

1 SB348  
2 158400-2  
3 By Senators Reed, Blackwell, Smitherman and Ward  
4 RFD: Constitution, Campaign Finance, Ethics, and Elections  
5 First Read: 12-FEB-14

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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11 To amend Section 36-25-5 of the Code Alabama 1975,  
12 relating to the use of official position or office for  
13 personal gain; to provide that a public employee who receives  
14 a reward from a third party for exemplary public service would  
15 not be considered as using his or her official position for  
16 personal gain.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. This act may be known and may be cited as  
19 the "Rewarding Exemplary Service by Public Employee Act."

20 Section 2. Section 36-25-5 of the Code Alabama 1975,  
21 is amended to read as follows:

22 "§36-25-5.

23 "(a) No public official or public employee shall use  
24 or cause to be used his or her official position or office to  
25 obtain personal gain for himself or herself, or family member  
26 of the public employee or family member of the public  
27 official, or any business with which the person is associated

1 unless the use and gain are otherwise specifically authorized  
2 by law. Personal gain is achieved when the public official,  
3 public employee, or a family member thereof receives, obtains,  
4 exerts control over, or otherwise converts to personal use the  
5 object constituting such personal gain.

6 "(b) Unless prohibited by the Constitution of  
7 Alabama of 1901, nothing herein shall be construed to prohibit  
8 a public official from introducing bills, ordinances,  
9 resolutions, or other legislative matters, serving on  
10 committees, or making statements or taking action in the  
11 exercise of his or her duties as a public official. A member  
12 of a legislative body may not vote for any legislation in  
13 which he or she knows or should have known that he or she has  
14 a conflict of interest.

15 "(c) No public official or public employee shall use  
16 or cause to be used equipment, facilities, time, materials,  
17 human labor, or other public property under his or her  
18 discretion or control for the private benefit or business  
19 benefit of the public official, public employee, any other  
20 person, or principal campaign committee as defined in Section  
21 17-22A-2, which would materially affect his or her financial  
22 interest, except as otherwise provided by law or as provided  
23 pursuant to a lawful employment agreement regulated by agency  
24 policy. Provided, however, nothing in this subsection shall be  
25 deemed to limit or otherwise prohibit communication between  
26 public officials or public employees and eleemosynary or

1 membership organizations or such organizations communicating  
2 with public officials or public employees.

3 "(d) No person shall solicit a public official or  
4 public employee to use or cause to be used equipment,  
5 facilities, time, materials, human labor, or other public  
6 property for such person's private benefit or business  
7 benefit, which would materially affect his or her financial  
8 interest, except as otherwise provided by law.

9 "(e) No public official or public employee shall,  
10 other than in the ordinary course of business, solicit a thing  
11 of value from a subordinate or person or business with whom he  
12 or she directly inspects, regulates, or supervises in his or  
13 her official capacity.

14 "(f) A conflict of interest shall exist when a  
15 member of a legislative body, public official, or public  
16 employee has a substantial financial interest by reason of  
17 ownership of, control of, or the exercise of power over any  
18 interest greater than five percent of the value of any  
19 corporation, company, association, or firm, partnership,  
20 proprietorship, or any other business entity of any kind or  
21 character which is uniquely affected by proposed or pending  
22 legislation; or who is an officer or director for any such  
23 corporation, company, association, or firm, partnership,  
24 proprietorship, or any other business entity of any kind or  
25 character which is uniquely affected by proposed or pending  
26 legislation.

1           "(g) A public employee may not be deemed to be using  
2 his or her official position for personal gain if a third  
3 party wishes to provide a reward for exemplary public service  
4 by the public employee if each of the following conditions are  
5 met:

6           "(1) Exemplary public service is deemed to be  
7 activities above and beyond an individual's normal and  
8 ordinary job responsibilities.

9           "(2) The reward is unsolicited.

10          "(3) In the opinion of the rewarding individual or  
11 entity, the public employee has provided exemplary public  
12 service.

13          "(4) The Ethics Commission is notified in writing by  
14 the rewarding individual or entity of the name of the public  
15 employee to be rewarded, the exemplary public service provided  
16 to justify the reward, and the dollar amount of the reward  
17 prior to the reward being issued.

18          If the dollar amount of the reward is two hundred  
19 fifty dollars (\$250) or more, the reward must first be  
20 authorized by a majority vote of the ethics Commission and  
21 within 60 days of receipt of the written notification. If the  
22 dollar amount of the reward is less than two hundred fifty  
23 dollars (\$250), the director may pre-certify the reward  
24 pursuant to subparagraph (34)b.15. of Section 36-25-1."

25          Section 3. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to  
the Senate committee on Constitution, Campaign Fi-  
nance, Ethics, and Elections..... 12-FEB-14

Read for the second time and placed on  
the calendar 1 amendment..... 20-FEB-14

Read for the third time and passed as  
amended ..... 18-MAR-14

Yeas 29  
Nays 0

Patrick Harris  
Secretary