

1 HB53
2 172963-1
3 By Representative Ainsworth
4 RFD: Ethics and Campaign Finance
5 First Read: 02-FEB-16

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8 SYNOPSIS: Under existing law, a retired director,
9 department chief, or division chief of a
10 governmental agency may not return to work or
11 contract with the agency from which he or she
12 retired for a period of two years following
13 retirement.

14 This bill would authorize, under limited
15 circumstances, a retired director, department
16 chief, or division chief to contract with his or
17 her former government employer immediately
18 following retirement for the specific purpose of
19 assisting the governmental agency with the
20 transition period following his or her retirement
21 provided the contract is approved by the Director
22 of the Ethics Commission.

23 Additionally, this bill would specify that
24 the prohibition against a former government
25 official or employee serving as a lobbyist or
26 otherwise representing clients before his or her
27 former employee for a period of two years following

1 employment applies when the former government
2 official or employee worked pursuant to a
3 consulting agreement or agency transfer or while on
4 loan.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT

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10 Relating to the Ethics Law; to amend Section
11 36-25-13, Code of Alabama 1975, to authorize, under limited
12 circumstances, a retired director, department chief, or
13 division chief of a governmental agency to contract with his
14 or her former government employer for the specific purpose of
15 providing assistance during the transitional period following
16 retirement; and to specify that the prohibition against a
17 former government official or employee serving as a lobbyist
18 or otherwise representing clients before his or her former
19 employee for a period of two years following employment
20 applies when the former government official or employee worked
21 pursuant to a consulting agreement or agency transfer or while
22 on loan.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 36-25-13, Code of Alabama 1975,
25 is amended to read as follows:

26 "§36-25-13.

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

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

22 "(c) No public employee shall serve for a fee as a
23 lobbyist or otherwise represent clients, including his or her
24 employer before the board, agency, commission, or department,
25 of which he or she is a former employee or worked pursuant to
26 an arrangement such as a consulting agreement, agency
27 transfer, loan, or similar agreement for a period of two years

1 after he or she leaves such employment or working arrangement.
2 For the purposes of this subsection, such prohibition shall
3 not include a former employee of the Alabama judiciary who as
4 an attorney represents a client in a legal, non-lobbying
5 capacity.

6 "(d) ~~No~~ Except as specifically set out in this
7 section, no public official, director, assistant director,
8 department or division chief, purchasing or procurement agent
9 having the authority to make purchases, or any person who
10 participates in the negotiation or approval of contracts,
11 grants, or awards or any person who negotiates or approves
12 contracts, grants, or awards shall enter into, solicit, or
13 negotiate a contract, grant, or award with the governmental
14 agency of which the person was a member or employee for a
15 period of two years after he or she leaves the membership or
16 employment of such governmental agency. Notwithstanding the
17 prohibition in this subsection a person serving full-time as
18 the director or a department or division chief who has retired
19 from a governmental agency may enter into a contract with the
20 governmental agency of which the person was an employee for
21 the specific purpose of providing assistance to the
22 governmental agency during the transitional period following
23 retirement, but only if all of the following conditions are
24 met:

25 "(1) The contract does not extend for more than
26 three months following the date of retirement.

1 "(2) The retiree is at all times in compliance with
2 Section 36-27-8.2.

3 "(3) The compensation paid to the retiree through
4 the contract, when combined with the monthly retirement
5 compensation paid to the retiree, does not exceed the gross
6 monthly compensation paid to the retiree on the date of
7 retirement.

8 "(4) The contract is submitted to and approved by
9 the Director of the Ethics Commission as satisfying the above
10 conditions prior to the date the retiree begins work under the
11 contract.

12 "(e) No public official or public employee who
13 personally participates in the direct regulation, audit, or
14 investigation of a private business, corporation, partnership,
15 or individual shall within two years of his or her departure
16 from such employment solicit or accept employment with such
17 private business, corporation, partnership, or individual.

18 "(f) No former public official or public employee of
19 the state may, within two years after termination of office or
20 employment, act as attorney for any person other than himself
21 or herself or the state, or aid, counsel, advise, consult or
22 assist in representing any other person, in connection with
23 any judicial proceeding or other matter in which the state is
24 a party or has a direct and substantial interest and in which
25 the former public official or public employee participated
26 personally and substantially as a public official or employee
27 or which was within or under the public official or public

1 employee's official responsibility as an official or employee.
2 This prohibition shall extend to all judicial proceedings or
3 other matters in which the state is a party or has a direct
4 and substantial interest, whether arising during or subsequent
5 to the public official or public employee's term of office or
6 employment.

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

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.