

SB 786 -- WHISTLEBLOWER PROTECTION

SPONSOR: Schupp (McCann Beatty)

COMMITTEE action: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 9 to 0. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 11 to 0.

Currently, state employees are permitted to disclose information that relates to the violation of law, mismanagement, or waste of funds within a state agency without fear of disciplinary action being taken for such disclosure. This bill modifies that provision to apply to all public employees and broadens the scope of entities to whom a public employee may discuss information; to include prosecuting and circuit attorneys, law enforcement agencies, news media, and the public.

The bill further expands the scope of information that may be disclosed by employees to include; any violation of policy, waste of public resources, alteration of technical findings or communication of scientific opinion, and breaches of professional ethical canons. Furthermore, no public employee may be prevented from testifying before a court, administrative body, or legislative body regarding any such disclosure.

Currently, the law provides that any administrative appeal filed by a state employee alleging that disciplinary action was taken against them in violation of this bill must be filed within 30 days of the disciplinary action. Furthermore, such employees may currently bring a civil action in court within 90 days of the alleged violation. This bill extends both of those time limits to one year and further allows any person commencing such an action to demand a jury trial.

In a civil action brought under this bill, the public employer shall bear the burden of demonstrating that the disciplinary action taken against the employee was not the result of the employee reporting alleged misconduct.

If the misconduct alleged by a public employee involves the receipt and expenditure of public funds, the employee may request an investigation by the State Auditor.

Any person who obtains a claim or final judgment for a payment to be made out of the state legal expense fund shall not be offered or required to sign any confidentiality agreement stating that he or she will not discuss his or her claim or final judgment or stating that if he or she does discuss such claim or final judgment, he or she will waive any right to moneys from the state legal expense

fund.

PROPONENTS: Supporters say that there were some protections eliminated last year, and this seeks to reinstate them, though the protections go a little farther in this legislation. We should want individuals to expose waste, fraud, and corruption in government. This does not allow for confidentiality agreements.

Testifying for the bill were Senator Schupp and the State Auditor's Office.

OPPONENTS: There was no opposition voiced to the committee.