

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2108 Session of 2009

INTRODUCED BY ELLIS, GERGELY, BELFANTI, BAKER, BARBIN, BEAR, BEYER, BOBACK, BOYD, BOYLE, BRADFORD, BRENNAN, BRIGGS, BROOKS, BURNS, CAUSER, CHRISTIANA, CIVERA, CLYMER, COHEN, CONKLIN, D. COSTA, P. COSTA, CREIGHTON, CRUZ, CUTLER, DALLY, DENLINGER, DePASQUALE, DONATUCCI, DRUCKER, FREEMAN, GABLER, GALLOWAY, GIBBONS, GINGRICH, GOODMAN, GROVE, HARPER, HARRIS, HORNAMAN, HOUGHTON, HUTCHINSON, M. KELLER, HARHART, KESSLER, KILLION, KORTZ, MAHONEY, MANDERINO, MARSHALL, MARSICO, MATZIE, MELIO, METZGAR, MILLARD, MILLER, MILNE, MOUL, MUNDY, MURPHY, MURT, MUSTIO, OBERLANDER, PASHINSKI, PICKETT, PYLE, QUINN, RAPP, READSHAW, REED, REESE, REICHLEY, ROAE, ROSS, SABATINA, SAMUELSON, SANTARSIERO, SANTONI, SAYLOR, SEIP, SHAPIRO, SIPTROTH, M. SMITH, S. H. SMITH, SOLOBAY, SONNEY, STEVENSON, STURLA, SWANGER, J. TAYLOR, R. TAYLOR, TURZAI, VEREB, VULAKOVICH, WAGNER, WANSACZ, WATSON, WHITE, YOUNGBLOOD AND YUDICHAK, NOVEMBER 23, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 21, 2010

AN ACT

1 Amending the act of December 12, 1986 (P.L.1559, No.169),
2 entitled "An act providing protection for employees who
3 report a violation or suspected violation of State, local or
4 Federal law; providing protection for employees who
5 participate in hearings, investigations, legislative
6 inquiries or court actions; and prescribing remedies and
7 penalties," further providing for the definitions of
8 ~~"employee" and "employer,"~~ "EMPLOYEE," "EMPLOYER" AND "PUBLIC
9 BODY," for protection of employees, for enforcement and for
10 penalties. ←

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definitions of ~~"employee" and "employer"~~ ←
14 "EMPLOYEE," "EMPLOYER" AND "PUBLIC BODY" in section 2 of the act ←

1 of December 12, 1986 (P.L.1559, No.169), known as the
2 Whistleblower Law, are amended to read:

3 Section 2. Definitions.

4 The following words and phrases when used in this act shall
5 have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 * * *

8 "Employee." A person who performs a service for wages or
9 other remuneration under a contract of hire, written or oral,
10 express or implied, for [a public body] an employer.

11 "Employer." [A person supervising one or more employees,
12 including the employee in question; a superior of that
13 supervisor; or an agent of a public body.] A public body or any
14 of the following which receives money from a public body to
15 perform work or provide services:

16 (1) An individual.

17 (2) A partnership.

18 (3) An association.

19 (4) A corporation for profit.

20 (5) A corporation not for profit.

21 * * *

22 "PUBLIC BODY." ALL OF THE FOLLOWING:



23 (1) A STATE OFFICER, AGENCY, DEPARTMENT, DIVISION,
24 BUREAU, BOARD, COMMISSION, COUNCIL, AUTHORITY OR OTHER BODY
25 IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

26 (1.1) THE GENERAL ASSEMBLY AND ITS AGENCIES.

27 (2) A COUNTY, CITY, TOWNSHIP, REGIONAL GOVERNING BODY,
28 COUNCIL, SCHOOL DISTRICT, SPECIAL DISTRICT OR MUNICIPAL
29 CORPORATION, OR A BOARD, DEPARTMENT, COMMISSION, COUNCIL OR
30 AGENCY.

1 (3) ANY OTHER BODY WHICH IS CREATED BY COMMONWEALTH OR
2 POLITICAL SUBDIVISION AUTHORITY OR WHICH IS FUNDED IN ANY
3 AMOUNT BY OR THROUGH COMMONWEALTH OR POLITICAL SUBDIVISION
4 AUTHORITY OR A MEMBER OR EMPLOYEE OF THAT BODY.

5 * * *

6 Section 2. Sections 3(a), 5 and 6 of the act are amended to
7 read:

8 Section 3. Protection of employees.

9 (a) Persons not to be discharged.--No employer may
10 discharge, threaten or otherwise discriminate or retaliate
11 against an employee regarding the employee's compensation,
12 terms, conditions, location or privileges of employment because
13 the employee or a person acting on behalf of the employee makes
14 a good faith report or is about to report, verbally or in
15 writing, to the employer or appropriate authority an instance of
16 wrongdoing or waste by a public body or an instance of waste by
17 any other employer.

18 * * *

19 Section 5. Enforcement.

20 A court, in rendering a judgment in an action brought under
21 this act, shall order, as the court considers appropriate,
22 reinstatement of the employee, the payment of back wages, full
23 reinstatement of fringe benefits and seniority rights, actual
24 damages or any combination of these remedies. A court [may]
25 shall also award the complainant all or a portion of the costs
26 of litigation, including reasonable attorney fees and witness
27 fees[, if the court determines that the award is appropriate],
28 if the complainant prevails in the civil action.

29 Section 6. Penalties.

30 A person who, under color of an employer's authority,

1 violates this act shall be liable for a civil fine of not more
2 than [\$500] \$10,000. Additionally, except where the person holds
3 an elected public office, if the court specifically finds that
4 the person, while in the employment of the Commonwealth or a
5 political subdivision, committed a violation of this act with
6 the intent to discourage the disclosure of criminal activity,
7 the court may order the person's suspension from public service
8 for not more than [six months] seven years. A civil fine which
9 is ordered under this section shall be paid to the State
10 Treasurer for deposit into the General Fund.

11 Section 3. This act shall take effect in 60 days.