



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 426

130th General Assembly
(As Introduced)

Reps. Barborak and Pillich, Lundy, R. Hagan, Fedor, Antonio, Ramos, Foley

BILL SUMMARY

- Authorizes an employee in the classified or unclassified civil service to file a complaint with the Inspector General to report a violation of a noncriminal state or federal law or the misuse of public resources, regardless of whether the violation or misuse is within the Inspector General's jurisdiction.
- Prohibits an officer or employee in the classified or unclassified civil service from taking any disciplinary action against such employee who files a complaint with the Inspector General.
- Expands the actions the employee may take, for which the employee cannot be subject to any disciplinary action.
- Includes discriminating against the employee in any manner as a disciplinary action.
- Eliminates the authority for an employee to report to the Inspector General a violation or misuse of public resources that the employee reasonably believes is a criminal offense if the violation or misuse is within the Inspector General's jurisdiction.

CONTENT AND OPERATION

Whistleblower protection

The bill, under an existing whistleblower law, authorizes an employee¹ in the classified or unclassified civil service who becomes aware in the course of employment

¹ R.C. 124.01(F), not in the bill. An "employee" is any person holding a position subject to appointment, removal, promotion, or reduction by an appointing officer, but does not include an officer, employee, or governor-appointed director of the nonprofit corporation commonly known as JobsOhio.

of a noncriminal violation of state or federal statutes, rules, or regulations, or of the misuse of public resources, to file a complaint with the Inspector General, regardless of whether the violation or misuse of public resources is within the Inspector General's jurisdiction.² The Ohio Court of Appeals, Tenth Appellate District, recently held that while this whistleblower law authorizes an employee to report alleged criminal statutory violations to the Inspector General, it does not authorize the employee to report alleged *noncriminal* statutory violations to the Inspector General.³

The whistleblower law continues to authorize the employee to file a written report identifying a noncriminal violation of law or misuse of public resources with the supervisor or appointing authority or with the Office of Internal Audit, or to file a complaint with the Auditor of State's fraud-reporting system.

Prohibited disciplinary actions

Existing law prohibits an officer or employee in the classified or unclassified civil service from taking any disciplinary action against an employee in the classified or unclassified civil service for making any report or filing a complaint under the whistleblower law. The bill, in addition, prohibits disciplinary action against the employee for indicating an intent to make a report or file a complaint, providing information during the investigation of the violation or misuse of public resources, or participating in an administrative or judicial proceeding pertaining to the violation or misuse of public resources. The bill defines the following actions, which are in existing law, as a "disciplinary action": (1) removing or suspending the employee from employment, (2) withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled, (3) transferring or reassigning the employee, (4) denying the employee a promotion that otherwise would have been received, and (5) reducing the employee in pay or position. The bill adds discriminating against the employee in any manner as a "disciplinary action."⁴

Reporting criminal offenses

In addition to or instead of filing a written report or complaint with the supervisor, appointing authority, the Office of Internal Audit, or the Auditor of State's fraud-reporting system (and, under the bill, with the Inspector General), existing law allows an employee to report a violation or misuse of public resources that the employee reasonably believes is a criminal offense to a prosecuting attorney; director of

² R.C. 124.341(A)(1).

³ *Sommer v. Bureau of Workers' Compensation*, No. 13AP-412, Ct. of Appeals of Ohio, Tenth App. Dist. (December 30, 2013).

⁴ R.C. 124.341(B).



law, village solicitor, or similar chief legal officer of a municipal corporation; peace officer; or, if the violation or misuse is within the jurisdiction of the Inspector General, to the Inspector General. The bill eliminates the employee's authority to report such a violation or misuse to the Inspector General if the violation or misuse is within the Inspector General's jurisdiction.⁵

HISTORY

ACTION	DATE
Introduced	02-04-14

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⁵ R.C. 124.341(A)(2).

