

1 SB496
2 140124-2
3 By Senator Sanford
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 10-APR-12

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8 SYNOPSIS: Under existing law, a public official or
9 employee is prohibited from using his or her
10 official position or office for personal gain.

11 This bill would amend the Ethics Law to
12 prohibit an elected official or employee from
13 receiving financial benefits including fees
14 generated in their offices and charged to the
15 public for service.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

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21 To amend Section 36-25-5, Code of Alabama 1975,
22 relating to public officials and public employees; to prohibit
23 the receipt of financial benefits other than a salary or an
24 expense allowance.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 36-25-5, Code of Alabama 1975, is
2 amended to read as follows:

3 "§36-25-5.

4 "(a) (1) No public official or public employee shall
5 use or cause to be used his or her official position or office
6 to obtain personal gain for himself or herself, or family
7 member of the public employee or family member of the public
8 official, or any business with which the person is associated
9 unless the use and gain are otherwise specifically authorized
10 by law. Personal gain is achieved when the public official,
11 public employee, or a family member thereof receives, obtains,
12 exerts control over, or otherwise converts to personal use the
13 object constituting such personal gain.

14 "(2) The financial benefit accruing to a public
15 official or public employee because the individual is a public
16 official or public employee is limited to the salary and
17 benefits paid to the public official or public employee by the
18 entity of which the individual is a public official or public
19 employee and any provision for payment or reimbursement of
20 expenses.

21 "(3) Notwithstanding any other provision of law, a
22 public official or public employee receiving compensation in
23 the form of a salary paid on a periodic basis by the entity of
24 which the individual is a public official or public employee
25 may not retain for personal use any fee generated in the
26 public office or public employment charged to the public for a

1 service. Unless specifically otherwise provided by state or
2 local law, any fee generated by a public official or public
3 employee shall be retained by the entity of which the
4 individual is a public official or public employee and used
5 for any lawful purpose of the entity other than payment to the
6 official or employee.

7 "(b) Unless prohibited by the Constitution of
8 Alabama of 1901, nothing herein shall be construed to prohibit
9 a public official from introducing bills, ordinances,
10 resolutions, or other legislative matters, serving on
11 committees, or making statements or taking action in the
12 exercise of his or her duties as a public official. A member
13 of a legislative body may not vote for any legislation in
14 which he or she knows or should have known that he or she has
15 a conflict of interest.

16 "(c) No public official or public employee shall use
17 or cause to be used equipment, facilities, time, materials,
18 human labor, or other public property under his or her
19 discretion or control for the private benefit or business
20 benefit of the public official, public employee, any other
21 person, or principal campaign committee as defined in Section
22 17-22A-2, which would materially affect his or her financial
23 interest, except as otherwise provided by law or as provided
24 pursuant to a lawful employment agreement regulated by agency
25 policy. Provided, however, nothing in this subsection shall be
26 deemed to limit or otherwise prohibit communication between

1 public officials or public employees and eleemosynary or
2 membership organizations or such organizations communicating
3 with public officials or public employees.

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

10 "(e) No public official or public employee shall,
11 other than in the ordinary course of business, solicit a thing
12 of value from a subordinate or person or business with whom he
13 or she directly inspects, regulates, or supervises in his or
14 her official capacity.

15 "(f) A conflict of interest shall exist when a
16 member of a legislative body, public official, or public
17 employee has a substantial financial interest by reason of
18 ownership of, control of, or the exercise of power over any
19 interest greater than five percent of the value of any
20 corporation, company, association, or firm, partnership,
21 proprietorship, or any other business entity of any kind or
22 character which is uniquely affected by proposed or pending
23 legislation; or who is an officer or director for any such
24 corporation, company, association, or firm, partnership,
25 proprietorship, or any other business entity of any kind or

1 character which is uniquely affected by proposed or pending
2 legislation."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.