

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of 2013

INTRODUCED BY GIBBONS, GERGELY, ELLIS, BARRAR, CARROLL, CLYMER, COHEN, D. COSTA, CUTLER, DEASY, GABLER, MACKENZIE, MARSHALL, MATZIE, MOUL, O'BRIEN, QUINN, RAVENSTAHL, SCHLOSSBERG, YOUNGBLOOD, ROCK, THOMAS, HARKINS, KORTZ, MOLCHANY, COX AND NEUMAN, JANUARY 18, 2013

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 22, 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 definition of "public
8 body" DEFINITIONS OF "APPROPRIATE AUTHORITY" AND "PUBLIC
9 BODY," FOR PROTECTION OF EMPLOYEES and for penalties. <--

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

12 Section 1. The definition of "public body" in section 2 of
13 the act of December 12, 1986 (P.L.1559, No.169), known as the
14 Whistleblower Law, is 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:

19 * * *

1 ~~"Public body." All of the following:~~

2 ~~(1) A State officer, agency, department, division,~~
3 ~~bureau, board, commission, council, authority or other body~~
4 ~~in the executive branch of State government.~~

5 ~~(1.1) The General Assembly and its agencies.~~

6 ~~(2) A county, city, township, regional governing body,~~
7 ~~council, school district, special district or municipal~~
8 ~~corporation, or a board, department, commission, council or~~
9 ~~agency.~~

10 ~~(3) Any other body which is created by Commonwealth or~~
11 ~~political subdivision authority or which is funded in any~~
12 ~~amount by or through Commonwealth or political subdivision~~
13 ~~authority or a member or employee of that body.~~

14 ~~* * *~~

15 ~~Section 2. Section 6 of the act is amended to read:~~

16 SECTION 1. THE DEFINITIONS OF "APPROPRIATE AUTHORITY" AND <--
17 "PUBLIC BODY" IN SECTION 2 OF THE ACT OF DECEMBER 12, 1986
18 (P.L.1559, NO.169), KNOWN AS THE WHISTLEBLOWER LAW, ARE AMENDED
19 TO READ:

20 SECTION 2. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
22 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
23 CONTEXT CLEARLY INDICATES OTHERWISE:

24 "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL
25 GOVERNMENT BODY, AGENCY OR ORGANIZATION HAVING JURISDICTION OVER
26 CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL
27 CONDUCT OR ETHICS, OR WASTE; OR A MEMBER, OFFICER, AGENT,
28 REPRESENTATIVE OR SUPERVISORY EMPLOYEE OF THE BODY, AGENCY OR
29 ORGANIZATION. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE
30 OFFICE OF INSPECTOR GENERAL, THE OFFICE OF ATTORNEY GENERAL, THE

1 DEPARTMENT OF THE AUDITOR GENERAL, THE TREASURY DEPARTMENT, THE
2 GENERAL ASSEMBLY AND COMMITTEES OF THE GENERAL ASSEMBLY HAVING
3 THE POWER AND DUTY TO INVESTIGATE CRIMINAL LAW ENFORCEMENT,
4 REGULATORY VIOLATIONS, PROFESSIONAL CONDUCT OR ETHICS, OR WASTE.

5 * * *

6 "PUBLIC BODY." ALL OF THE FOLLOWING:

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

10 (1.1) THE GENERAL ASSEMBLY AND ITS AGENCIES.

11 (2) A COUNTY, CITY, TOWNSHIP, REGIONAL GOVERNING BODY,
12 COUNCIL, SCHOOL DISTRICT, SPECIAL DISTRICT OR MUNICIPAL
13 CORPORATION, OR A BOARD, DEPARTMENT, COMMISSION, COUNCIL OR
14 AGENCY.

15 (3) ANY OTHER BODY WHICH IS CREATED BY COMMONWEALTH OR
16 POLITICAL SUBDIVISION AUTHORITY OR WHICH IS FUNDED IN ANY
17 AMOUNT BY OR THROUGH COMMONWEALTH OR POLITICAL SUBDIVISION
18 AUTHORITY OR A MEMBER OR EMPLOYEE OF THAT BODY.

19 * * *

20 SECTION 2. SECTION 3 IS AMENDED BY ADDING A SUBSECTION TO
21 READ:

22 SECTION 3. PROTECTION OF EMPLOYEES.

23 * * *

24 (C) DISCLOSURE PROHIBITION.--AN APPROPRIATE AUTHORITY TO
25 WHICH A VIOLATION OF THIS ACT WAS REPORTED MAY NOT DISCLOSE THE
26 IDENTITY OF A WHISTLEBLOWER WITHOUT THE WHISTLEBLOWER'S CONSENT
27 UNLESS DISCLOSURE IS UNAVOIDABLE IN THE INVESTIGATION OF THE
28 ALLEGED VIOLATION.

29 SECTION 3. SECTION 6 OF THE ACT IS AMENDED TO READ:

30 Section 6. Penalties.

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

12 Section ~~3~~ 4. The amendment of sections 2, 3 and 6 of the act <--
13 shall apply to a person who alleges a violation of the act or
14 who violates the act on or after the effective date of this
15 section.

16 Section ~~4~~ 5. This act shall take effect in 60 days. <--