

By: Representatives Pierce, Eaton, Holland,
Moak, Watson

To: Judiciary A

HOUSE BILL NO. 1636

1 AN ACT TO AMEND SECTION 5-8-13, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT A PERSON WHO HAS SERVED AS A CAMPAIGN CONSULTANT TO A
3 CANDIDATE FROM BECOMING A LOBBYIST WITHIN ONE YEAR FROM THE DATE
4 THE CANDIDATE FOR WHOM THE PERSON SERVED AS A LOBBYIST TAKES
5 OFFICE; TO PROHIBIT A LOBBYIST FROM SERVING AS A CAMPAIGN
6 CONSULTANT WITHIN ONE YEAR AFTER THE MOST RECENT DATE THE LOBBYIST
7 WAS REGISTERED WITH THE SECRETARY OF STATE'S OFFICE; TO AMEND
8 SECTION 5-8-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
9 AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 5-8-13, Mississippi Code of 1972, is
12 amended as follows:

13 5-8-13. (1) A lobbyist shall not contract to receive or
14 accept compensation dependent upon the success or failure of a
15 legislative or executive action.

16 (2) A lobbyist or lobbyist's client shall not knowingly or
17 willfully make or cause to be made a false statement or
18 misrepresentation of facts to an executive, legislative or public
19 official or public employee, or to the public in general with the
20 intent to affect the outcome of a legislative or executive action.

21 (3) A lobbyist or lobbyist's client shall not cause a
22 legislative or executive action for the purpose of obtaining
23 employment to lobby in support of or in opposition to the
24 legislative or executive action.

25 (4) An executive, legislative or public official or public
26 employee shall not be a lobbyist, except that he may act as a
27 lobbyist when acting in his official capacity.

28 (5) A lobbyist must disclose anything of value given in
29 whole or in part to any executive, legislative or public official
30 or public employee.

31 (6) No person who has served as a campaign consultant shall
32 serve as a lobbyist within one (1) year after the date on which
33 the candidate for whom the person served as a campaign consultant
34 takes office.

35 (7) No lobbyist shall serve as a campaign consultant for any
36 candidate within one (1) year after the most recent date that the
37 lobbyist was registered as a lobbyist with the Secretary of
38 State's office.

39 **SECTION 2.** Section 5-8-3, Mississippi Code of 1972, is
40 amended as follows:

41 5-8-3. The following words and phrases shall have the
42 meanings ascribed herein unless the context clearly indicates
43 otherwise:

44 (a) (i) "Anything of value" means:

45 1. A pecuniary item, including money, or a
46 bank bill or note;

47 2. A promissory note, bill of exchange,
48 order, draft, warrant, check or bond given for the payment of
49 money;

50 3. A contract, agreement, promise or other
51 obligation for an advance, conveyance, forgiveness of
52 indebtedness, deposit, distribution, loan, payment, gift, pledge
53 or transfer of money;

54 4. A stock, bond, note or other investment
55 interest in an entity;

56 5. A receipt given for the payment of money
57 or other property;

58 6. A right in action;

59 7. A gift, tangible good, chattel or an
60 interest in a gift, tangible good or chattel;

61 8. A loan or forgiveness of indebtedness;

62 9. A work of art, antique or collectible;

63 10. An automobile or other means of personal
64 transportation;

65 11. Real property or an interest in real
66 property, including title to realty, a fee simple or partial
67 interest, present or future, contingent or vested within realty, a
68 leasehold interest, or other beneficial interest in realty;

69 12. An honorarium or compensation for
70 services;

71 13. A rebate or discount in the price of
72 anything of value, unless the rebate or discount is made in the
73 ordinary course of business to a member of the public without
74 regard to that person's status as an executive, legislative or
75 public official or public employee, or the sale or trade of
76 something for reasonable compensation that would ordinarily not be
77 available to a member of the public;

78 14. A promise or offer of employment;

79 15. Any other thing of value that is
80 pecuniary or compensatory in value to a person, except as
81 otherwise provided in subparagraph (ii) of this paragraph; or

82 16. A payment that directly benefits an
83 executive, legislative or public official or public employee or a
84 member of that person's immediate family.

85 (ii) "Anything of value" does not mean:

86 1. Informational material such as books,
87 reports, pamphlets, calendars or periodicals informing an
88 executive, legislative or public official or public employee of
89 her or his official duties;

90 2. A certificate, plaque or other
91 commemorative item which has little pecuniary value;

92 3. Food and beverages for immediate
93 consumption provided by a lobbyist up to a value of Ten Dollars
94 (\$10.00) in the aggregate during any calendar year;

95 4. Campaign contributions reported in
96 accordance with Section 23-15-801 et seq., Mississippi Code of
97 1972.

98 (b) "Commission" means the Mississippi Ethics
99 Commission, when used in the context of Section 5-8-19 of this
100 chapter.

101 (c) "Compensation" means:

102 (i) An advance, conveyance, forgiveness of
103 indebtedness, deposit, distribution, loan, payment, gift, pledge
104 or transfer of money or anything of value, including reimbursement
105 of travel, food or lodging costs; or

106 (ii) A contract, agreement, promise or other
107 obligation for an advance, conveyance, forgiveness of
108 indebtedness, deposit, distribution, loan, payment, gift, pledge
109 or transfer of money or anything of value, including reimbursement
110 of travel, food or lodging costs, for services rendered or to be
111 rendered.

112 (d) "Campaign consultant" means a person who by a
113 contract, agreement, promise or other obligation participates in a
114 candidate's campaign by providing information, materials or labor.

115 (e) "Executive action" means the proposal, drafting,
116 development, consideration, amendment, adoption, approval,
117 promulgation, issuance, modification, rejection or postponement by
118 a state or local governmental entity of a rule, regulation, order,
119 decision, determination or other quasi-legislative action or
120 proceeding.

121 (f) "Executive agency" means:

122 (i) An agency, board, commission, governing
123 authority or other body in the executive branch of state or local
124 government; or

125 (ii) An independent body of state or local
126 government that is not a part of the legislative or judicial
127 branch, but which shall include county boards of supervisors.

128 (g) "Executive official" means:

129 (i) A member or employee of a state agency, board,
130 commission, governing authority or other body in the executive
131 branch of state or local government; or

132 (ii) A public official or public employee, or any
133 employee of such person, of state or local government who takes an
134 executive action.

135 (h) "Expenditure" means:

136 (i) A purchase, payment, distribution, loan,
137 forgiveness of a loan or payment of a loan by a third party,
138 advance, deposit, transfer of funds, a promise to make a payment,
139 or a gift of money or anything of value for any purpose;

140 (ii) A payment to a lobbyist for salary, fee,
141 commission, compensation for expenses, or other purpose by a
142 person employing, retaining or contracting for the services of the
143 lobbyist separately or jointly with other persons;

144 (iii) A payment in support of or assistance to a
145 lobbyist or the lobbyist's activities, including the direct
146 payment of expenses incurred at the request or suggestion of the
147 lobbyist;

148 (iv) A payment that directly benefits an
149 executive, legislative or public official or a member of the
150 official's immediate family;

151 (v) A payment, including compensation, payment or
152 reimbursement for the services, time or expenses of an employee
153 for or in connection with direct communication with an executive,
154 legislative or public official made at the direction of the
155 employee's employer;

156 (vi) A payment for or in connection with
157 soliciting or urging other persons to enter into direct
158 communication with an executive, legislative or public official;

159 or

160 (vii) A payment or reimbursement for food,
161 beverages, travel, lodging, entertainment or sporting activities.

162 (i) "Gift" means anything of value to the extent that
163 consideration of equal or greater value is not received, including
164 a rebate or discount in the price of anything of value unless the
165 rebate or discount is made in the ordinary course of business to a
166 member of the public without regard to that person's status as an
167 executive, legislative or public official.

168 (j) "Legislative action" means:

169 (i) Preparation, research, drafting, introduction,
170 consideration, modification, amendment, approval, passage,
171 enactment, tabling, postponement, defeat or rejection of a bill,
172 resolution, amendment, motion, report, nomination, appointment or
173 other matter by the Mississippi State Legislature or a member or
174 employee of the Legislature acting or purporting to act in an
175 official capacity;

176 (ii) Action by the Governor in approving or
177 vetoing a bill or other action of the Legislature;

178 (iii) Action by the Legislature in:

179 1. Overriding or sustaining a veto by the
180 Governor; or

181 2. Considering, confirming or rejecting an
182 executive appointment of the Governor.

183 (k) "Legislative official" means:

184 (i) A member, member-elect or presiding officer of
185 the Legislature;

186 (ii) A member of a commission or other entity
187 established by and responsible to either or both houses of the
188 Legislature;

189 (iii) A staff member, officer or employee to a
190 member or member-elect of the Legislature, to a member of a
191 commission or other entity established by and responsible to

192 either or both houses of the Legislature, or to the Legislature or
193 any house, committee or office thereof.

194 (l) "Lobbying" means:

195 (i) Influencing or attempting to influence
196 legislative or executive action through oral or written
197 communication; or

198 (ii) Solicitation of others to influence
199 legislative or executive action; or

200 (iii) Paying or promising to pay anything of value
201 directly or indirectly related to legislative or executive action.

202 (m) "Lobbyist" means:

203 (i) An individual who is employed and receives
204 payments, or who contracts for economic consideration, including
205 reimbursement for reasonable travel and living expenses, for the
206 purpose of lobbying;

207 (ii) An individual who represents a legislative or
208 public official or public employee, or who represents a person,
209 organization, association or other group, for the purpose of
210 lobbying; or

211 (iii) A sole proprietor, owner, part owner or
212 shareholder in a business who has a pecuniary interest in
213 legislative or executive action, who engages in lobbying
214 activities.

215 (n) "Lobbyist's client" means the person in whose
216 behalf the lobbyist influences or attempts to influence
217 legislative or executive action.

218 (o) "Local" means all entities of government at the
219 county, county-district, multicounty district, municipal or school
220 district level.

221 (p) "Person" means an individual, proprietorship, firm,
222 partnership, joint venture, joint-stock company, syndicate,
223 business trust, estate, company, corporation, association, club,
224 committee, organization or group of persons acting in concert.

225 (q) "Public employee" means an individual appointed to
226 a position, including a position created by statute, whether
227 compensated or not, in state or local government and includes any
228 employee of the public employee. The term includes a member of
229 the board of trustees, chancellor, vice chancellor or the
230 equivalent thereof in the state university system or the state
231 community and junior college system, and a president of a state
232 college or university.

233 (r) "Public official" means an individual elected to a
234 state or local office, or an individual who is appointed to fill a
235 vacancy in the office.

236 (s) "Value" means the retail cost or fair market worth
237 of an item or items, whichever is greater.

238 **SECTION 3.** This act shall take effect and be in force from
239 and after July 1, 2004.