

SENATE BILL No. 789

January 30, 2018, Introduced by Senators HUNE, ANANICH, STAMAS, BIEDA, HOPGOOD, JONES, HORN, HOOD, COLBECK and GREGORY and referred to the Committee on Government Operations.

A bill to amend 1980 PA 469, entitled "The whistleblowers' protection act," by amending sections 1, 2, and 3 (MCL 15.361, 15.362, and 15.363), section 3 as amended by 1982 PA 146.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Employee" means a person who performs a service for wages
3 or other remuneration under a contract of hire, written or oral,
4 express or implied. Employee includes a person employed by ~~the~~**THIS**
5 state or a political subdivision of ~~the~~**THIS** state except state
6 classified civil service.

7 (b) "Employer" means a person who has 1 or more employees.
8 Employer includes an agent of an employer and ~~the~~**THIS** state or a
9 political subdivision of ~~the~~**THIS** state.

10 (c) "Person" means an individual, sole proprietorship,

1 partnership, corporation, association, or any other legal entity.

2 (d) "Public body" means all of the following:

3 (i) A state officer, employee, agency, department, division,
4 bureau, board, commission, council, authority, or other body in the
5 executive branch of state government.

6 (ii) An agency, board, commission, council, member, or
7 employee of the legislative branch of state government.

8 (iii) A county, city, township, village, intercounty,
9 intercity, or regional governing body, a council, school district,
10 special district, or municipal corporation, or a board, department,
11 commission, council, agency, or any member or employee thereof.

12 (iv) Any other body which is created by state or local
13 authority or which is primarily funded by or through state or local
14 authority, or any member or employee of that body.

15 (v) A law enforcement agency or any member or employee of a
16 law enforcement agency.

17 (vi) The judiciary and any member or employee of the
18 judiciary. **JUDICIAL BRANCH OF STATE GOVERNMENT.**

19 **(E) "STATE EMPLOYEE OMBUDSMAN" MEANS THE STATE EMPLOYEE**
20 **OMBUDSMAN APPOINTED IN THE STATE EMPLOYEE OMBUDSMAN ACT.**

21 Sec. 2. ~~An~~ **UNLESS THE EMPLOYEE KNOWS THE REPORT IS FALSE, AN**
22 employer shall not discharge, threaten, or otherwise discriminate
23 against an employee regarding the employee's compensation, terms,
24 conditions, location, or privileges of employment because the
25 employee, or a person acting on behalf of the employee, reports or
26 is about to report, verbally or in writing, a violation or a
27 suspected violation of a law or regulation or rule promulgated

1 pursuant to law of this state, a political subdivision of this
2 state, or the United States to a public body, ~~unless the employee~~
3 ~~knows that the report is false,~~ **THE PRESS, OR THE STATE EMPLOYEE**
4 **OMBUDSMAN**, or because an employee is requested by a public body **OR**
5 **THE STATE EMPLOYEE OMBUDSMAN** to participate in an investigation,
6 hearing, or inquiry held by that public body ~~,~~ **OR THE STATE**
7 **EMPLOYEE OMBUDSMAN** or **IN** a court action.

8 Sec. 3. (1) A person who alleges a violation of this act may
9 bring a civil action for appropriate injunctive relief, or actual
10 damages, or both within 90 days after the occurrence of the alleged
11 violation of this act.

12 (2) An action commenced ~~pursuant to~~ **UNDER** subsection (1) may
13 be brought in the circuit court for the county where the alleged
14 violation occurred, the county where the complainant resides, or
15 the county where the person against whom the civil complaint is
16 filed resides or has his or her principal place of business.

17 (3) As used in subsection (1), "damages" means damages for
18 injury or loss caused by each violation of this act, including
19 reasonable attorney fees.

20 (4) ~~An~~ **IN AN ACTION UNDER SUBSECTION (1), AN** employee shall
21 show by clear and convincing evidence that he or she or a person
22 acting on his or her behalf was about to report, verbally or in
23 writing, a violation or a suspected violation of a law of this
24 state, a political subdivision of this state, or the United States
25 to a public body, **THE PRESS, OR THE STATE EMPLOYEE OMBUDSMAN**.

26 Enacting section 1. This amendatory act takes effect 90 days
27 after the date it is enacted into law.

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No. 788
3 of the 99th Legislature is enacted into law.