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3 HB76 HOUSE JUDICIARY COMMITTEE ENGROSSED SUBSTITUTE  
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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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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.