

1 SB440
2 159819-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 05-MAR-14

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8 SYNOPSIS: Under existing law, a justice or judge must
9 recuse himself or herself if the appearance of
10 impropriety exists because a party in the case gave
11 the judge a substantial campaign contribution.
12 Under existing law, a judge is required to report
13 the names of all campaign contributors before the
14 term of office commences. Also under existing law,
15 the attorneys for all parties are required to serve
16 a certificate of disclosure of campaign
17 contributions by the attorney or a party made to
18 the judge presiding over the case.

19 This bill would repeal the existing law
20 requiring campaign contribution disclosures by
21 judges and provide new criteria for recusal. This
22 bill would provide that a justice or judge must
23 recuse himself or herself if a reasonable person
24 would perceive that the ability of the judge to be
25 impartial is impaired or there is a serious
26 objective probability of bias by the justice or
27 judge due to the contribution. This bill would

1 create a rebuttable presumption that the justice or
2 judge should recuse himself or herself if the
3 contribution exceeds 25 percent of the total
4 contributions the justice or judge received during
5 the election cycle. This bill would also provide
6 for appeal of an order denying a motion to recuse.

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8 A BILL
9 TO BE ENTITLED
10 AN ACT

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12 To provide criteria for recusal of a justice or
13 judge who has received a substantial campaign contribution
14 from a party; to create a rebuttable presumption that the
15 justice or judge should recuse himself or herself if the
16 contribution during the election cycle of the justice or judge
17 exceeds a certain amount; to provide for appeal of an order
18 denying a motion to recuse; and to repeal Sections 12-24-1 and
19 12-24-2, Code of Alabama 1975.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. (a) In any civil action, on motion of a
22 party or on its own motion, a justice or judge shall recuse
23 himself or herself from hearing a case if, as a result of a
24 substantial campaign contribution or electioneering
25 communication made to or on behalf of the justice or judge in
26 the immediately preceding election by a party who has a case

1 pending before that justice or judge, either of the following
2 circumstances exist:

3 (1) A reasonable person would perceive that the
4 justice or judge's ability to carry out his or her judicial
5 responsibilities with impartiality is impaired.

6 (2) There is a serious, objective probability of
7 actual bias by the justice or judge due to his or her
8 acceptance of the campaign contribution.

9 (b) A rebuttable presumption arises that a justice
10 or judge shall recuse himself or herself if a campaign
11 contribution made directly by a party to the judge or justice
12 exceeds the following percentages of the total contributions
13 raised during the election cycle by that judge or justice and
14 was made at a time when it was reasonably foreseeable that the
15 case could come before the judge or justice: (1) Ten percent
16 in a statewide appellate court race, (2) Fifteen percent in a
17 circuit court race, or (3) Twenty-five percent in a district
18 court race. Any refunded contributions shall not be counted
19 toward the percentages noted herein.

20 (c) The term party, as referenced in this section,
21 means any of the following:

22 (1) A party or real party in interest to the case or
23 any person in his or her immediate family.

24 (2) Any holder of five percent or more of the value
25 of a party that is a corporation, limited liability company,
26 firm, partnership, or any other business entity.

27 (3) Affiliates or subsidiaries of a corporate party.

1 (4) Any attorney for the party.

2 (5) Other lawyers in practice with the party's
3 attorney.

4 (d) An order of a court denying a motion to recuse
5 shall be appealable in the same manner as a final order to the
6 appellate court which would otherwise have jurisdiction over
7 the appeal from a final order in the action. The appeal may be
8 filed only within 30 days of the order denying the motion to
9 recuse. During the pendency of an appeal, where the threshold
10 set forth in subsection (b) is met, the action in the trial
11 court shall be stayed in all respects.

12 Section 2. Sections 12-24-1 and 12-24-2, Code of
13 Alabama 1975, are repealed.

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