

Senate Bill 254

By: Senators Kemp of the 3rd, Hamrick of the 30th, Meyer von Bremen of the 12th, Starr of the 44th and Brush of the 24th

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to enact the "Whistleblowers' Protection Act for
3 Public School Employees"; to provide a short title and definitions; to prohibit retaliatory
4 actions against any public school employee for disclosure, providing information to a public
5 body concerning, objection to or refusal to participate in any activity, policy, or practice that
6 the employee reasonably believes in violation of a law, rule, regulation, ordinance, or policy
7 or that the employee reasonably believes poses a risk to public health, safety, or the
8 environment; to provide for civil actions and remedies; to waive immunity of local units of
9 administration, local boards of education, and local school districts or systems; to provide
10 for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
14 secondary education, is amended by inserting a new article to be designated Article 32 to
15 read as follows:

16 "ARTICLE 32

17 20-2-2080.

18 This article may be cited as the 'Whistleblowers' Protection Act for Public School
19 Employees.'

20 20-2-2081.

21 As used in this Code section, the term:

1 (1) 'Employee' means any public school employee, full or part-time, performing a service
2 for wages or other compensation for a local unit of administration, board of education,
3 or school system, but does not include an independent contractor.

4 (2) 'Employer' means a local unit of administration, local board of education, or county,
5 city, or independent school district or school system.

6 (3) 'Public body' means:

7 (A) The United States Congress, the Georgia General Assembly or any committee
8 thereof, or any other state legislature;

9 (B) Any federal, state, or local judge, or any employee thereof, or any member of a
10 grand or petit grand jury;

11 (C) Any federal, state, or local regulatory, administrative, or public agency or
12 authority, or instrumentality thereof;

13 (D) Any federal, state, or local law enforcement agency, prosecutorial office, or police
14 or peace officer; or

15 (E) Any board, commission, bureau, division, office, committee, or commission of any
16 of the public bodies described in this subsection.

17 (4) 'Retaliatory action' means the discharge, nonrenewal, suspension, demotion, transfer,
18 reprimand, reduction in salary or benefits, or other adverse employment action, or any
19 oral or written threat of such action, against an employee in the terms and conditions of
20 employment.

21 (5) 'Supervisor' means any individual to whom an employer has given the authority to
22 direct and control the work performance of the affected employee and who has authority
23 to take corrective action regarding the violation of the law, rule, regulation, ordinance,
24 or policy of which the employee complains.

25 20-2-2082.

26 An employer or supervisor shall not take any retaliatory action against an employee
27 because the employee, or a person acting on behalf of the employee, does any of the
28 following:

29 (1) Discloses, or threatens to disclose, to a supervisor, employers, or a public body, any
30 activity, policy, or practice of the employer or supervisor that the employee in good faith
31 reasonably believes is in violation of a law, rule, regulation, ordinance, or policy
32 promulgated pursuant to law, or which the employee in good faith reasonably believes
33 poses a risk to public health, safety, or the environment;

34 (2) Provides information to, or testifies before, any public body with authority to conduct
35 an investigation, hearing, or inquiry into any violation of a law, rule, regulation,

1 ordinance, or policy promulgated pursuant to law, or into any activity, policy, or practice
 2 which the employee in good faith reasonably believes poses a risk to public health, safety,
 3 or the environment by a supervisor or the employer; or

4 (3) Objects to or refuses to participate in any activity, policy, or practice which the
 5 employee in good faith reasonably believes is in violation of a law, rule, regulation,
 6 ordinance, or policy promulgated pursuant to law, or any activity, policy, or practice
 7 which the employee in good faith reasonably believes poses a risk to public health, safety,
 8 or the environment by a supervisor or the employer.

9 20-2-2083.

10 Any employee or former employee aggrieved by a violation of this article may, within two
 11 years, institute a civil action in the superior court of the county in which the violation
 12 occurred. Any party to such action shall be entitled upon request to a jury trial. All
 13 remedies available in common law tort actions shall be available to prevailing plaintiffs.

14 Additionally, the court may:

15 (1) Issue temporary restraining orders or preliminary or permanent injunctions to restrain
 16 continued violations;

17 (2) Reinstate the employee to the same position held before the retaliatory action or to
 18 a substantially equivalent position and in either case at the same or greater salary and
 19 benefits as they existed before the retaliatory action;

20 (3) Compensate the employee for up to three times the lost wages, benefits, and other
 21 remuneration, and interest thereon; and

22 (4) Order payment by the employer of reasonable attorneys' fees and costs.

23 20-2-2084.

24 To the extent it might otherwise apply, any immunity of local units of administration, local
 25 boards of education, and local school districts or systems is waived and abolished to the
 26 extent of liability for the remedies and relief allowed under Code Section 20-2-2083 for
 27 violations of the article."

28 **SECTION 2.**

29 All laws and parts of laws in conflict with this Act are repealed.