

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

FILED SENATE
Apr 2, 2013
S.B. 686
PRINCIPAL CLERK

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SENATE DRS35288-LR-66B (02/20)

Short Title: Protect/Reward Public Employee Whistleblower. (Public)

Sponsors: Senator Goolsby (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE EFFICIENCY IN GOVERNMENT BY PROTECTING PUBLIC
3 EMPLOYEES WHO REPORT WASTE, MISMANAGEMENT, AND WRONGDOING
4 AND AUTHORIZING COMPENSATION BONUSES BASED UPON THE AMOUNT
5 OF PUBLIC FUNDS SAVED DUE TO AN EMPLOYEE'S REPORT.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Chapter 143 of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 80.

10 "Public Employee Whistleblower Protection.

11 "**§ 143-750. Definitions.**

12 The following definitions apply in this Article:

- 13 (1) Adverse action. – Any treatment that is reasonably likely to deter an
14 employee from reporting waste, mismanagement, and wrongdoing, including
15 but not limited to, discharge, suspension, or demotion of an employee, a
16 reduction in compensation, or other actions with a substantial negative
17 impact on an employee's terms and conditions of employment.
- 18 (2) Appropriate authority. – Includes all of the following:
19 a. The public agency that employs the reporting public employee.
20 b. The Attorney General or a State, local, or federal organization having
21 jurisdiction over regulatory violations or criminal law enforcement.
22 c. The State Auditor.
- 23 (3) Protected report or report. – A written document alleging waste,
24 mismanagement, or wrongdoing that is made within 60 days of the date the
25 reporting employee first learns of alleged waste, wrongdoing, or
26 mismanagement. The report must include at least the following:
27 a. The name of the reporting employee.
28 b. The date of the report.
29 c. A description of the alleged waste, wrongdoing, or mismanagement
30 with the date or range of dates on which the reported activity
31 occurred.
- 32 (4) Public employee. – Any person employed (i) by a State agency, department,
33 or institution of the executive branch, (ii) by The University of North
34 Carolina, (iii) by the North Carolina Community College System, or (iv) by
35 a local school administrative unit.



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1 (5) Public agency. – Any State agency, department, or institution; The
2 University of North Carolina; the North Carolina Community College
3 System; and local school administrative units.

4 **"§ 143-751. Protected reports.**

5 (a) Reports. – A public employee who files a good faith report with an appropriate
6 authority alleging waste, mismanagement, or wrongdoing in government shall not be subject to
7 adverse action in retaliation for making the protected report.

8 (b) Bonus. – If the public employee's protected report is substantiated and results in a
9 savings of public funds, the employee shall receive a compensation bonus based upon the
10 estimated or actual net savings resulting from the first year of implementation of the employee's
11 report, not to exceed one hundred thousand dollars (\$100,000), as determined by the State
12 Auditor.

13 (c) An employee is entitled to only one reward either under this Article or under a
14 public agency suggestion award program at the employee's option.

15 **"§ 143-752. Disciplinary action.**

16 (a) Discipline. – Any public employee who retaliates against another public employee
17 for making a protected report may be subject to disciplinary action including termination.

18 (b) Bad Faith. – If the appropriate authority determines that a public employee's report
19 is unfounded, or amounts to a mere technical violation, and is not made in good faith, the
20 public agency may take disciplinary action including termination.

21 **"§ 143-753. Civil actions; limitations period.**

22 (a) Civil Action. – If an employee is dismissed, suspended from employment, demoted,
23 or receives a decrease in compensation within one year after having timely reported an alleged
24 wrongdoing under this section, the employee may institute a civil action against the employing
25 public agency for one or more of the following remedies:

26 (1) Reinstatement to the employee's former position.

27 (2) Lost wages.

28 (3) Actual damages not to exceed fifty thousand dollars (\$50,000).

29 (4) Reasonable attorneys' fees as determined by the court, but this award of
30 attorneys' fees may not exceed ten thousand dollars (\$10,000) for any trial
31 and seven thousand five hundred dollars (\$7,500) for any appeal.

32 The action must be brought in the superior court of the county in which the employment action
33 occurred. No action may be brought under this section unless the employee has exhausted all
34 available grievance or other administrative remedies and any previous proceedings have
35 resulted in a finding that the employee would not have been disciplined but for the reporting of
36 alleged waste, mismanagement, or wrongdoing.

37 (b) Limitations Period. – An action under this section must be commenced within one
38 year after the accrual of the cause of action or exhaustion of all available grievance or other
39 administrative and judicial remedies."

40 **SECTION 2.** This act is effective when it becomes law.