

2
3 HB76 HOUSE JUDICIARY COMMITTEE ENGROSSED SUBSTITUTE
4
5
6
7
8

9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 To amend Section 36-25-3, Code of Alabama 1975,
14 relating to the State Ethics Commission, to grant subpoena
15 power to the commission.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 36-25-3, Code of Alabama 1975, is
18 amended to read as follows:

19 "§36-25-3.

20 "(a) There is hereby created a State Ethics
21 Commission composed of five members, each of whom shall be a
22 fair, equitable citizen of this state and of high moral
23 character and ability. The following persons shall not be
24 eligible to be appointed as members: (1) a public official;
25 (2) a candidate; (3) a registered lobbyist and his or her
26 principal; or (4) a former employee of the commission. For
27 purposes of this section, a public official shall not be

1 deemed to include a part-time municipal judge and a registered
2 lobbyist shall not be deemed to include a person whose
3 lobbying activities are limited to providing public testimony
4 to a legislative body or regulatory body or committee thereof.
5 No member of the commission shall be eligible for
6 reappointment to succeed himself or herself. The members of
7 the commission shall be appointed by the following officers:
8 the Governor, the Lieutenant Governor, or in the absence of a
9 Lieutenant Governor, the Presiding Officer of the Senate, and
10 the Speaker of the House of Representatives and shall assume
11 their duties upon confirmation by the Senate. The members of
12 the first commission shall be appointed for terms of office
13 expiring one, two, three, four and five years, respectively,
14 from September 1, 1975. Successors to the members of the first
15 commission shall serve for a term of five years beginning
16 service on September 1 of the year appointed and serving until
17 their successors are appointed and confirmed. If at any time
18 there should be a vacancy on the commission, a successor
19 member to serve for the unexpired term applicable to such
20 vacancy shall be appointed by the Governor. The commission
21 shall elect one member to serve as chair of the commission and
22 one member to serve as vice chair. The vice chair shall act as
23 chair in the absence or disability of the chair or in the
24 event of a vacancy in that office.

25 "Beginning with the first vacancy on the Ethics
26 Commission after October 1, 1995, if there is not a Black
27 member serving on the commission, that vacancy shall be filled

1 by a Black appointee. Any vacancy thereafter occurring on the
2 commission, shall also be filled by a Black appointee if there
3 is no Black member serving on the commission at that time.

4 "(b) A vacancy in the commission shall not impair
5 the right of the remaining members to exercise all the powers
6 of the commission, and three members thereof shall constitute
7 a quorum.

8 "(c) The commission shall at the close of each
9 fiscal year, or as soon thereafter as practicable, report to
10 the Legislature and the Governor concerning the actions it has
11 taken, the name, salary, and duties of the director, the names
12 and duties of all individuals in its employ, the money it has
13 disbursed, other relevant matters within its jurisdiction, and
14 such recommendations for legislation as the commission deems
15 appropriate.

16 "(d) Members of the commission shall, while serving
17 on the business of the commission, be entitled to receive
18 compensation at the rate of fifty dollars (\$50) per day, and
19 each member shall be paid his or her travel expenses incurred
20 in the performance of his or her duties as a member of the
21 commission as other state employees and officials are paid
22 when approved by the chair. If for any reason a member of the
23 commission wishes not to claim and accept the compensation or
24 travel expenses, the member shall inform the director, in
25 writing, of the refusal. The member may at any time during his
26 or her term begin accepting compensation or travel expenses;

1 however, the member's refusal for any covered period shall act
2 as an irrevocable waiver for that period.

3 "(e) All members, officers, agents, attorneys, and
4 employees of the commission shall be subject to this chapter.
5 The director, members of the commission, and all employees of
6 the commission shall not engage in direct partisan political
7 activity, including the making of campaign contributions, on
8 the state, county, and local levels. The prohibition shall in
9 no way act to limit or restrict such persons' ability to vote
10 in any election.

11 "(f) The commission shall appoint a full-time
12 director. The director shall serve at the pleasure of the
13 commission and shall appoint such other employees as needed.
14 All such employees, except the director, shall be employed
15 subject to the provisions of the state Merit System law, and
16 their compensation shall be prescribed pursuant to such law.
17 The employment of attorneys shall be subject to subsection
18 (h). The compensation of the director shall be fixed by the
19 commission, payable as the salaries of other state employees.
20 The director shall be responsible for the administrative
21 operations of the commission and shall administer this chapter
22 in accordance with the commission's policies. No regulation
23 shall be implemented by the director until adopted by the
24 commission in accordance with Sections 41-22-1 to 41-22-27,
25 inclusive, the Alabama Administrative Procedure Act.

26 "(g) The director may appoint part-time stenographic
27 reporters or certified court reporters, as needed, to take and

1 transcribe the testimony in any formal or informal hearing or
2 investigation before the commission or before any person
3 authorized by the commission. The reporters shall not be
4 full-time employees of the commission and shall not be subject
5 to the Merit System law and may not participate in the State
6 Retirement System.

7 "(h) The director may, with the approval of the
8 Attorney General, appoint a competent attorney as legal
9 counsel for the commission. The legal counsel shall be of good
10 moral and ethical character, licensed to practice law in this
11 state, and a member in good standing of the Alabama Bar
12 Association. The legal counsel shall be commissioned as an
13 assistant or deputy attorney general and shall, in addition to
14 the powers and duties herein conferred, have the authority and
15 duties of an assistant or deputy attorney general, except,
16 that his or her entire time shall be devoted to the
17 commission. The attorney shall act as an attorney for the
18 commission in actions or proceedings brought by or against the
19 commission pursuant to any provisions of law under the
20 commission's jurisdiction, or in which the commission joins or
21 intervenes as to a matter within the commission's
22 jurisdiction, or as a friend of the court or otherwise;
23 ~~provided however, nothing in this chapter shall be deemed as a~~
24 ~~direct grant of subpoena power to the commission. The~~
25 commission shall have subpoena power. Subpoenas shall only
26 issue in cases where complaints have been filed that have
27 proceeded beyond the preliminary inquiry stage.

1 "(i) The director shall designate in writing the
2 chief investigator, should there be one, and a maximum of six
3 full-time investigators who shall be and are hereby
4 constituted law enforcement officers of the State of Alabama
5 with full and unlimited police power and jurisdiction to
6 enforce the laws of this state pertaining to the operation and
7 administration of the commission and this chapter.
8 Investigators shall meet the requirements of the Alabama Peace
9 Officers' Standards and Training Act, Sections 36-21-40 to
10 36-21-51, inclusive, and shall in all ways and for all
11 purposes be considered law enforcement officers; provided
12 however such investigators shall only exercise their power of
13 arrest as granted under this chapter pursuant to an order
14 issued by a court of competent jurisdiction."

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