

1 State of Arkansas *As Engrossed: H3/17/15 S3/24/15 S3/27/15*

2 90th General Assembly

# A Bill

3 Regular Session, 2015

HOUSE BILL 1945

4

5 By: Representative Hammer

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## For An Act To Be Entitled

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AN ACT TO AMEND ARKANSAS LAW CONCERNING THE

9

PREVENTION AND DETECTION OF FRAUD AND OTHER IMPROPER

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ACTIVITIES WITHIN STATE GOVERNMENT; AND FOR OTHER

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PURPOSES.

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## Subtitle

15

TO AMEND ARKANSAS LAW CONCERNING THE

16

PREVENTION AND DETECTION OF FRAUD AND

17

OTHER IMPROPER ACTIVITIES WITHIN STATE

18

GOVERNMENT.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 *SECTION 1. Arkansas Code § 21-1-603, concerning certain prohibited*  
24 *public employer conduct, is amended to add an additional subsection to read*  
25 *as follows:*

26 *(e) A public employer shall not take an adverse action against a*  
27 *public employee because of a report of a loss of public funds under § 25-1-*  
28 *124.*

29

30 *SECTION 2. Arkansas Code § 21-1-607 is amended to read as follows:*  
31 *21-1-607. Protection of confidentiality.*

32 *(a) This subchapter shall not be construed to permit a disclosure*  
33 *which would diminish or impair the rights of any person or any public*  
34 *official to the continued protection of confidentiality of records or working*  
35 *papers where a statute or the common law provides for protection.*

36 *(b)(1) All materials and documentation, including without limitation*



1 notes, memoranda, recordings, preliminary drafts of investigation reports,  
2 and other data gathered in connection with a communication regarding the  
3 existence of waste or of a violation are privileged and confidential and are  
4 exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.,  
5 except as provided in subdivisions (b)(2) and (b)(3) of this section.

6 (2) Final reports issued by a public employer or an appropriate  
7 authority concerning a communication regarding the existence of waste or of a  
8 violation and any supporting documentation shall be open to public inspection  
9 and copying, except for documents that are exempt from disclosure under other  
10 law.

11 (3) This section does not apply to the name and identifying  
12 information of a state employee eligible to receive a reward under § 21-1-610  
13 who does not request confidentiality under § 21-1-610(g).

14 (c) This section applies without limitation to communications  
15 regarding the existence of waste or of a violation received by a telephone  
16 hotline allowing for the reporting of fraud, waste, or abuse in government.  
17

18 SECTION 3. Arkansas Code § 21-1-608 is amended to read as follows:  
19 21-1-608. Notification of rights.

20 (a) A public employer shall use appropriate means to notify its public  
21 employees of their protection and obligations under this subchapter.

22 (b)(1) A public employer shall post in a conspicuous place a printed  
23 sign at least eight and one-half inches by eleven inches (8 1/2" x 11") in  
24 size that:

25 (A) Informs a public employee of the provisions of this  
26 subchapter;

27 (B) Describes an appropriate authority to whom the public  
28 employee may communicate in good faith regarding the existence of waste or of  
29 a violation; and

30 (C) If a telephone hotline exists for the reporting of  
31 fraud, waste, or abuse in government, contains the number of the telephone  
32 hotline.

33 (2) Arkansas Legislative Audit shall:

34 (A) Prepare the printed sign under subdivision (b)(1) of  
35 this section; and

36 (B) Make the sign available electronically on its Internet

1 website in a format that allows it to be printed by a public employer for  
2 posting in compliance with subdivision (b)(1) of this section.

3  
4 SECTION 4. Arkansas Code § 21-1-610(h), concerning rewards to state  
5 employees when communications of waste or a violation result in a savings of  
6 state funds, is amended to read as follows:

7 (h)(1) Except as provided in ~~subdivision~~ subdivisions (h)(2) and  
8 (h)(3) of this section, a reward under this section shall not be payable for  
9 a communication made by a state employee in the normal course of the state  
10 employee's job duties.

11 (2) If a communication in the normal course of a state  
12 employee's job duties detailing waste or a violation is not acted upon by the  
13 state employer within ninety (90) days, the state employee may make a  
14 communication under § 21-1-603 to an appropriate authority and be eligible  
15 for a reward under this section.

16 (3) A report by a state employee of a loss of public funds under  
17 § 25-1-124 shall be considered a communication in the normal course of the  
18 state employee's job duties if the state employee:

19 (A) Handles or exerts control over the funds of the state  
20 employer;

21 (B) Participates in making decisions or recommendations  
22 concerning the deposit, investment, or expenditure of the funds of the state  
23 employer; or

24 (C) Is responsible for auditing the funds of the state  
25 employer.

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27 SECTION 5. Arkansas Code Title 25, Chapter 1, Subchapter 1, is amended  
28 to add additional sections to read as follows:

29 25-1-123. Criminal background checks for public employees controlling  
30 public funds.

31 (a) As used in this section, "public employer" means any of the  
32 following:

33 (1) An agency, department, board, commission, division, office,  
34 bureau, council, authority, or other instrumentality of the State of  
35 Arkansas, including the offices of the various Arkansas elected  
36 constitutional officers and the General Assembly and its agencies, bureaus,

1 and divisions;

2 (2) A state-supported college, university, technical  
3 college, community college, or other institution of higher education or  
4 department, division, or agency of a state institution of higher education;

5 (3) The Supreme Court, the Court of Appeals, the  
6 Administrative Office of the Courts, the circuit courts, and the prosecuting  
7 attorneys' offices;

8 (4) An office, department, commission, council, agency,  
9 board, bureau, committee, corporation, or other instrumentality of a county  
10 government or a municipality or a district court, a county subordinate  
11 service district, a municipally owned utility, or a regional or joint  
12 governing body of one (1) or more counties or municipalities; or

13 (5) A public school district, school, or an office or  
14 department of a public school district in Arkansas.

15 (b)(1) A public employer shall obtain a state criminal background  
16 check to be conducted by the Identification Bureau of the Department of  
17 Arkansas State Police before finalizing the hiring of an applicant for an  
18 employment position with supervisory fiduciary responsibility over all fiscal  
19 matters.

20 (2) The applicant shall sign a release of information to the  
21 public employer.

22 (3) The public employer may:

23 (A) Choose to be responsible for the payment of any fee  
24 associated with the state criminal background check; or

25 (B) Provide that the applicant is responsible for the  
26 payment of any fee associated with the criminal background check.

27 (4) Upon completion of the criminal background check, the  
28 Identification Bureau shall forward to the public employer all releasable  
29 information obtained concerning the applicant.

30  
31 25-1-124. Reporting by public employee.

32 (a) As used in this section:

33 (1) "Public employee" means a person who performs a full or  
34 part-time service for wages, salary, or other remuneration for a public  
35 employer; and

36 (2) "Public employer" means any of the following:

1 (A) An agency, department, board, commission, division,  
2 office, bureau, council, authority, or other instrumentality of the State of  
3 Arkansas, including the offices of the various Arkansas elected  
4 constitutional officers and the General Assembly and its agencies, bureaus,  
5 and divisions;

6 (B) A state-supported college, university, technical  
7 college, community college, or other institution of higher education or  
8 department, division, or agency of a state institution of higher education;

9 (C) The Supreme Court, the Court of Appeals, the  
10 Administrative Office of the Courts, the circuit courts, and the prosecuting  
11 attorneys' offices;

12 (D) An office, department, commission, council, agency,  
13 board, bureau, committee, corporation, or other instrumentality of a county  
14 government or a municipality or a district court, a county subordinate  
15 service district, a municipally owned utility, or a regional or joint  
16 governing body of one (1) or more counties or municipalities; or

17 (E) A public school district, school, or an office or  
18 department of a public school district in Arkansas.

19 (b)(1) A public employee with supervisory fiduciary responsibility  
20 over all fiscal matters of a public employer shall report a loss of public  
21 funds to Arkansas Legislative Audit, including without limitation:

22 (A) Apparent unauthorized disbursements of public funds;  
23 or

24 (B) The apparent theft or misappropriation of public funds  
25 or property.

26 (2) A report under subdivision (b)(1) shall be made within five  
27 (5) business days of the date the public employee learns of the loss of  
28 public funds.

29 (c) A public employee with supervisory fiduciary responsibility over  
30 all fiscal matters who purposely fails to comply with subsection (b) of this  
31 section is guilty of a Class A misdemeanor.

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33 /s/Hammer

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35 APPROVED: 04/06/2015