

As Reported by the House Civil Justice Committee

133rd General Assembly

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Sub. H. B. No. 238

Representatives Cera, Scherer

Cosponsors: Representatives Kelly, Rogers, Lipps, Galonski, Miller, A., Miranda, Boggs, Crossman, Green, Patterson, O'Brien, Howse, Clites, Smith, K., Sobecki, Kent, Hambley, Hillyer

A BILL

To amend section 124.341 of the Revised Code to
extend whistleblower protection to certain
reports made to the Inspector General under the
Public Employee Whistleblower Law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 124.341 of the Revised Code be
amended to read as follows:

Sec. 124.341. (A) (1) If an employee in the classified or
unclassified civil service becomes aware in the course of
employment of a violation of state or federal statutes, rules,
or regulations or the misuse of public resources, and the
employee's supervisor or appointing authority has authority to
correct the violation or misuse, the employee may file a written
report identifying the violation or misuse with the supervisor
or appointing authority. In addition to or instead of filing a
written report with the supervisor or appointing authority, the
employee may ~~file~~ do any of the following:

(a) File a written report with the office of internal 17
audit created under section 126.45 of the Revised Code ~~or file;~~ 18

(b) File a complaint with the auditor of state's fraud- 19
reporting system under section 117.103 of the Revised Code; 20

(c) File a complaint with the inspector general in 21
accordance with section 121.46 of the Revised Code. 22

(2) If the employee reasonably believes that a violation 23
or misuse of public resources is a criminal offense, the 24
employee, in addition to or instead of filing a written report 25
or complaint with the supervisor, appointing authority, the 26
office of internal audit, ~~or the auditor of state's fraud-~~ 27
reporting system, or the inspector general, may report it to a 28
prosecuting attorney, director of law, village solicitor, or 29
similar chief legal officer of a municipal corporation, or to a 30
peace officer, as defined in section 2935.01 of the Revised 31
Code, ~~or, if the violation or misuse of public resources is-~~ 32
~~within the jurisdiction of the inspector general, to the~~ 33
~~inspector general in accordance with section 121.46 of the~~ 34
~~Revised Code.~~ In addition to that report, if the employee 35
reasonably believes the violation or misuse is also a violation 36
of Chapter 102., section 2921.42, or section 2921.43 of the 37
Revised Code, the employee may report it to the appropriate 38
ethics commission. 39

(B) Except as otherwise provided in ~~division~~ divisions (C) 40
and (E) of this section, no officer or employee in the 41
classified or unclassified civil service shall take any 42
disciplinary action against an employee in the classified or 43
unclassified civil service for making any report or filing a 44
complaint as authorized by division (A) of this section, 45
including, without limitation, doing any of the following: 46

(1) Removing or suspending the employee from employment;	47
(2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;	48 49
(3) Transferring or reassigning the employee;	50
(4) Denying the employee promotion that otherwise would have been received;	51 52
(5) Reducing the employee in pay or position.	53
(C) An employee in the classified or unclassified civil service shall make a reasonable effort to determine the accuracy of any information reported under division (A) of this section. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under division (A) of this section.	54 55 56 57 58 59 60
(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report or complaint under division (A) of this section, the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the state personnel board of review within thirty days after receiving actual notice of the appointing authority's action. If the employee files such an appeal, the board shall immediately notify the employee's appointing authority and shall hear the appeal. The board may affirm or disaffirm the action of the appointing authority or may issue any other order as is appropriate. The order of the board is appealable in accordance with Chapter 119. of the Revised Code.	61 62 63 64 65 66 67 68 69 70 71 72 73 74
(E) <u>Divisions (B), (C), and (D) of this section apply to a</u>	75

complaint filed with the inspector general under division (A) of 76
this section only if the complaint is made regarding a state 77
officer or state employee, as those terms are defined in section 78
121.41 of the Revised Code, over whom the inspector general has 79
investigational authority under section 121.42 of the Revised 80
Code. 81

(F) As used in this section: 82

(1) "Purposely," "knowingly," and "recklessly" have the 83
same meanings as in section 2901.22 of the Revised Code. 84

(2) "Appropriate ethics commission" has the same meaning 85
as in section 102.01 of the Revised Code. 86

(3) "Inspector general" means the inspector general 87
appointed under section 121.48 of the Revised Code. 88

Section 2. That existing section 124.341 of the Revised 89
Code is hereby repealed. 90