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2 90th General Assembly
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4

As Engrossed: H3/17/15

A Bill

HOUSE BILL 1945

5 By: Representative Hammer
6

For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE
9 PREVENTION AND DETECTION OF FRAUD AND OTHER IMPROPER
10 ACTIVITIES WITHIN STATE GOVERNMENT; AND FOR OTHER
11 PURPOSES.
12
13

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:
22

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

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

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

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

36 ~~*(2) The communication shall be made at a time and in a manner*~~



1 ~~which gives the public employer reasonable notice of need to correct the~~
2 ~~waste or violation.~~

3
4 SECTION 2. Arkansas Code § 21-1-607 is amended to read as follows:
5 21-1-607. Protection of confidentiality.

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

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

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

21 (c) This section applies without limitation to communications
22 regarding the existence of waste or of a violation received by a telephone
23 hotline allowing for the reporting of fraud, waste, or abuse in government.
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25 SECTION 3. Arkansas Code Title 21, Chapter 1, Subchapter 6, is amended
26 to add additional sections to read as follows:

27 21-1-611. Report by public employer of communication received from
28 public employee.

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

32 (1) An appropriate authority; or

33 (2) A telephone hotline allowing for the reporting of fraud,
34 waste, or abuse in government.

35
36 21-1-612. Quarterly reporting to Division of Legislative Audit.

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

5 (1) A public employer;

6 (2) An appropriate authority; and

7 (3) A telephone hotline allowing for the reporting of fraud,
8 waste, or abuse in government.

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

11
12 SECTION 4. Arkansas Code Title 25, Chapter 1, Subchapter 1, is amended
13 to add additional sections to read as follows:

14 25-1-123. Internal control and ethics requirements for state agencies
15 and political subdivisions - New employee orientation - Criminal background
16 checks.

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

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

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

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

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

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

1 (b) A public employer shall establish:

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

4 (A) The effectiveness and efficiency of operations;

5 (B) The reliability of financial reporting; and

6 (C) Compliance with applicable laws and rules; and

7 (2) An effective anti-fraud program that:

8 (A) Creates a culture of honesty;

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

11 (C) Develops an appropriate oversight process.

12 (c) A public employer shall:

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

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

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

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

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

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

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

35 (3) The prospective employee shall sign a release of information
36 to the public employer and shall be responsible for the payment of any fee

1 associated with the criminal background check.

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

6
7 25-1-124. Internal audit by public employer - Assurance of
8 independence and objectivity.

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

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

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

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

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

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

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

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33 25-1-125. Reporting by bonded disbursement office of public employer.

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

36 (1) An agency, department, board, commission, division, office,

1 bureau, council, authority, or other instrumentality of the State of
2 Arkansas, including the offices of the various Arkansas elected
3 constitutional officers and the General Assembly and its agencies, bureaus,
4 and divisions;

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

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

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

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

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

20 (1) Apparent unauthorized disbursements of public funds; or

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

23 /s/Hammer

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