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CHAPTER 27.

EMPLOYMENT PROTECTION FOR REPORTS OF VIOLATIONS OF STATE OR FEDERAL LAW OR REGULATION

SECTION 8-27-10. Definitions.

For purposes of this chapter:

(1) "Public body" means a department of the State; a state board, commission, committee, agency, or authority; a public or governmental body or political subdivision of the State, including counties, municipalities, school districts, or special purpose or public service districts; an organization, corporation, or agency supported in whole or in part by public funds or expending public funds; or a quasi-governmental body of the State and its political subdivisions.

(2) "Employee" means an employee of a department of the State; a state board, commission, committee, agency, or authority; a public or governmental body or political subdivision of the State, including counties, municipalities, school districts, or special purpose or public service districts; an organization, corporation, or agency supported in whole or in part by public funds or expending public funds; or a quasi-governmental body of the State and its political subdivisions. "Employee" does not include those persons enumerated within the provisions of Section 8-17-370.

(3) "Appropriate authority" means, respectively, the public body that employs the person making the report; or a federal, state, or local governmental body, agency, or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or wrongdoing. If a report is made to an entity other than the public body employing the person making the report, the employing public body must be notified as soon as practicable by the entity that received the report. The term includes, but it is not limited to, the South Carolina Law Enforcement Division, the Solicitor's Office, the State Ethics Commission, the State Auditor, the Legislative Audit Council, and the Office of Attorney General.

(4) "Report" means a written document alleging waste or wrongdoing that contains the following information:

(a) the date of disclosure;

(b) the name of the employee making the report; and

(c) the nature of the wrongdoing and the date or range of dates on which the wrongdoing allegedly occurred. A report must be made within sixty days of the date the reporting employee first learns of the alleged wrongdoing.

(5) "Wrongdoing" means action by a public body which results in substantial abuse, misuse, destruction, or loss of substantial public funds or public resources. "Wrongdoing" also includes an allegation that a public employee has intentionally violated federal or state statutory law or regulations or other political subdivision ordinances or regulations or a code of ethics, which violation is not merely technical or of a minimum nature.

HISTORY: 1988 Act No. 354, eff March 14, 1988; 1993 Act No. 164, Part II, Section 37A, eff June 21, 1993, and applies with respect to any personnel actions taken after that date.

SECTION 8-27-20. No retaliation for filing report of wrongdoing; disciplinary action for unfounded or bad faith report or mere technical violation; reward for report resulting in savings; State Employee Suggestion Program not superseded.

(A) No public body may dismiss, suspend from employment, demote, or decrease the compensation of an employee of a public body because the employee files a report with an appropriate authority of wrongdoing. If the appropriate authority determines the employee's report is unfounded, or amounts to a mere technical violation, and is not made in good faith, the public body may take disciplinary action including termination. Any public body covered by this chapter may impose disciplinary sanctions, in accordance with its internal disciplinary procedures, against any of its direct line supervisory employees who retaliate against another employee for having filed a good faith report under this chapter.

(B) If the employee's report results in a saving of any public money from the abuses described in this chapter, twenty-five percent of the estimated net savings resulting from the first year of implementation of the employee's report, but not more than two thousand dollars, must be rewarded to the employee by the public body as determined by the State Budget and Control Board. This chapter does not supersede

the State Employee Suggestion Program. For employees of state agencies participating in the program, items that they identify involving wrongdoing must be referred as a suggestion to the program by the employee. An employee is entitled to only one reward either under this section or under the program, at the employee's option.

HISTORY: 1988 Act No. 354, eff March 14, 1988; 1993 Act No. 164, Part II, Section 37B, eff June 21, 1993, and applies with respect to any personnel actions taken after that date.

SECTION 8-27-30. Civil action against employing public body for retaliation; remedies; exhaustion of remedies and other prerequisites; time in which to bring action.

(A) If an employee is dismissed, suspended from employment, demoted, or receives a decrease in compensation, within one year after having timely reported an alleged wrongdoing under this chapter, the employee may institute a nonjury civil action against the employing public body for (1) reinstatement to his former position; (2) lost wages; (3) actual damages not to exceed fifteen thousand dollars; and (4) reasonable attorney fees as determined by the court, but this award of attorney fees may not exceed ten thousand dollars for any trial and five thousand dollars for any appeal. The action must be brought in the court of common pleas of the county in which the employment action occurred. No action may be brought under this chapter unless (1) the employee has exhausted all available grievance or other administrative remedies; and (2) any previous proceedings have resulted in a finding that the employee would not have been disciplined but for the reporting of alleged wrongdoing.

(B) An action under this chapter must be commenced within one year after the accrual of the cause of action or exhaustion of all available grievance or other administrative and judicial remedies or is forever barred.

HISTORY: 1988 Act No. 354, eff March 14, 1988; 1993 Act No. 164, Part II, Section 37C, eff June 21, 1993, and applies with respect to any personnel actions taken after that date.

SECTION 8-27-40. Dismissal, suspension, demotion or decrease in compensation for independent cause permitted.

Notwithstanding the filing of a report pursuant to this chapter, a public body may dismiss, suspend, demote, or decrease the compensation of an employee for causes independent of the filing of a protected report as described in Section 8-27-20.

HISTORY: 1988 Act No. 354, eff March 14, 1988; 1993 Act No. 164, Part II, Section 37D, eff June 21, 1993, and applies with respect to any personnel actions taken after that date.

SECTION 8-27-50. Application of Chapter 27.

The provisions of this chapter do not apply to nonpublic, private corporations.

HISTORY: 1988 Act No. 354, eff March 14, 1988.