

By: Eads

To: Judiciary A

HOUSE BILL NO. 525

1 AN ACT TO AMEND SECTION 25-4-105, MISSISSIPPI CODE OF 1972,
2 TO ALLOW A COUNTY EMPLOYEE TO SERVE AS A CONSTABLE OF THE COUNTY
3 EMPLOYING HIM; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 25-4-105, Mississippi Code of 1972, is
6 amended as follows:[CSQ1]

7 25-4-105. (1) No public servant shall use his official
8 position to obtain pecuniary benefit for himself other than that
9 compensation provided for by law, or to obtain pecuniary benefit
10 for any relative or any business with which he is associated.

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

17 (3) No public servant shall:

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

22 subcontractor or vendor with the governmental entity of which he
23 is a member, officer, employee or agent.

24 (b) Be a purchaser, direct or indirect, at any sale
25 made by him in his official capacity or by the governmental entity
26 of which he is an officer or employee, except in respect of the
27 sale of goods or services when provided as public utilities or
28 offered to the general public on a uniform price schedule.

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

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

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

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

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

52 (b) May be a contractor or vendor with any authority of

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

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

75 (d) May be a contractor, subcontractor or vendor with
76 any authority of the governmental entity of which he is a member,
77 officer, employee or agent or have a material financial interest
78 in a business which is a contractor, subcontractor or vendor with
79 any authority of the governmental entity of which he is a member,
80 officer, employee or agent: (i) where such goods or services

81 involved are reasonably available from two (2) or fewer commercial
82 sources, provided such transactions comply with the public
83 purchases laws; or (ii) where the contractual relationship
84 involves the further research, development, testing, promotion or
85 merchandising of an intellectual property created by the public
86 servant.

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

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

94 (g) May contract with the Mississippi Veteran's Home
95 Purchase Board, Mississippi Housing Finance Corporation, or any
96 other state loan program, for the purpose of securing a loan;
97 however, public servants shall not receive favored treatment.

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

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

107 (j) If a constable, may be employed and receive
108 compensation as a deputy sheriff or other employee of the county

109 for which he serves as constable.

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

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

123 (7) Any person violating the provisions of this section
124 shall be punished as provided for in Sections 25-4-109 and
125 25-4-111.

126 SECTION 2. This act shall take effect and be in force from
127 and after July 1, 2000.