

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

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

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

22  
23 A BILL

24 TO BE ENTITLED

25 AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§41-16-60.

"No member or officer of the said Members and officers of the state trade schools, state junior colleges, state colleges and universities under the supervision and control of the State Board of Education, the city and county boards of education, the district boards of education of independent school districts, the county commissions and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards and other like utility boards and commissions, ~~shall~~ may be financially interested in or have any personal beneficial interest, either directly or indirectly, in the purchase of or contract for any personal property or 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.