

ACT No. 5

HOUSE BILL NO. 8

BY REPRESENTATIVES TUCKER, PETERSON, GALLOT, ABRAMSON, ANDERS, ARMES, ARNOLD, BALDONE, BARRAS, BILLIOT, BURFORD, HENRY BURNS, TIM BURNS, BURRELL, CHAMPAGNE, CHANDLER, CONNICK, CORTEZ, CROMER, DIXON, DOERGE, DOVE, DOWNS, FANNIN, FRANKLIN, GISCLAIR, GREENE, ELBERT GUILLORY, MICKEY GUILLORY, HARRISON, HAZEL, HENRY, HINES, HOFFMANN, HOWARD, HUTTER, JOHNSON, ROSALIND JONES, KATZ, LABRUZZO, LAMBERT, LEGER, LIGI, LOPINTO, LORUSSO, MCVEA, MILLS, MONICA, MORRELL, NOWLIN, PEARSON, PONTI, POPE, PUGH, RICHARD, RITCHIE, ROBIDEAUX, ROY, SCHRODER, SIMON, SMILEY, GARY SMITH, JANE SMITH, PATRICIA SMITH, ST. GERMAIN, TALBOT, TEMPLET, TRAHAN, WADDELL, WHITE, WILLIAMS, WILLMOTT, AND WOOTON AND SENATORS NEVERS, SCALISE, AND WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 42:1169, relative to public employees who report acts of
3 impropriety within governmental entities; to prohibit threats of reprisal against
4 employees for disclosing such information; to provide for penalties; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:1169 is hereby amended and reenacted to read as follows:

8 §1169. Freedom from reprisal for disclosure of improper acts

9 A. ~~Any public employee who reports to his agency head or the board~~
10 ~~information which he reasonably believes is a violation of any provision of law~~
11 ~~within the jurisdiction of the board or of any order, rule, or regulation issued~~
12 ~~thereunder or any other alleged acts of impropriety within any governmental entity~~
13 ~~shall be free from discipline or reprisal for reporting said acts of alleged impropriety.~~
14 ~~No employee with authority to hire and fire, supervisor, agency head, or other~~
15 ~~elected official shall subject to reprisal any public employee because of said~~
16 ~~employee's efforts to disclose such acts of alleged impropriety.~~

1 ~~B:~~ Any public employee who reports to a person or entity of competent
 2 authority or jurisdiction information which he reasonably believes is indicates a
 3 violation of any law or of any order, rule, or regulation issued in accordance with law
 4 or any other alleged acts of impropriety related to the scope or duties of public
 5 employment or public office within any branch of state government or any political
 6 subdivision shall be free from discipline, ~~or~~ reprisal, or threats of discipline or
 7 reprisal by the public employer for reporting ~~said~~ such acts of alleged impropriety.
 8 No employee with authority to hire, ~~and~~ fire, or discipline employees, supervisor,
 9 agency head, ~~or other~~ nor any elected official shall subject to reprisal or threaten to
 10 subject to reprisal any such public employee because of ~~said~~ the employee's efforts
 11 to disclose such acts of alleged impropriety.

12 ~~C.(1) B.(1) In the event that~~ If any public employee is suspended, demoted,
 13 ~~or dismissed, or threatened with such suspension, demotion, or dismissal in violation~~
 14 ~~of this Section~~ as an act of reprisal for reporting an alleged act of impropriety in
 15 violation of this Section, such employee shall report such action to the board.

16 (2) An employee who is wrongfully suspended, demoted, or dismissed shall
 17 be entitled to reinstatement of his employment and entitled to receive any lost
 18 income and benefits for the period of any suspension, demotion, or dismissal.

19 ~~D: C.~~ The board shall provide written notice of the commencement of an
 20 investigation of a report of a violation of this Section to the agency head of the
 21 employee, or if the agency head is the defendant, then to an agency head of the
 22 governmental entity that supervises the agency, or if none, then to the governing
 23 authority of the governmental entity not less than ten days prior to the date set for the
 24 investigation. If the board determines, following an investigation, that it shall offer
 25 a consent opinion or conduct a public or private hearing to receive evidence and
 26 determine whether any violation of this Section has occurred, the board shall provide
 27 written notice of the hearing or consent opinion to the agency head of the employee,
 28 or if the agency head is the defendant, then to an agency head of the governmental
 29 entity that supervises the agency, or if none, then to the governing authority of the
 30 governmental entity not less than sixty days prior to the date set for the action by the

1 board. The employee's agency shall cooperate in every possible manner in
2 connection with any investigation conducted by the board. The agency shall be
3 considered to be an indispensable party to any investigation, hearing, or consent
4 opinion and may have legal counsel, ~~cross-examine~~ cross-examine witnesses, call
5 witnesses, and present evidence on its behalf.

6 E. D. Any ~~person~~ employee with the authority to hire, fire, or discipline
7 employees, supervisor, agency head, or elected official who violates this Section
8 shall be subject to the same fines and penalties provided for other violations of this
9 Chapter. In addition, if the board, following a public hearing, finds there is probable
10 cause to believe that a person has violated a criminal law of this state, pursuant to
11 R.S. 42:1156, the board shall forward a copy of its findings to the district attorney
12 of the parish in which the violation occurred for appropriate action. Thereafter,
13 notwithstanding any other provision of this Chapter, such district attorney shall have
14 access to all records of the board relative to such findings.

15 F. E. Upon notification by the employee, the employee's agency, the
16 defendant, or the defendant's agency that the employee has commenced a civil action
17 in a district or federal court or with a federal agency with adjudicatory authority over
18 employment complaints against his agency pursuant to R.S. 23:967(B) or other
19 relevant state or federal statutes at any time prior to the board's final determination
20 as to whether a violation of this Section has occurred, the board shall stay any action
21 pending before the board until a final order in the civil or adjudicatory action is
22 issued, and the prescriptive period provided for in R.S. 42:1163 for action shall be
23 suspended while such civil or adjudicatory action is pending and shall resume when
24 such final order is issued. The final order of the court in the civil action or agency
25 in an adjudicatory action, except if the action is dismissed by the plaintiff, shall
26 resolve all matters the employee has pending before the board regarding this Section.

27 G. F. Each agency head shall ensure that a notice containing an explanation
28 in plain language of the rights of employees under this Section is posted and
29 maintained at some convenient and conspicuous point in each building where more

1 than ten public employees are employed. The specific content of this notice shall be
2 determined by the board.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____