

The Senate Committee on Government Oversight offered the following substitute to SB 117:

MOOT

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 45 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding public officers and employees, so as to provide a misdemeanor
3 offense for violations regarding complaints by public employees; to require award of
4 attorney's fees, court costs, and expenses; to provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 45 of the Official Code of Georgia Annotated, relating to general
9 provisions regarding public officers and employees, is amended by revising Code
10 Section 45-1-4, relating to complaints or information from public employees as to fraud,
11 waste, and abuse in state programs and operations, as follows:

12 "45-1-4.

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

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

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

19 (3) 'Public employee' means any person who is employed by the executive, judicial, or
20 legislative branch of the state or by any other department, board, bureau, commission,
21 authority, or other agency of the state. Such This term also includes all employees,
22 officials, and administrators of any agency covered by the rules of the State Personnel
23 Board and any local or regional governmental entity that receives any funds from the
24 State of Georgia or any state agency.

25 (4) 'Public employer' means the executive, judicial, or legislative branch of the state; any
26 other department, board, bureau, commission, authority, or other agency of the state
27 which employs or appoints a public employee or public employees; or any local or
28 regional governmental entity that receives any funds from the State of Georgia or any
29 state agency.

30 (5) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by a public
31 employer of a public employee or any other adverse employment action taken by a public
32 employer against a public employee in the terms or conditions of employment for
33 disclosing a violation of or noncompliance with a law, rule, or regulation to either a
34 supervisor or government agency.

35 (6) 'Supervisor' means any individual:

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

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

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

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

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

53 (d)(1) No public employer shall make, adopt, or enforce any policy or practice
54 preventing a public employee from disclosing a violation of or noncompliance with a law,
55 rule, or regulation to either a supervisor or a government agency.

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

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

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

68 (e)(1) A public employee who has been the object of retaliation in violation of this Code
69 section may institute a civil action in superior court for relief as set forth in paragraph (2)

70 of this subsection within one year after discovering the retaliation or within three years
71 after the retaliation, whichever is earlier.

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

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

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

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

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

79 (E) Any other compensatory damages allowable at law.

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

82 (g) Any agent of a public employer who violates subsection (d) of this Code section shall
83 be guilty of a misdemeanor."

84 **SECTION 2.**

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