

# **2010 Amendments to the Alabama Ethics Law**



**1<sup>st</sup> Extraordinary Session 2010  
December 8-16, 2010**



## **Ethics Commission Granted Subpoena Power**



The Legislature authorized the Commission to issue subpoenas to compel witnesses to appear and produce books, documents, papers and other evidence upon the vote of four members of the Commission. With this power, Alabama joins 37 other states with omnibus ethics commissions in having this investigative tool. (Section 36-25-4(g), *Code of Alabama 1975*)

### **Executive and Judicial Branch Lobbying Included in Lobbyist Definition**

Anyone attempting to influence the awarding of a grant or contract with either the executive or judicial branches of government must now register as a lobbyist. This amendment would also prohibit a legislator from representing any person, firm, corporation or other business entity before any executive department or agency. (Section 36-25-1.5)

### **Requires Mandatory Training on Ethics Law**



Effective immediately, all legislators, constitutional officers, cabinet members, executive staff as determined by the Governor, municipal mayors, council members and commissioners, county commissioners, local boards of education and lobbyists must be educated on the Ethics Law. In addition, all public employees required to file Statements of Economic Interest forms must receive training. (Section Not Yet Codified)

### **Commission Required to Have Attorney Member**

Effective with the next nomination to the Commission, the members must include at least one Alabama-licensed attorney in good standing. (Section 36-25-3(a))

### **Requires Commission to Determine if Probable Cause Exists within 180 Days**

The Ethics Commission must determine within 180 days of either receiving or initiating a complaint whether or not probable cause exists regarding that matter. The Commission may for good cause grant the staff an additional 180 days by a majority vote. (Section 36-25-4(h))

### **Attorney General and District Attorneys May Report Planned Actions**



After receiving the referral of a matter by the Commission, the Attorney General or the District Attorney may report back to the Commission what action their office plans to take regarding that case as well as the final disposition of the matter. (Section 36-25-4(i))

## **Amendments Include Several New Definitions**

### **Economic Development Function**

Any function reasonably and directly related to the advancement of a specific, good faith economic development or trade promotion project. (Section 36-25-1(11))

### **Educational Function**

Meeting organized around a formal program or agenda of educational or informational speeches, debates, panel discussions, etc. and which, taking into account the totality of the program or agenda, could not reasonably be perceived as a subterfuge for a purely social, recreational or entertainment function. (Section 36-25-1(12))

### **State Government Agency Heads Excluded from Lobbyist Definition**

State government heads or their designees who provide or communicate information relating to policy no longer have to register as lobbyists. (Section 36-25-1(20))

### **Principal Redefined**

A person or business which employs or retains a lobbyist. A principal is not a lobbyist but is not allowed to give a thing of value. (Section 36-25-1(23))

### Widely Attended Event

A gathering, dinner, reception, or other event of mutual interest to a number of parties at which it is reasonably expected that more than 12 individuals will attend and that individuals with a diversity of views or interests will be present. (Section 36-25-1(35))



### Thing of Value

The definition of the term Thing of Value was not substantially changed; however, the exceptions to the definition were significantly changed.

Under the amendments of Section 36-25-1(33)(b), the following sections (subsections 1-18) were added as replacements for the previous exceptions:

**NOTE: Section 33(b) states that the term “thing of value” does not include any of the following as long as no particular course of action is required as a condition to the receipt thereof.**

1. A contribution under Chapter 5 of Title 17 or a contribution to an inaugural or transition committee.
2. Anything given by a family member of the recipient under circumstances which make it clear that it is motivated by a family relationship.
3. Anything given by a friend of the recipient under circumstances which make it clear that it is motivated by a friendship and not given because of the recipient’s official position. Relevant factors include whether the friendship preexisted the recipient’s status as a public employee, public official, or candidate and whether gifts have been previously exchanged between them.
4. Greeting cards, items, services with little intrinsic value which are intended solely for presentation (such as plaques, certificates, and trophies), promotional items commonly distributed to the general public, and items or services of de minimis value.
5. Loans from banks and other financial institutions on terms generally available to the public.
6. Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all government employees.
7. Rewards and prizes given to competitors in contests or events, including random drawings, which are open to the public.
8. Anything that is paid for by a governmental entity or an entity created by a governmental entity to support the governmental entity or secured by a governmental entity under contract, except for tickets to a sporting event offered by an educational institution to anyone other than faculty, staff, or administration of the institution.
9. Anything for which the recipient pays full value.
10. Compensation and other benefits earned from a non-government employer, vendor, client, prospective employer, or other business relationship in the ordinary course of employment or non-governmental business activities under circumstances which make it clear that the thing is provided for reasons unrelated to the recipient’s public service as a public official or public employee.
11. Any assistance provided or rendered in connection with a safety or a health emergency.
12. Payment of or reimbursement for actual and necessary transportation and lodging expenses, as well as waiver of registration fees and similar costs, to facilitate the attendance of a public official or public employee, and the spouse of the public official or public employee, at an educational function or widely attended event of which the person is a primary sponsor. This exclusion applies only if the public official or public employee meaningfully participates in the event as a speaker or a panel participant, by presenting information related to his or her agency or matters pending before his or her agency, or by performing a ceremonial function appropriate to his or her official position; or if the public official’s or public employee’s attendance at the event is appropriate to the performance of his or her official duties or representative function.
13. Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public official’s or public employee’s participation in an economic development function.

14. Hospitality, meals, and other food and beverages provided to a public official or public employee, and the spouse of the public official or public employee, as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.
15. Any function or activity pre-certified by the Director of the Ethics Commission as a function that meets any of the above criteria.
16. Meals and other food and beverages provided to a public official or public employee in a setting other than any of the above functions not to exceed for a lobbyist twenty-five dollars (\$25) per meal with a limit of one hundred fifty dollars (\$150) per year; and not to exceed for a principal fifty dollars (\$50) per meal with a limit of two hundred fifty dollars (\$250) per year. Notwithstanding the lobbyist's limits herein shall not count against the principal's limits and likewise, the principal's limits shall not count against the lobbyist's limits.
17. Anything either (i) provided by an association or organization to which the state or, in the case of a local government official or employee, the local government pays annual dues as a membership requirement or (ii) provided by an association or organization to a public official who is a member of the association or organization and, as a result of his or her service to the association or organization, is deemed to be a public official. Further included in this exception is payment of reasonable compensation by a professional or local government association or corporation to a public official who is also an elected officer or director of the professional or local government association or corporation for services actually provided to the association or corporation in his or her capacity as an officer or director.
18. Any benefit received as a discount on accommodations, when the discount is given to the public official because the public official is a member of an organization or association whose entire membership received the discount.

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The Ethics Law may be seen in its entirety in the *Code of Alabama 1975* at Sections 36-25-1 through 36-25-30.  
We have a link to these sections on our website: [www.ethics.alabama.gov](http://www.ethics.alabama.gov)

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