

SECOND REGULAR SESSION

HOUSE BILL NO. 2398

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MITTEN.

6078H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 105.456 as enacted by senate bill no. 844, ninety-fifth general assembly, second regular session, and section 105.456 as enacted by house bill no. 1120, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to members of the general assembly who are candidates for statewide elected office.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 105.456 as enacted by senate bill no. 844, ninety-fifth general
2 assembly, second regular session, and section 105.456 as enacted by house bill no. 1120, eighty-
3 ninth general assembly, second regular session, are repealed and one new section enacted in lieu
4 thereof, to be known as section 105.456, to read as follows:

2 [105.456. 1. No member of the general assembly or the governor,
lieutenant governor, attorney general, secretary of state, state treasurer or state
3 auditor shall:

4 (1) Perform any service for the state or any political subdivision of the
5 state or any agency of the state or any political subdivision thereof or act in his
6 or her official capacity or perform duties associated with his or her position for
7 any person for any consideration other than the compensation provided for the
8 performance of his or her official duties; or

9 (2) Sell, rent or lease any property to the state or political subdivision
10 thereof or any agency of the state or any political subdivision thereof for
11 consideration in excess of five hundred dollars per transaction or one thousand
12 five hundred dollars per annum unless the transaction is made pursuant to an
13 award on a contract let or sale made after public notice and in the case of property

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 other than real property, competitive bidding, provided that the bid or offer
15 accepted is the lowest received; or

16 (3) Attempt, for compensation other than the compensation provided for
17 the performance of his or her official duties, to influence the decision of any
18 agency of the state on any matter, except that this provision shall not be construed
19 to prohibit such person from participating for compensation in any adversary
20 proceeding or in the preparation or filing of any public document or conference
21 thereon. The exception for a conference upon a public document shall not permit
22 any member of the general assembly or the governor, lieutenant governor,
23 attorney general, secretary of state, state treasurer or state auditor to receive any
24 consideration for the purpose of attempting to influence the decision of any
25 agency of the state on behalf of any person with regard to any application, bid or
26 request for a state grant, loan, appropriation, contract, award, permit other than
27 matters involving a driver's license, or job before any state agency, commission,
28 or elected official. Notwithstanding Missouri supreme court rule 1.10 of rule 4
29 or any other court rule or law to the contrary, other members of a firm,
30 professional corporation or partnership shall not be prohibited pursuant to this
31 subdivision from representing a person or other entity solely because a member
32 of the firm, professional corporation or partnership serves in the general
33 assembly, provided that such official does not share directly in the compensation
34 earned, so far as the same may reasonably be accounted, for such activity by the
35 firm or by any other member of the firm. This subdivision shall not be construed
36 to prohibit any inquiry for information or the representation of a person without
37 consideration before a state agency or in a matter involving the state if no
38 consideration is given, charged or promised in consequence thereof.

39 2. No sole proprietorship, partnership, joint venture, or corporation in
40 which a member of the general assembly, governor, lieutenant governor, attorney
41 general, secretary of state, state treasurer, state auditor or spouse of such official
42 is the sole proprietor, a partner having more than a ten percent partnership
43 interest, or a coparticipant or owner of in excess of ten percent of the outstanding
44 shares of any class of stock, shall:

45 (1) Perform any service for the state or any political subdivision thereof
46 or any agency of the state or political subdivision for any consideration in excess
47 of five hundred dollars per transaction or one thousand five hundred dollars per
48 annum unless the transaction is made pursuant to an award on a contract let or
49 sale made after public notice and competitive bidding, provided that the bid or
50 offer accepted is the lowest received; or

51 (2) Sell, rent, or lease any property to the state or any political
52 subdivision thereof or any agency of the state or political subdivision thereof for
53 consideration in excess of five hundred dollars per transaction or one thousand
54 five hundred dollars per annum unless the transaction is made pursuant to an
55 award on a contract let or a sale made after public notice and in the case of

56 property other than real property, competitive bidding, provided that the bid or
57 offer accepted is the lowest and best received.

58 3. No statewide elected official, member of the general assembly, or any
59 person acting on behalf of such official or member shall expressly and explicitly
60 make any offer or promise to confer any paid employment, where the individual
61 is compensated above actual and necessary expenses, to any statewide elected
62 official or member of the general assembly in exchange for the official's or
63 member's official vote on any public matter. Any person making such offer or
64 promise is guilty of the crime of bribery of a public servant under section
65 576.010.

66 4. Any statewide elected official or member of the general assembly who
67 accepts or agrees to accept an offer described in subsection 3 of this section is
68 guilty of the crime of acceding to corruption under section 576.020.]
69

105.456. 1. No member of the general assembly or the governor, lieutenant governor,
2 attorney general, secretary of state, state treasurer or state auditor shall:

3 (1) Perform any service for the state or any political subdivision of the state or any
4 agency of the state or any political subdivision thereof or act in his or her official capacity or
5 perform duties associated with his or her position for any person for any consideration other than
6 the compensation provided for the performance of his or her official duties; or

7 (2) Sell, rent or lease any property to the state or political subdivision thereof or any
8 agency of the state or any political subdivision thereof for consideration in excess of five hundred
9 dollars per transaction or one thousand five hundred dollars per annum unless the transaction is
10 made pursuant to an award on a contract let or sale made after public notice and in the case of
11 property other than real property, competitive bidding, provided that the bid or offer accepted
12 is the lowest received; or

13 (3) Attempt, for compensation other than the compensation provided for the performance
14 of his or her official duties, to influence the decision of any agency of the state on any matter,
15 except that this provision shall not be construed to prohibit such person from participating for
16 compensation in any adversary proceeding or in the preparation or filing of any public document
17 or conference thereon. The exception for a conference upon a public document shall not permit
18 any member of the general assembly or the governor, lieutenant governor, attorney general,
19 secretary of state, state treasurer or state auditor to receive any consideration for the purpose of
20 attempting to influence the decision of any agency of the state on behalf of any person with
21 regard to any application, bid or request for a state grant, loan, appropriation, contract, award,
22 permit other than matters involving a driver's license, or job before any state agency,
23 commission, or elected official. Notwithstanding Missouri supreme court rule 1.10 of rule 4 or
24 any other court rule or law to the contrary, other members of a firm, professional corporation or
25 partnership shall not be prohibited pursuant to this subdivision from representing a person or

26 other entity solely because a member of the firm, professional corporation or partnership serves
27 in the general assembly, provided that such official does not share directly in the compensation
28 earned, so far as the same may reasonably be accounted, for such activity by the firm or by any
29 other member of the firm. This subdivision shall not be construed to prohibit any inquiry for
30 information or the representation of a person without consideration before a state agency or in
31 a matter involving the state if no consideration is given, charged or promised in consequence
32 thereof.

33 2. No sole proprietorship, partnership, joint venture, or corporation in which a member
34 of the general assembly, governor, lieutenant governor, attorney general, secretary of state, state
35 treasurer, state auditor or spouse of such official, is the sole proprietor, a partner having more
36 than a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of
37 the outstanding shares of any class of stock, shall:

38 (1) Perform any service for the state or any political subdivision thereof or any agency
39 of the state or political subdivision for any consideration in excess of five hundred dollars per
40 transaction or one thousand five hundred dollars per annum unless the transaction is made
41 pursuant to an award on a contract let or sale made after public notice and competitive bidding,
42 provided that the bid or offer accepted is the lowest received; or

43 (2) Sell, rent, or lease any property to the state or any political subdivision thereof or any
44 agency of the state or political subdivision thereof for consideration in excess of five hundred
45 dollars per transaction or one thousand five hundred dollars per annum unless the transaction is
46 made pursuant to an award on a contract let or a sale made after public notice and in the case of
47 property other than real property, competitive bidding, provided that the bid or offer accepted
48 is the lowest and best received.

49 **3. (1) Except as otherwise provided under this subsection, no member of the**
50 **general assembly who has a candidate committee that he or she formed as a candidate for**
51 **statewide elected office shall serve as a chair of:**

52 **(a) Any committee formed under the rules of the house of representatives;**

53 **(b) Any committee formed under the rules of the senate; or**

54 **(c) Any committee or task force created under any statute of the state of Missouri.**

55 **(2) A member of the general assembly subject to the provisions of subdivision (1)**
56 **of this subsection shall have two weeks from the date of the formation of his or her**
57 **candidate committee within which to resign from any position as chair of any committee**
58 **or task force described under subdivision (1) of this subsection.**

59 **(3) A member of the general assembly subject to the provisions of subdivision (1)**
60 **of this subsection shall be allowed to serve as a chair of any committee or task force**

61 described under subdivision (1) of this subsection after the candidate committee he or she
62 formed for the election for statewide elected office is terminated.

63 (4) A member of the general assembly who violates this subsection shall be barred
64 from becoming or continuing as a candidate for the two subsequent statewide office
65 elections immediately following such violation. If such member filed a declaration of
66 candidacy for statewide elected office before such violation occurred, such member shall
67 withdraw his or her candidacy immediately following such violation.

68 (5) For purposes of this subsection, "candidate" and "candidate committee" have
69 the same meanings given to such terms in section 130.011.

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