

HB338 INTRODUCED



1 Y19X26-1

2 By Representatives Lipscomb, Paschal, Marques, Sorrells,

3 Brown, Smith, Stringer, Colvin, Woods, Faulkner, Kitchens,

4 Wadsworth, Underwood, Pettus, Rehm, Oliver, Shaw, Robertson,

5 Hulsey, Butler, Harrison, Hammett, DuBose, Wood (D),

6 Yarbrough, Sellers, Ingram, Shirey, Holk-Jones, Givens,

7 Gidley, Lomax, Kirkland, Fincher, Stubbs, Bolton, Easterbrook,

8 Starnes, Mooney, Reynolds, Paramore, Carns, Standridge,

9 Crawford, Kiel, Collins, Stadthagen, Shedd

10 RFD: Ethics and Campaign Finance

11 First Read: 18-Apr-23

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SYNOPSIS:

Under existing law, the Code of Ethics prohibits certain public employees and officials engaging in certain unethical acts and practices. Specifically, public officials and public employees may not enter into any contract to provide goods or services when the contract is to be paid out of public funds, unless certain requirements are satisfied.

This bill would provide that when an individual, through a public contract, provides services as a design professional to a state agency, whether as an employee or a contractor, a conflict of interest exists if the individual is also employed by, or contractor to, a vendor for any materials, products, or other tangible property used for or to be incorporated into the design of that public contract.

This bill would also provide that a violation would be a violation of the state Ethics Law.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected



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29 entity; or the Legislature appropriates funds, or
30 provides a local source of revenue, to the entity for
31 the purpose.

32 The purpose or effect of this bill would be to
33 require a new or increased expenditure of local funds
34 within the meaning of the amendment. However, the bill
35 does not require approval of a local governmental
36 entity or enactment by a 2/3 vote to become effective
37 because it comes within one of the specified exceptions
38 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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45 Relating to public contracts; to provide circumstances
46 under which a conflict of interest exists in the procurement
47 of a public contract; to provide criminal penalties for a
48 violation; and in connection therewith would have as its
49 purpose or effect the requirement of a new or increased
50 expenditure of local funds within the meaning of Section
51 111.05 of the Constitution of Alabama of 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. (a) When an individual, through a public
contract, provides services as a design professional, as

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defined under Section 41-9A-3, Code of Alabama 1975, whether

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as an employee or a contractor, a conflict of interest exists



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57 if the individual is also employed by, or contractor to, a
58 vendor for any materials, products, or other tangible property
59 used for or to be incorporated into the design of that public
60 contract.

61 (b) A violation of this section is a violation of the
62 Ethics Law, Chapter 25 of Title 36, Code of Alabama 1975.

63 Section 2. Although this bill would have as its purpose
64 or effect the requirement of a new or increased expenditure of
65 local funds, the bill is excluded from further requirements
66 and application under Section 111.05 of the Constitution of
67 Alabama of 2022, because the bill defines a new crime or
68 amends the definition of an existing crime.

69 Section 3. This act shall become effective on the first
70 day of the third month following its passage and approval by
71 the Governor, or its otherwise becoming law.