

HOUSE BILL No. 5045

June 4, 2009, Introduced by Reps. Horn, Moore, Stamas, Crawford, Sheltroun, Mayes, Hildenbrand, Elsenheimer, Rick Jones, Walsh, Knollenberg, Kowall, Moss, Denby, Pearce, Tyler, Lund, Green, Wayne Schmidt, Hansen, Haveman, Pavlov, Lori, Calley, Kurtz, DeShazor, Bennett, Lindberg, Haines, Meltzer, McMillin, Bolger, Terry Brown, Daley, Rocca, Caul, Ball, Rogers, Booher, Agema, Meekhof, Genetski, Proos, Paul Scott, Schuitmaker, Dean, Lahti, LeBlanc, Byrum, Clemente, Griffin, Segal, Neumann, Polidori, Opsommer, Hammel and Leland and referred to the Committee on Great Lakes and Environment.

A bill to protect a person's right to communicate regarding state government functioning; to prohibit retaliation for certain communications; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "citizen whistleblower act".

3 Sec. 2. As used in this act:

4 (a) "Communicated" means conveyed information directly or
5 indirectly through any medium, including testimony offered at a
6 public hearing or task force hearing or speaking in a legislative
7 work group.

8 (b) "Retaliate" means to apply or threaten to apply unusual or
9 more strict requirements, restrictions, monitoring, or standards or
10 to otherwise subject the person to differential or harassing

1 treatment. Harassing treatment includes, but is not limited to, the
2 following:

3 (i) Excessive visits to a private property.

4 (ii) Changing standards or requirements during the course of an
5 investigation.

6 (iii) Delays in issuing a permit or changes in communication
7 deadlines.

8 Sec. 3. A state department or agency shall not retaliate
9 against a person because the person communicated with a legislator
10 concerning the department's or agency's performance of its duties.

11 Sec. 4. (1) A person who alleges a violation of section 3 may
12 bring a civil action for appropriate injunctive relief, damages, or
13 both within 180 days after the occurrence of the alleged violation
14 or within 180 days of an occurrence that is part of a pattern of
15 activity that constitutes a violation of this act. If the
16 retaliation caused a business unwarranted delay in opening or
17 unwarranted suspension of operations, damages may include expenses
18 or losses that would not have occurred but for the retaliation.

19 (2) If a claimant provides clear and convincing evidence that
20 he or she communicated with a legislator and was subsequently
21 subjected to unusual or differential treatment by the department or
22 agency that was the subject of the communication, the department or
23 agency bears the burden of proof that the treatment was not taken
24 in retaliation for the communication.

25 (3) The court shall award costs and attorney fees to a
26 claimant who prevails in an action under this act.