

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 966, Page 5, Section 84.510, Line 61, by inserting immediately after said section
3 and line the following:
4

5 "105.055. 1. As used in this section, the following terms mean:

6 (1) "Disciplinary action", any dismissal, demotion, transfer, reassignment, suspension,
7 reprimand, warning of possible dismissal or withholding of work, regardless of whether the
8 withholding of work has affected or will affect the employee's compensation;

9 (2) "Public employee", any employee, volunteer, intern, or other individual performing
10 work or services for a public employer;

11 (3) "Public employer", any state agency or office, the general assembly, any legislative or
12 governing body of the state, any unit or political subdivision of the state, or any other
13 instrumentality of the state.

14 2. No supervisor or appointing authority of any [state-agency] public employer shall
15 prohibit any employee of the [agency] public employer from discussing the operations of the
16 [agency] public employer, either specifically or generally, with any member of the legislature, state
17 auditor, attorney general, a prosecuting or circuit attorney, a law enforcement agency, news media,
18 the public, or any state official or body charged with investigating [such] any alleged misconduct
19 described in this section.

20 [2-] 3. No supervisor or appointing authority of any [state-agency] public employer shall:

21 (1) Prohibit a [state] public employee from or take any disciplinary action whatsoever
22 against a [state] public employee for the disclosure of any alleged prohibited activity under
23 investigation or any related activity, or for the disclosure of information which the employee
24 reasonably believes evidences:

25 (a) A violation of any law, rule or regulation; or

26 (b) Mismanagement, a gross waste of funds or abuse of authority, violation of policy, waste
27 of public resources, alteration of technical findings or communication of scientific opinion, breaches
28 of professional ethical canons, or a substantial and specific danger to public health or safety, if the
29 disclosure is not specifically prohibited by law; [or]

30 (2) Require [any-such] a public employee to give notice to the supervisor or appointing
31 authority prior to [making any such report] disclosing any activity described in subdivision (1) of
32 this subsection; or

33 (3) Prevent a public employee from testifying before a court, administrative body, or
34 legislative body regarding the alleged prohibited activity or disclosure of information.

35 [3-] 4. This section shall not be construed as:

36 (1) Prohibiting a supervisor or appointing authority from requiring that [an] a public

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1 employee inform the supervisor or appointing authority as to legislative requests for information to
 2 the [agency] public employer or the substance of testimony made, or to be made, by the public
 3 employee to legislators on behalf of the ~~[employee-to-legislators-on-behalf-of-the-agency]~~ public
 4 employer;

5 (2) Permitting ~~[an]~~ a public employee to leave the employee's assigned work areas during
 6 normal work hours without following applicable rules and regulations and policies pertaining to
 7 leaves, unless the public employee is requested by a legislator or legislative committee to appear
 8 before a legislative committee;

9 (3) Authorizing ~~[an]~~ a public employee to represent ~~[the employee's]~~ his or her personal
 10 opinions as the opinions of a ~~[state-agency]~~ public employer; or

11 (4) Restricting or precluding disciplinary action taken against a ~~[state]~~ public employee if:
 12 the employee knew that the information was false; the information is closed or is confidential under
 13 the provisions of the open meetings law or any other law; or the disclosure relates to the employee's
 14 own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the
 15 public health or safety.

16 ~~[4. As used in this section, "disciplinary action" means any dismissal, demotion, transfer,~~
 17 ~~reassignment, suspension, reprimand, warning of possible dismissal or withholding of work,~~
 18 ~~whether or not the withholding of work has affected or will affect the employee's compensation.]~~

19 5. In addition to any other remedies provided by law, any state employee may file an
 20 administrative appeal whenever the employee alleges that disciplinary action was taken against the
 21 employee in violation of this section. The appeal shall be filed with the administrative hearing
 22 commission; provided that the appeal shall be filed with the appropriate agency review board or
 23 body of nonmerit agency employers which have established appeal procedures substantially similar
 24 to those provided for merit employees in subsection 5 of section 36.390. The appeal shall be filed
 25 within ~~[thirty days]~~ one year of the alleged disciplinary action. Procedures governing the appeal
 26 shall be in accordance with chapter 536. If the commission or appropriate review body finds that
 27 disciplinary action taken was unreasonable, the commission or appropriate review body shall
 28 modify or reverse the agency's action and order such relief for the employee as the commission
 29 considers appropriate. If the commission finds a violation of this section, it may review and
 30 recommend to the appointing authority that the violator be suspended on leave without pay for not
 31 more than thirty days or, in cases of willful or repeated violations, may review and recommend to
 32 the appointing authority that the violator forfeit the violator's position as a state officer or employee
 33 and disqualify the violator for appointment to or employment as a state officer or employee for a
 34 period of not more than two years. The decision of the commission or appropriate review body in
 35 such cases may be appealed by any party pursuant to law.

36 6. Each ~~[state-agency]~~ public employer shall prominently post a copy of this section in
 37 locations where it can reasonably be expected to come to the attention of all employees of the
 38 [agency] public employer.

39 7. (1) In addition to the remedies in subsection [6] 5 of this section or any other remedies
 40 provided by law, a person who alleges a violation of this section may bring a civil action against the
 41 public employer for damages within ~~[ninety days]~~ one year after the occurrence of the alleged
 42 violation.

43 (2) A civil action commenced pursuant to this subsection may be brought in the circuit court
 44 for the county where the alleged violation occurred, the county where the complainant resides, or
 45 the county where the person against whom the civil complaint is filed resides. A person
 46 commencing such action may request a trial by jury.

47 (3) ~~[An]~~ A public employee ~~[must]~~ shall show by clear and convincing evidence that he or
 48 she or a person acting on his or her behalf has reported or was about to report, verbally or in

1 writing, a prohibited activity or a suspected prohibited activity. Upon such a showing, the burden
2 shall be on the public employer to demonstrate that the disciplinary action was not the result of such
3 a report.

4 (4) A court, in rendering a judgment in an action brought pursuant to this section, shall
5 order, as the court considers appropriate, actual damages, and may also award the complainant all or
6 a portion of the costs of litigation, including reasonable attorney fees.

7 8. If the alleged misconduct is related to the receipt and expenditures of public funds, a
8 public employee alleging that disciplinary action was taken against the employee in violation of this
9 section may request the state auditor to investigate the alleged misconduct and whether the
10 disciplinary action was taken in violation of this section. If the state auditor uses his or her
11 discretion to make such an investigation, the time to appeal such disciplinary action under
12 subsections 5 and 7 of this section shall be the later of one year from the date of the alleged
13 disciplinary action or ninety days following the release of the state auditor's report.

14 9. The provisions of this section shall apply to public employees, notwithstanding any
15 provisions of section 213.070 and section 285.575 to the contrary.

16 105.725. Any person who obtains a claim or final judgment for a payment to be made out of
17 the state legal expense fund shall not be offered or required to sign any confidentiality agreement
18 stating that he or she will not discuss his or her claim or final judgment or stating that if he or she
19 does discuss such claim or final judgment, he or she will waive any right to moneys from the state
20 legal expense fund. If a confidentiality agreement is offered to a person in violation of this section
21 and such agreement is signed, such signed agreement shall be unenforceable."; and

22
23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.