

1 State of Arkansas
2 91st General Assembly
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4

A Bill

HOUSE BILL 2055

5 By: Representative Hammer
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For An Act To Be Entitled

8 AN ACT CONCERNING REMEDIES AVAILABLE TO PERSONS
9 TERMINATED IN VIOLATION OF THE ARKANSAS WHISTLE-
10 BLOWER ACT; AND FOR OTHER PURPOSES.
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Subtitle

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13 CONCERNING REMEDIES AVAILABLE TO PERSONS
14 TERMINATED IN VIOLATION OF THE ARKANSAS
15 WHISTLE-BLOWER ACT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 21-1-605 is amended to read as follows:
22 21-1-605. Remedies.

23 (a) A court in rendering judgment under this subchapter may order any
24 or all of the following remedies:

25 (1) An injunction to restrain continued violation of the
26 provisions of this subchapter;

27 (2) The reinstatement of the public employee to the same
28 position held before the adverse action or to an equivalent position;

29 (3) The reinstatement of full fringe benefits and retirement
30 service credit;

31 (4) The compensation for lost wages, benefits, and any other
32 remuneration; or

33 (5) The payment by the public employer of reasonable court costs
34 and attorney's fees.

35 (b)(1)(A) A public employee alleging in a civil action that he or she
36 was terminated from his or her position as the result of adverse action



1 prohibited under § 21-1-603 may request an expedited hearing on the issue of
 2 the public employee being reinstated to the public employee's position until
 3 the resolution of the civil action brought under this subchapter.

4 (2) If at an expedited hearing the public employee demonstrates
 5 that a reasonable person would conclude that his or her termination was a
 6 result of adverse action prohibited under § 21-1-603, the court shall order
 7 that the public employee be:

8 (A) Reinstated to his or her position until the conclusion
 9 of the civil action brought under this subchapter; or

10 (B) Reinstated to his or her positions and placed on paid
 11 administrative leave until the conclusion of the civil action brought under
 12 this subchapter.

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 14 SECTION 2. Arkansas Code § 21-1-703 is amended to read as follows:
 15 21-1-703. Appeals.

16 (a) The Office of Personnel Management of the Division of Management
 17 Services of the Department of Finance and Administration shall promulgate
 18 rules that:

19 (1) Provide a process for appeals of the grievance decisions of
 20 state agencies; and

21 (2) Provide a procedure for the nonbinding mediation consistent
 22 with this subchapter, including without limitation:

23 (A) The filing and form of a request for nonbinding
 24 mediation;

25 (B) The method of notice of and the scheduling of the
 26 nonbinding mediation to be provided to a party;

27 (C) Rules for conduct of the nonbinding mediation;

28 (D) Appropriate evidence to be considered at the
 29 nonbinding mediation; and

30 (E) Considerations to be made in resolving the nonbinding
 31 mediation.

32 (b)(1)(A) The rules promulgated under subdivision (a)(1) of this
 33 section shall provide without limitation that an employee be afforded a
 34 hearing within fifteen (15) business days of the filing of his or her appeal
 35 if the employee alleges that he or she was terminated by a state agency for
 36 the following actions under § 21-1-603:

1 (i) Communicating in good faith to an appropriate
2 authority:

3 (a) The existence of waste of public funds,
4 property, or manpower, including federal funds, property, or manpower
5 administered or controlled by a public employer; or

6 (b) A violation or suspected violation of a
7 law, rule, or regulation adopted under the law of this state or a political
8 subdivision of the state;

9 (ii) Participating or giving information in an
10 investigation, hearing, court proceeding, legislative or other inquiry, or in
11 any form of administrative review;

12 (iii) Objecting or refusing to carry out a directive
13 that the employee reasonably believes violates a law, rule, or regulation
14 adopted under the authority of the laws of the state or a political
15 subdivision of the state; or

16 (iv) A report of loss of public funds under § 25-1-
17 124.

18 (B) A hearing under subdivision (b)(1)(A) of this section
19 shall take place before the occurrence of a state agency hearing pursuant to
20 the grievance filed by the person.

21 (C)(i) An employee requesting a hearing under subdivision
22 (b)(1)(A) of this section shall submit with his or her request for a hearing
23 evidence that he or she committed one of the actions under subdivision
24 (b)(1)(A)(i)-(iv) of this section. Evidence under this subdivision
25 (b)(1)(C)(i) that is confidential under § 21-1-607 or other provisions of law
26 shall remain confidential when submitted in support of a request for a
27 hearing or otherwise utilized in the appeal of the grievance decision.

28 (ii) If the person fails to demonstrate that he or
29 she committed one of the actions under subdivision (b)(1)(A)(i)-(iv) of this
30 section, the office shall not schedule a hearing under subdivision (b)(1)(A)
31 of this section.

32 (2) If the employee demonstrates at the hearing that a
33 reasonable person would conclude that the state agency terminated the
34 employee as a result of the employee's activities under subdivision
35 (b)(1)(A)-(D) of this section, the employee shall be:

36 (A) Reinstated to his or her position until the conclusion

1 of the grievance; or

2 (B) Reinstated to his or her position and placed on
3 administrative leave until the conclusion of the grievance

4 (3) An employee filing an appeal of a grievance decision under
5 this section does not waive his or her right to file a claim under the
6 Arkansas Whistle-Blower Act, § 21-1-601 et seq.

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8 SECTION 3. Arkansas Code § 21-1-704(a)(1)(D)(i), concerning nonbinding
9 mediation, is amended to add an additional subdivision to read as follows:

10 (d) Reporting a loss of public funds under §
11 25-1-124.