

HOUSE BILL 3123

By Dunn

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 16, relative to offenses against the
administration of government.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Ben Nelson Act to Ensure Political Integrity."

SECTION 2. Tennessee Code Annotated, Section 39-16-101(3), is amended by designating all of the existing language as subdivision (A) and by adding the following language as a new subdivision (B):

(B) "Pecuniary benefit" also means any employment, loss of employment or appointment to any position, public or private, for which the public servant receives or would receive any taxable compensation.

SECTION 3. Tennessee Code Annotated, Section 39-16-102, is amended by deleting all of the existing language in its entirety and substituting the following:

§ 39-16-102.

(a) A person commits an offense who:

(1) Offers, confers, or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, exercise of discretion or other action in the public servant's official capacity;

(2) While a public servant, solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the

public servant's vote, opinion, judgment, exercise of discretion or other action as a public servant will thereby be influenced;

(3) While a public servant, agrees to vote and does vote or agrees to refrain and does refrain from voting on final consideration for or against a bill if another public servant agrees to vote and does vote or agrees to refrain and does refrain from voting on final consideration for or against an amendment to that bill or for or against another bill or any amendment thereto, that would, with respect to the first public servant:

(A) Confer to that public servant's district an exemption from budgetary or fiscal measures that are otherwise of general applicability to all other districts comprising the governmental body on which that public servant serves, absent a rational basis; or

(B) Confer to that public servant's district budgetary or fiscal benefits that are not otherwise of general applicability to all other districts comprising that governmental body on which that public servant serves, absent a rational basis; or

(4) While a public servant, agrees to vote and does vote or agrees to refrain and does refrain from voting on final consideration for or against a bill unless that bill or another bill, or of any amendment thereto:

(A) Confers to that public servant's district an exemption from budgetary or fiscal measures that are otherwise of general applicability to all other districts comprising the governmental body on which that public servant serves, absent a rational basis for a distinction among districts; or

(B) Confers to that public servant's district budgetary or fiscal benefits that are not otherwise of general applicability to all other districts comprising that governmental body on which that public servant serves, absent a rational basis for a distinction among districts.

(b) For purposes of subdivisions (a)(3) and (4), if a bill is of general applicability to all districts comprising that governmental body on which a public servant serves, it does not confer a budgetary or fiscal benefit to a public servant's district or exempt a public servant's district from a budgetary or fiscal benefit if the law, in its general application, would produce a budgetary or fiscal benefit to that public official's district that is only disproportionate to the benefits conferred to other districts to which the law would apply.

(c) Subdivisions (a)(3) and (4) shall be enforced upon petition filed with the district attorney general of a negatively affected political jurisdiction for presentation of an indictment to the relevant grand jury if signed by a number of citizens registered to vote in the political jurisdiction in which the petition is to be filed equal to ten percent of the number of votes cast in that political jurisdiction in the most recent gubernatorial election, or signed by a number of citizens registered to vote in the state equal to ten percent (10%) of the number of votes cast in the state in the most recent gubernatorial election, and upon one (1) or more of those citizens giving the usual security for court costs. A petition signed by citizens from across the state shall be filed with the district attorney general for Davidson County.

(d) It is no defense to prosecution under this section that the person sought to be influenced was not qualified to act in the desired way because the

person had not yet assumed office, lacked jurisdiction, or for any other reason.

(c)

(1) Bribery of a public servant under subdivision (a)(1) is a Class B felony.

(2) A public servant accepting or agreeing to accept a bribe under subdivision (a)(2) is a Class B Felony.

(3) A public servant accepting a bribe as defined under § 39-16-101(3)(B) or under subdivision (a)(3) or (a)(4) is a Class A misdemeanor.

SECTION 4. This act shall take effect July 1, 2010, the public welfare requiring it.