

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 118 Session of 2013

INTRODUCED BY ELLIS, METCALFE, R. BROWN, D. COSTA, BROOKS, M. K. KELLER, SAYLOR, GINGRICH, O'NEILL, B. BOYLE, RAVENSTAHL, STURLA, REED, CAUSER, WATSON, FLECK, MAJOR, KNOWLES, HICKERNELL, ROZZI, STEPHENS, MUNDY, MILLARD, CARROLL, SCHLOSSBERG, BAKER, AUMENT, BOBACK, KAUFFMAN, PICKETT, HARKINS, MACKENZIE, MOUL, MILLER, SONNEY, GROVE, MARSHALL, HAHN, READSHAW, RAPP, STEVENSON, O'BRIEN, C. HARRIS, CUTLER, PYLE, OBERLANDER, REESE, MURT, CLYMER, P. COSTA, COHEN, SWANGER, PETRI AND DEASY, JANUARY 16, 2013

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JANUARY 16, 2013

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," for protection of employees, for  
 9 enforcement and for penalties.

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

12 Section 1. The definitions of "employee" and "employer" in  
 13 section 2 of the act of December 12, 1986 (P.L.1559, No.169),  
 14 known as the Whistleblower Law, are amended to read:

15 Section 2. Definitions.

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

1 \* \* \*

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

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

10 (1) An individual.

11 (2) A partnership.

12 (3) An association.

13 (4) A corporation for profit.

14 (5) A corporation not for profit.

15 \* \* \*

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

18 Section 3. Protection of employees.

19 (a) Persons not to be discharged.--No employer may  
20 discharge, threaten or otherwise discriminate or retaliate  
21 against an employee regarding the employee's compensation,  
22 terms, conditions, location or privileges of employment because  
23 the employee or a person acting on behalf of the employee makes  
24 a good faith report or is about to report, verbally or in  
25 writing, to the employer or appropriate authority an instance of  
26 wrongdoing or waste by a public body or an instance of waste by  
27 any other employer.

28 \* \* \*

29 Section 5. Enforcement.

30 A court, in rendering a judgment in an action brought under

1 this act, shall order, as the court considers appropriate,  
2 reinstatement of the employee, the payment of back wages, full  
3 reinstatement of fringe benefits and seniority rights, actual  
4 damages or any combination of these remedies. A court [may]  
5 shall also award the complainant all or a portion of the costs  
6 of litigation, including reasonable attorney fees and witness  
7 fees[, if the court determines that the award is appropriate],  
8 if the complainant prevails in the civil action.

9 Section 6. Penalties.

10 A person who, under color of an employer's authority,  
11 violates this act shall be liable for a civil fine of not more  
12 than [\$500] \$10,000. Additionally, except where the person holds  
13 an elected public office, if the court specifically finds that  
14 the person, while in the employment of the Commonwealth or a  
15 political subdivision, committed a violation of this act with  
16 the intent to discourage the disclosure of criminal activity,  
17 the court may order the person's suspension from public service  
18 for not more than [six months] seven years. A civil fine which  
19 is ordered under this section shall be paid to the State  
20 Treasurer for deposit into the General Fund.

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