

The Senate Judiciary Committee offers the following substitute to HB 708:

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 45-1-4 of the Official Code of Georgia Annotated, relating to complaints or information regarding fraud, waste, and abuse in state programs and operations, so as to change certain provisions regarding complaints or information regarding fraud, waste, or abuse in state programs and operations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 45-1-4 of the Official Code of Georgia Annotated, relating to complaints or information regarding fraud, waste, and abuse in state programs and operations, is amended by striking the Code section and inserting in lieu thereof the following:

"45-1-4.

(a) As used in this Code section, the term:

(1) 'Government agency' means any agency of federal, state, or local government charged with the enforcement of laws, rules, or regulations.

(2) 'Law, rule, or regulation' includes any federal, state, or local statute or ordinance or any rule or regulation adopted according to any federal, state, or local statute or ordinance.

~~(1)(3)~~ (3) 'Public employee' means any person who is employed by the office of the Governor, the executive, judicial, or legislative branch of the state, or by any other department, board, bureau, commission, authority, or other agency of the state except the office of the Governor, the judicial branch, or the legislative branch. This term also includes all public school employees as defined in paragraph (3) of Code Section 20-2-910, employees, officials, or administrators of any agency covered under the State Merit System of Personnel Administration, and employees of any local or regional

governmental entity that receives any funds from the State of Georgia or any state agency.

~~(2)~~(4) 'Public employer' means the office of the Governor, the executive, judicial, or legislative branch of the state and, or any other department, board, bureau, commission, authority, or other agency of the state which employs or appoints a public employee or public employees except the office of the Governor, the judicial branch, or the legislative branch, or any local or regional governmental entity that receives any funds from the State of Georgia or any state agency.

(5) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by a public employer of a public employee or any other adverse employment action taken by a public employer against a public employee in the terms or conditions of employment.

(6) 'Supervisor' means any individual:

(A) To whom a public employer has given authority to direct and control the work performance of the affected public employee;

(B) To whom a public employer has given authority to take corrective action regarding a violation of or noncompliance with a law, rule, or regulation of which the public employee complains; or

(C) Who has been designated by a public employer to receive complaints regarding a violation of or noncompliance with a law, rule, or regulation.

(b) A public employer may receive and investigate complaints or information from any public employee concerning the possible existence of any activity constituting fraud, waste, and abuse in or relating to any state programs and operations under the jurisdiction of such public employer.

(c) Notwithstanding any other law to the contrary, such public employer shall not after receipt of a complaint or information from a public employee disclose the identity of the public employee without the written consent of such public employee, unless the public employer determines such disclosure is necessary and unavoidable during the course of the investigation. In such event, the public employee shall be notified in writing at least seven days prior to such disclosure.

~~(d) No action against any public employee shall be taken or threatened by any public employer who has authority to take, direct others to take, recommend, or approve any personnel action as a reprisal for making a complaint or disclosing information to the public employer unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.~~

(d)(1) No public employer shall make, adopt, or enforce any policy or practice preventing a public employee from disclosing or threatening to disclose a violation of or

noncompliance with a law, rule, or regulation to either a supervisor or a government agency.

(2) No public employer shall retaliate against a public employee for disclosing or threatening to disclose a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a government agency, unless the disclosure or threatened disclosure was made with knowledge that the disclosure was false or with reckless disregard for its truth or falsity.

(3) No public employer shall retaliate against a public employee for objecting to, or refusing to participate in, any activity, policy, or practice of the public employer that the public employee has reasonable cause to believe is in violation of or noncompliance with a law, rule, or regulation.

(4) Paragraphs (1), (2), and (3) of this subsection shall not apply to policies or practices which implement, or to actions by public employers against public employees who violate, privilege or confidentiality obligations recognized by constitutional, statutory, or common law.

~~(e) Any action taken in violation of subsection (d) of this Code section shall give the public employee a right to have such action set aside in a proceeding instituted in the superior court.~~

(e)(1) A public employee who has been the object of retaliation in violation of this Code section may institute a civil action in superior court for relief as set forth in paragraph (2) of this subsection within one year after discovering the retaliation or within three years after the retaliation, whichever is earlier.

(2) In any action brought pursuant to this subsection, the court may order any or all of the following relief:

(A) An injunction restraining continued violation of this Code section;

(B) Reinstatement of the employee to the same position held before the retaliation or to an equivalent position;

(C) Reinstatement of full fringe benefits and seniority rights;

(D) Compensation for lost wages, benefits, and other remuneration; and

(E) Any other compensatory damages allowable at law.

(f) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing public employee.

(g) Nothing in this Code section shall apply to institutions or facilities permitted or licensed under Title 31."

## SECTION 2.

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