

1 SB406  
2 129202-1  
3 By Senator Williams  
4 RFD: Fiscal Responsibility and Accountability  
5 First Read: 14-APR-11

SYNOPSIS:           This bill would amend Section 41-16-60 of the Code of Alabama 1975, relating to potential conflicts of interest of members and officers of certain public bodies who participate in the competitive bid process for public contracts or purchases.

                  This bill would provide that members and officers could have a financial interest in a publicly bid purchase and contract if a contract or agreement under which a financial interest arises was created before the public member or official takes office or if the public member or official does not participate in the decision-making process concerning a public purchase or contract.

A BILL  
TO BE ENTITLED  
AN ACT

1           To amend Section 41-16-60 of the Code of Alabama  
2     1975, relating to prohibiting members or officers of certain  
3     public offices or positions from participating in the public  
4     competitive bid process; to provide that a member or officer  
5     having a financial interest in a publicly bid contract may  
6     participate in the public bid process if either the proposed  
7     contract was created before an individual begins serving in a  
8     public position, or the individual does not participate in the  
9     decision-making process regarding a proposed public contract.

10    BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11           Section 1. Section 41-16-60 of the Code of Alabama  
12     1975, is amended to read as follows:

13           "§41-16-60.

14           ~~"No member or officer of the said Members and~~  
15     officers of the state trade schools, state junior colleges,  
16     state colleges and universities under the supervision and  
17     control of the State Board of Education, the city and county  
18     boards of education, the district boards of education of  
19     independent school districts, the county commissions and the  
20     governing bodies of the municipalities of the state and the  
21     governing boards of instrumentalities of counties and  
22     municipalities, including waterworks boards, sewer boards, gas  
23     boards and other like utility boards and commissions, ~~shall~~  
24     may be financially interested in or have any personal  
25     beneficial interest, either directly or indirectly, in the  
26     purchase of or contract for any personal property or  
27     contractual service, ~~nor shall any person willfully make any~~

1 ~~purchase or award any contract in violation of the provisions~~  
2 ~~of this article. under either of the following conditions:~~

3 "(1) The contract or agreement under which the  
4 financial interest arises was created prior to the election or  
5 appointment of the individual to the position he or she holds.

6 "(2) The individual holding the position does not  
7 participate in, by discussion or by vote, the decision-making  
8 process which creates the financial or personal beneficial  
9 interest.

10 ~~"Any violation of this section shall be deemed a~~  
11 ~~misdemeanor, and any person who violates this section shall,~~  
12 ~~upon conviction, be imprisoned for not more than 12 months or~~  
13 ~~fined not more than \$500.00 or both. Upon conviction thereof,~~  
14 ~~any person who willfully makes any purchase or awards any~~  
15 ~~contract in violation of the provisions of this article shall~~  
16 ~~be removed from office."~~

17 Section 2. This act shall become effective  
18 immediately following its passage and approval by the  
19 Governor, or its otherwise becoming law.