

1 HB10
2 124457-3
3 By Representatives Ball, Sanderford, Canfield, McClendon,
4 Weaver, McMillan, Hubbard (M), Galliher, Wren, Collins, Greer,
5 Boothe, Boman, Lee, Williams (D), Farley, Moore (B), Henry,
6 Long, Beckman, Hill, Clouse, Chesteen, Ison, Barton, Johnson
7 (W), Hammon, Johnson (K), Gaston, Wallace, Vance, Fincher,
8 Buttram, Williams (P), Shiver, Nordgren, Rich, Faust,
9 McClurkin, Williams (J), Treadaway, Baughn, Roberts, Drake,
10 Brown, Patterson, Davis, Baker, Tuggle, Coleman, Wood, Love
11 and England
12 RFD: Ethics
13 First Read: 08-DEC-10

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ENROLLED, An Act,

To provide for legislative findings; to prohibit public funds from being passed through from one entity to another at the direction of a member of the Legislature; to define "pass-through" appropriations; to expressly protect the right of a legislator to lobby for or offer support for a legal and valid program of an agency; to provide for reporting of grants; to provide penalties for violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Budget Accountability Act.

Section 2. The Legislature recognizes that Alabama citizens demand and deserve accountability for the expenditure of taxpayer funds. The Legislature further recognizes that any member of the Alabama Legislature, as well as any other citizen, can lobby for or offer support for a program administered by an entity that receives public funds. The Legislature further recognizes that while at least two

1 Executive Orders have banned pass-through appropriations, not
2 all entities are effectively included under these Executive
3 Orders.

4 Section 3. For the purposes of this act, the
5 following terms shall have the following meanings:

6 (1) AGENCY. Any recipient of State funds.

7 (2) DIRECTED, DIRECTIVE, or DIRECTION. As used in
8 this act refers to the exercise of control over the selection
9 of projects or grants for which the expenditure of funds are
10 made.

11 (3) LINE-ITEM APPROPRIATION. A separate reference in
12 an appropriation bill to a proposed expenditure, which is
13 certain as to the recipient(s) and the amount with a general
14 description of the expenditure.

15 (4) PASS-THROUGH APPROPRIATIONS. The expenditure of
16 State funds by an agency at the explicit direction of a member
17 of the Legislature, or a person acting on behalf of such
18 member, if such expenditure is not for a purpose specified in
19 a line-item appropriation. The expenditure of funds pursuant
20 to Chapter 24 of Title 41, any federal or state grants or
21 contracts awarded under federal or state guidelines or
22 regulations, and any expenditures under Article 8 of Chapter 2
23 of Title 29 shall not be considered pass-through
24 appropriations. State Funds transferred between state entities

1 for the same program shall not be considered pass-through
2 appropriations.

3 Section 4. (a) Pass-through appropriations are
4 prohibited. An agency director, assistant director, executive
5 assistant or any similar direct subordinate directing or
6 permitting a pass-through appropriation shall be subject to
7 disciplinary action and/or dismissal by the appropriate
8 appointing authority.

9 (b) An agency director, assistant director,
10 executive assistant or any similar direct subordinate who
11 violates this section shall be guilty of a Class C misdemeanor
12 unless the agency director, assistant director, executive
13 assistant or any similar direct subordinate did not know and
14 did not have reason to know of the pass-through appropriation.
15 Acts constituting a violation of this act shall not be the
16 basis for a violation of any other criminal law by the agency
17 director, assistant director, executive assistant or any
18 similar direct subordinate or any other person.

19 Section 5. The director, assistant director,
20 executive assistant or any similar direct subordinate of any
21 agency shall have an affirmative duty to report to his
22 superior or in the case of an agency director, the Governor of
23 Alabama and the Alabama Ethics Commission any explicit
24 directives regarding a pass-through appropriation and the

1 agency director shall submit a copy of the report to the
2 legislator involved and the presiding officer of each house.

3 Section 6. Nothing in this act shall be deemed to
4 prohibit or discourage a member of the Legislature from
5 performing his or her duties. Those duties include the right
6 to protect and promote activities and projects with agency
7 personnel that constitute legal and valid functions of the
8 agency or department. Therefore, any member of the Legislature
9 or any citizen may lobby for or offer support for a program
10 administered by the agency without violating the provisions of
11 this act.

12 Section 7. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

20 Section 8. This act shall become effective upon its
21 passage and approval by the Governor or upon its otherwise
22 becoming a law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 10-DEC-10.

Greg Pappas
Clerk

Senate

14-DEC-10

Passed