~ public official shall serve for a fee as
26 a lobbyist ~~or otherwise represent clients, including his or~~
27 ~~her employer~~ before the board, agency, commission, department,

1 or legislative body, of which he or she is a former member.
2 ~~for a period of two years after he or she leaves such~~
3 ~~membership. For the purposes of this subsection, such~~
4 ~~prohibition shall not include a former member of the Alabama~~
5 ~~judiciary who as an attorney represents a client in a legal,~~
6 ~~non-lobbying capacity. In the case of a former public official~~
7 ~~who leaves office prior to the end of his or her term of~~
8 ~~office, this prohibition shall extend for a period of two~~
9 ~~years after the conclusion of the term of office to which he~~
10 ~~or she was elected or appointed.~~

11 " (b) ~~Notwithstanding~~ In addition to the provisions
12 of subsection (a), no public official elected to a ~~term of~~
13 ~~state office shall serve for a fee as a lobbyist or otherwise~~
14 ~~represent clients, including his or her employer, before the~~
15 ~~executive, legislative, or judicial branch of state~~
16 ~~government, or any state board, agency, commission, or~~
17 ~~department, or legislative body of which he or she is a. This~~
18 ~~prohibition shall also apply to a former member public~~
19 ~~official elected to a state office for a period of two years~~
20 ~~following the end of his or her term of office for which he or~~
21 ~~she was elected, irrespective of whether the member he or she~~
22 ~~left the office prior to the expiration of the term to which~~
23 ~~he or she was elected. For the purposes of this subsection,~~
24 ~~such prohibition shall not include a former member of the~~
25 ~~Alabama judiciary who as an attorney represents a client in a~~
26 ~~legal, non-lobbying capacity. A state office includes any~~

1 constitutional office, membership on any elected state board
2 or commission, and a member of the Alabama Legislature.

3 "(c) No public employee shall serve for a fee as a
4 lobbyist or otherwise represent clients, including his or her
5 employer before the board, agency, commission, or department,
6 of which he or she is a former employee for a period of two
7 years after he or she leaves such employment. For the purposes
8 of this subsection, such prohibition shall not include a
9 former employee of the Alabama judiciary who as an attorney
10 represents a client in a legal, non-lobbying capacity.

11 "(d) No public official, director, assistant
12 director, department or division chief, purchasing or
13 procurement agent having the authority to make purchases, or
14 any person who participates in the negotiation or approval of
15 contracts, grants, or awards or any person who negotiates or
16 approves contracts, grants, or awards shall enter into,
17 solicit, or negotiate a contract, grant, or award with the
18 governmental agency of which the person was a member or
19 employee for a period of two years after he or she leaves the
20 membership or employment of such governmental agency.

21 "(e) No public official or public employee who
22 personally participates in the direct regulation, audit, or
23 investigation of a private business, corporation, partnership,
24 or individual shall within two years of his or her departure
25 from such employment solicit or accept employment with such
26 private business, corporation, partnership, or individual.

1 "(f) No former public official or public employee of
2 the state may, within two years after termination of office or
3 employment, act as attorney for any person other than himself
4 or herself or the state, or aid, counsel, advise, consult or
5 assist in representing any other person, in connection with
6 any judicial proceeding or other matter in which the state is
7 a party or has a direct and substantial interest and in which
8 the former public official or public employee participated
9 personally and substantially as a public official or employee
10 or which was within or under the public official or public
11 employee's official responsibility as an official or employee.
12 This prohibition shall extend to all judicial proceedings or
13 other matters in which the state is a party or has a direct
14 and substantial interest, whether arising during or subsequent
15 to the public official or public employee's term of office or
16 employment.

17 "(g) Nothing in this chapter shall be deemed to
18 limit the right of a public official or public employee to
19 publicly or privately express his or her support for or to
20 encourage others to support and contribute to any candidate,
21 political committee as defined in Section 17-22A-2,
22 referendum, ballot question, issue, or constitutional
23 amendment.

24 "§36-25-23.

25 "(a) No public official elected to a ~~term of~~ state
26 office shall serve for a fee as a lobbyist ~~or otherwise~~
27 ~~represent a client, including his or her employer,~~ before any

1 legislative body or any branch of state or local government,
2 ~~including the executive and judicial branches of government,~~
3 ~~and including the Legislature of Alabama or any board, agency,~~
4 ~~commission, or department thereof,~~ during the term or
5 remainder of the term for which the official was elected. A
6 state office includes any constitutional office, membership on
7 any elected state board or commission, and a member of the
8 Alabama Legislature. ~~For purposes of this subsection, such~~
9 ~~prohibition shall not include a former member of the Alabama~~
10 ~~Judiciary who as an attorney represents a client in a legal,~~
11 ~~non-lobbying capacity.~~

12 " (b) No former member of the House of
13 Representatives or the Senate of the State of Alabama shall be
14 extended floor privileges of either body in a lobbying
15 capacity.

16 " (c) No public official, public employee, or group
17 of public officials or public employees shall solicit any
18 lobbyist to give any thing whether or not the thing solicited
19 is a thing of value to any person or entity for any purpose
20 other than a campaign contribution.

21 " (d) No principal or lobbyist shall accept
22 compensation for, or enter into a contract to provide lobbying
23 services which is contingent upon the passage or defeat of any
24 legislative action.

25 "§36-25-27.

26 " (a) (1) Except as otherwise provided, any person
27 subject to this chapter who intentionally violates any

1 provision of this chapter other than those for which a
2 separate penalty is provided for in this section shall, upon
3 conviction, be guilty of a Class B felony.

4 "(2) Any person subject to this chapter who violates
5 any provision of this chapter other than those for which a
6 separate penalty is provided for in this section shall, upon
7 conviction, be guilty of a Class A misdemeanor.

8 "(3) Any person subject to this chapter who
9 knowingly violates any disclosure requirement of this chapter
10 shall, upon conviction, be guilty of a Class A misdemeanor.

11 "(4) Any person who knowingly makes or transmits a
12 false report or complaint pursuant to this chapter shall, upon
13 conviction, be guilty of a Class A misdemeanor and shall be
14 liable for the actual legal expenses incurred by the
15 respondent against whom the false report or complaint was
16 filed.

17 "(5) Any person who makes false statements to an
18 employee of the commission or to the commission itself
19 pursuant to this chapter without reason to believe the
20 accuracy of the statements shall, upon conviction, be guilty
21 of a Class A misdemeanor.

22 "(6) Any person subject to this chapter who
23 intentionally violates this chapter relating to secrecy shall,
24 upon conviction, be guilty of a Class C felony.

25 "(7) Any person subject to this chapter who
26 intentionally fails to disclose information required by this

1 chapter shall, upon conviction, be guilty of a Class A
2 misdemeanor.

3 "(b) The commission, if petitioned or agreed to by a
4 respondent and the Attorney General or district attorney
5 having jurisdiction, by unanimous vote of the members present,
6 may administratively resolve a complaint filed pursuant to
7 this chapter for minor violations. The commission may levy an
8 administrative penalty not to exceed one thousand dollars
9 (\$1,000) for any minor violation of this chapter including,
10 but not limited to, the failure to timely file a complete and
11 correct statement of economic interests. The commission shall,
12 in addition to any administrative penalty, order restitution
13 in the amount of any economic loss to the state, county, and
14 municipal governments and their instrumentalities and such
15 restitution shall when collected be paid by the commission, to
16 the entity having the economic loss. In any case in which an
17 administrative penalty is imposed, the administrative penalty
18 shall not be less than three times the amount of any economic
19 loss to the state, county, and municipal governments or their
20 instrumentalities or any economic gain or benefit to the
21 public official or public employee, or whichever sum is
22 greater. The commission, through its attorney, shall institute
23 proceedings to recover any penalties or restitution or other
24 such funds so ordered pursuant to this section which are not
25 paid by, or on behalf of the public official or public
26 employee or other person who has violated this chapter.
27 Nothing in this section shall be deemed in any manner to

1 prohibit the commission and the respondent from entering into
2 a consent decree settling a complaint which has previously
3 been designated by the commission for administrative
4 resolution, so long as the consent decree is approved by the
5 commission. If the commission, the respondent, and the
6 Attorney General or district attorney having jurisdiction, all
7 concur that a complaint is deemed to be handled
8 administratively, the action shall preclude any criminal
9 prosecution pursuant to this chapter at the state, county, or
10 municipal level.

11 "(c) The enforcement of this chapter shall be vested
12 in the commission; provided, however, nothing in this chapter
13 shall be deemed to limit or otherwise prohibit the Attorney
14 General or the district attorney for the appropriate
15 jurisdiction from enforcing any provision of this chapter as
16 they deem appropriate if the commission first determines that
17 a violation of any provision of this chapter has occurred. In
18 the event the commission, by majority vote, finds that any
19 provision of this chapter has been violated, the alleged
20 violation and any investigation conducted by the commission
21 shall be referred to the district attorney of the appropriate
22 jurisdiction or the Attorney General. The commission shall
23 provide any and all appropriate assistance to such district
24 attorney or Attorney General. Upon the request of such
25 district attorney or the Attorney General, the commission may
26 institute, prosecute, or take such other appropriate legal
27 action regarding such violations, proceeding therein with all

1 rights, privileges, and powers conferred by law upon assistant
2 attorneys general.

3 "(d) Nothing in this chapter limits the power of the
4 state to punish any person for any conduct which otherwise
5 constitutes a crime by statute or at common law.

6 "(e) The penalties prescribed in this chapter do not
7 in any manner limit the power of a legislative body to
8 discipline its own members or to impeach public officials and
9 do not limit the powers of agencies, departments, boards, or
10 commissions to discipline their respective officials, members,
11 or employees.

12 "(f) Each circuit court of this state shall have
13 jurisdiction of all cases and actions relative to judicial
14 review, violations, or the enforcement of this chapter, and
15 the venue of any action pursuant to this chapter shall be in
16 the county in which the alleged violation occurred, or in
17 those cases where the violation or violations occurred outside
18 the State of Alabama, in Montgomery County. In the case of
19 judicial review of any administrative decision of the
20 commission, the commission's order, rule, or decision shall be
21 taken as prima facie just and reasonable and the court shall
22 not substitute its judgment for that of the commission as to
23 the weight of the evidence on questions of fact except where
24 otherwise authorized by law.

25 "(g) Any felony prosecution brought pursuant to this
26 chapter shall be commenced within four years after the
27 commission of the offense.

1 "(h) Any misdemeanor prosecution brought pursuant to
2 this chapter shall be commenced within two years after the
3 commission of the offense.

4 "(i) Nothing in this chapter is intended to nor is
5 to be construed as repealing in any way the provisions of any
6 of the criminal laws of this state."

7 Section 4. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.