

1 SB141  
2 172963-1  
3 By Senator Reed  
4 RFD: Governmental Affairs  
5 First Read: 03-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.

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

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

"(c) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee or worked pursuant to an arrangement such as a consulting agreement, agency 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.