

Hall of the House of Representatives
90th General Assembly - Regular Session, 2015
Amendment Form

Subtitle of House Bill No. 1945

TO AMEND ARKANSAS LAW CONCERNING THE PREVENTION AND DETECTION OF FRAUD AND
OTHER IMPROPER ACTIVITIES WITHIN STATE GOVERNMENT.

Amendment No. 1 to House Bill No. 1945

Amend House Bill No. 1945 as originally introduced:

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 21-1-603(a), concerning public employer conduct prohibited under the Arkansas Whistle-Blower Act, is amended to read as follows:

(a)~~(1)~~ A public employer shall not take adverse action against a public employee because the public employee or a person authorized to act on behalf of the public employee communicates in good faith to an appropriate authority:

~~(A)~~(1) The existence of waste of public funds, property, or manpower, including federal funds, property, or manpower administered or controlled by a public employer; or

~~(B)~~(2) A violation or suspected violation of a law, rule, or regulation adopted under the law of this state or a political subdivision of the state.

~~(2) The communication shall be made at a time and in a manner which gives the public employer reasonable notice of need to correct the waste or violation.~~

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

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

(b)(1) All documentation, including notes, memoranda, preliminary drafts of investigation reports, and other data gathered in the investigation of a communication regarding the existence of waste or of a violation is privileged and confidential and is exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., except as provided in subdivision (b)(2) of this section.

(2) Final reports issued by a public employer or an appropriate authority concerning a communication regarding the existence of waste or of a



violation and any supporting documentation shall be open to public inspection and copying, except for documents that are exempt from disclosure under other law.

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

SECTION 3. Arkansas Code Title 21, Chapter 1, Subchapter 6, is amended to add additional sections to read as follows:

21-1-611. Report by public employer of communication received from public employee.

If a public employee communicates in good faith to his or her public employer the existence of waste or of a violation, the public employer shall report the communication to:

- (1) An appropriate authority; or
- (2) A telephone hotline allowing for the reporting of fraud, waste, or abuse in government.

21-1-612. Quarterly reporting to Division of Legislative Audit.

(a) The following persons or entities receiving a communication regarding the existence of waste or of a violation shall report to the Division of Legislative Audit on a quarterly basis all such communications they have received:

- (1) A public employer;
- (2) An appropriate authority; and
- (3) A telephone hotline allowing for the reporting of fraud, waste, or abuse in government.

(b) The division shall develop forms and guidelines for the reporting of information under subsection (a) of this section.

SECTION 4. Arkansas Code Title 25, Chapter 1, Subchapter 1, is amended to add additional sections to read as follows:

25-1-123. Internal control and ethics requirements for state agencies and political subdivisions - New employee orientation - Criminal background checks.

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

- (1) An agency, department, board, commission, division, office, bureau, council, authority, or other instrumentality of the State of Arkansas, including the offices of the various Arkansas elected constitutional officers and the General Assembly and its agencies, bureaus, and divisions;
- (2) A state-supported college, university, technical college, community college, or other institution of higher education or department, division, or agency of a state institution of higher education;
- (3) The Supreme Court, the Court of Appeals, the Administrative Office of the Courts, the circuit courts, and prosecuting attorneys' offices;
- (4) An office, department, commission, council, agency, board, bureau, committee, corporation, or other instrumentality of a county government or a municipality or a district court, a county subordinate service district, a municipally owned utility, or a regional or joint

governing body of one (1) or more counties or municipalities; or
(5) A public school district, school, or an office or
department of a public school district in Arkansas.

(b) A public employer shall establish:

(1) An internal control system that provides reasonable
assurance that objectives have been achieved in:

(A) The effectiveness and efficiency of operations;

(B) The reliability of financial reporting; and

(C) Compliance with applicable laws and rules; and

(2) An effective anti-fraud program that:

(A) Creates a culture of honesty;

(B) Evaluates the risks of fraud and implements the
processes, procedures, and controls needed to mitigate those risks; and

(C) Develops an appropriate oversight process.

(c) A public employer shall:

(1) Educate a new employee on the internal control system and
anti-fraud program established under subsection (b) of this section;

(2) Educate a new employee regarding his or her rights and
obligations to report fraud or other improprieties, including without
limitation informing the employee of his or her rights under the Arkansas
Whistle-Blower Act, § 21-1-601 et seq.; and

(3) At the conclusion of the activities under subdivisions
(c)(1) and (2) of this section and at the beginning of each calendar year,
require an employee to sign an acknowledgement indicating his or her
understanding of the applicable laws, programs, and policies regarding
employee ethics, internal control systems, and anti-fraud practices.

(d)(1) A public employer shall obtain a state and federal criminal
background check to be conducted by the Identification Bureau of the
Department of Arkansas State Police and the Federal Bureau of Investigation
for each prospective employee who:

(A) Will handle or exert control over the funds of the
public employer; or

(B) Will participate in making decisions or
recommendations concerning the deposit, investment, or expenditure of the
funds of the public employer.

(2) The criminal background check shall conform to the
applicable federal standards and shall include the taking of fingerprints.

(3) The prospective employee shall sign a release of information
to the public employer and shall be responsible for the payment of any fee
associated with the criminal background check.

(4) Upon completion of the criminal background check, the
Identification Bureau of the Department of Arkansas State Police shall
forward to the public employer all releasable information obtained concerning
the prospective employee.

25-1-124. Internal audit by public employer - Assurance of
independence and objectivity.

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

(1) An agency, department, board, commission, division, office,
bureau, council, authority, or other instrumentality of the State of
Arkansas, including the offices of the various Arkansas elected

constitutional officers and the General Assembly and its agencies, bureaus, and divisions;

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

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

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

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

(b) An internal audit conducted by a public employer shall comply with sections 1110, 1111, 1120, and 1130 of the International Standards of the Professional Practice of Internal Auditing concerning independence and objectivity as existing on January 1, 2015.

25-1-125. Reporting by bonded disbursement office of public employer.

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

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

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

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

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

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

(b) A bonded disbursement officer for a public employer shall report any losses of public funds to the Division of Legislative Audit, including without limitation:

(1) Apparent unauthorized disbursements of public funds; or

(2) The apparent theft or misappropriation of public funds or property."

The Amendment was read _____

By: Representative Hammer
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Chief Clerk