

By: Representative McInnis

To: Judiciary A

HOUSE BILL NO. 592

1 AN ACT TO AMEND SECTION 25-4-105, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE AN ELECTED PUBLIC OFFICIAL TO RESIGN HIS OR HER OFFICE
3 BEFORE QUALIFYING TO BECOME A CANDIDATE FOR ANOTHER OFFICE; AND
4 FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 25-4-105, Mississippi Code of 1972, is
7 amended as follows:

8 25-4-105. (1) No public servant shall use his official
9 position to obtain pecuniary benefit for himself other than that
10 compensation provided for by law, or to obtain pecuniary benefit
11 for any relative or any business with which he is associated.

12 (2) No public servant shall be interested, directly or
13 indirectly, during the term for which he shall have been chosen,
14 or within one (1) year after the expiration of the term, in any
15 contract with the state, or any district, county, city or town
16 thereof, authorized by any law passed or order made by any board
17 of which he may be or may have been a member.

18 (3) No public servant shall:

19 (a) Be a contractor, subcontractor or vendor with the
20 governmental entity of which he is a member, officer, employee or
21 agent, other than in his contract of employment, or have a
22 material financial interest in any business which is a contractor,
23 subcontractor or vendor with the governmental entity of which he
24 is a member, officer, employee or agent.

25 (b) Be a purchaser, direct or indirect, at any sale
26 made by him in his official capacity or by the governmental entity
27 of which he is an officer or employee, except in respect of the

28 sale of goods or services when provided as public utilities or
29 offered to the general public on a uniform price schedule.

30 (c) Be a purchaser, direct or indirect, of any claim,
31 certificate, warrant or other security issued by or to be paid out
32 of the treasury of the governmental entity of which he is an
33 officer or employee.

34 (d) Perform any service for any compensation during his
35 term of office or employment by which he attempts to influence a
36 decision of the authority of the governmental entity of which he
37 is a member.

38 (e) Perform any service for any compensation for any
39 person or business after termination of his office or employment
40 in relation to any case, decision, proceeding or application with
41 respect to which he was directly concerned or in which he
42 personally participated during the period of his service or
43 employment.

44 (4) Notwithstanding the provisions of subsection (3) of this
45 section, a public servant or his relative:

46 (a) May be an officer or stockholder of banks or
47 savings and loan associations or other such financial institutions
48 bidding for bonds, notes or other evidences of debt or for the
49 privilege of keeping as depositories the public funds of a
50 governmental entity thereof or the editor or employee of any
51 newspaper in which legal notices are required to be published in
52 respect to the publication of the legal notices.

53 (b) May be a contractor or vendor with any authority of
54 the governmental entity other than the authority of the
55 governmental entity of which he is a member, officer, employee or
56 agent or have a material financial interest in a business which is
57 a contractor or vendor with any authority of the governmental
58 entity other than the authority of the governmental entity of
59 which he is a member, officer, employee or agent where the
60 contract is let to the lowest and best bidder after competitive
61 bidding and three (3) or more legitimate bids are received or
62 where the goods or services involved are reasonably available from
63 two (2) or fewer commercial sources, provided such transactions
64 comply with the public purchases laws.

65 (c) May be a subcontractor with any authority of the
66 governmental entity other than the authority of the governmental
67 entity of which he is a member, officer, employee or agent or have
68 a material financial interest in a business which is a
69 subcontractor with any authority of the governmental entity other
70 than the authority of the governmental entity of which he is a
71 member, officer, employee or agent where the primary contract is
72 let to the lowest and best bidder after competitive bidding or
73 where the goods or services involved are reasonably available from
74 two (2) or fewer commercial sources, provided the transactions
75 comply with the public purchases laws.

76 (d) May be a contractor, subcontractor or vendor with
77 any authority of the governmental entity of which he is a member,
78 officer, employee or agent or have a material financial interest
79 in a business which is a contractor, subcontractor or vendor with
80 any authority of the governmental entity of which he is a member,
81 officer, employee or agent: (i) where the goods or services
82 involved are reasonably available from two (2) or fewer commercial
83 sources, provided the transactions comply with the public
84 purchases laws; or (ii) where the contractual relationship
85 involves the further research, development, testing, promotion or
86 merchandising of an intellectual property created by the public
87 servant.

88 (e) May purchase securities issued by the governmental
89 entity of which he is an officer or employee if the securities are
90 offered to the general public and are purchased at the same price
91 as the securities are offered to the general public.

92 (f) May have an interest less than a material financial
93 interest in a business which is a contractor, subcontractor or
94 vendor with any governmental entity.

95 (g) May contract with the Mississippi Veteran's Home
96 Purchase Board, Mississippi Housing Finance Corporation, or any
97 other state loan program, for the purpose of securing a loan;

98 however, public servants shall not receive favored treatment.

99 (h) May be employed by or receive compensation from an
100 authority of the governmental entity other than the authority of
101 the governmental entity of which the public servant is an officer
102 or employee.

103 (i) If a member of the Legislature or other public
104 servant employed on less than a full-time basis, may represent a
105 person or organization for compensation before an authority of the
106 governmental entity other than an authority of the governmental
107 entity of which he is an officer or employee.

108 (5) No person may intentionally use or disclose information
109 gained in the course of or by reason of his official position or
110 employment as a public servant in any way that could result in
111 pecuniary benefit for himself, any relative, or any other person,
112 if the information has not been communicated to the public or is
113 not public information.

114 (6) Any elected public official that chooses to enter an
115 election for another elected public office must resign the office
116 he or she holds before he or she qualifies to become a candidate
117 in the election for the second office.

118 (7) Except as otherwise provided in subsection (6) of this
119 section, any contract made in violation of this section may be
120 declared void by the governing body of the contracting or selling
121 authority of the governmental subdivision or a court of competent
122 jurisdiction and the contractor or subcontractor shall retain or
123 receive only the reasonable value, with no increment for profit or
124 commission, of the property or the services furnished prior to the
125 date of receiving notice that the contract has been voided.

126 (8) Any person violating the provisions of this section
127 shall be punished as provided for in Sections 25-4-109 and
128 25-4-111.

129 SECTION 2. The Attorney General of the State of Mississippi
130 shall submit this act, immediately upon approval by the Governor,

131 or upon approval by the Legislature subsequent to a veto, to the
132 Attorney General of the United States or to the United States
133 District Court for the District of Columbia in accordance with the
134 provisions of the Voting Rights Act of 1965, as amended and
135 extended.

136 SECTION 3. This act shall take effect and be in force from
137 and after the date it is effectuated under Section 5 of the Voting
138 Rights Act of 1965, as amended and extended.