HLS 12RS-985 ENGROSSED

Regular Session, 2012

HOUSE BILL NO. 364

BY REPRESENTATIVE LEGER

EMPLOYMENT: Provides with respect to an employee's protection against reprisal

1 AN ACT 2 To amend and reenact R.S. 23:967(A), (B), and (C), relative to workplace reprisal; to extend 3 the protection for employees; to provide for notice to the employer; to provide 4 venues for suit; to provide relative to employee liability; and to provide for related 5 matters. 6 Be it enacted by the Legislature of Louisiana: 7 Section 1. R.S. 23:967(A), (B), and (C) are hereby amended and reenacted to read 8 as follows: 9 §967. Employee protection from reprisal; prohibited practices; remedies 10 A. An employer shall not take reprisal against an employee who in good 11 faith, and after advising the employer, unless such notification would be futile, of the 12 a suspected or known workplace act, practice, or omission that the employee 13 reasonably believes is a violation of law or otherwise endangers public health or 14 safety: 15 (1) Discloses or threatens to disclose a workplace act, or practice, or 16 omission that the employee reasonably believes is in violation of state law. 17 However, the employee shall not be protected from reprisal if the disclosure was 18 made to a competitive business enterprise. 19 (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any workplace act, practice, or omission 20 21 that the employee reasonably believes is a violation of law.

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1	(3) Objects to or refuses to participate in an employment act, or practice, or
2	omission that the employee reasonably believes is in violation of law.
3	B. An employee may commence a civil action in a district court where the
4	violation occurred, where the employee resides, or where the employer maintains
5	his principal place of business, against any employer who engages in a practice
6	prohibited by Subsection A of this Section. If the court finds the provisions of
7	Subsection A of this Section have been violated, the plaintiff may recover from the
8	employer damages, reasonable attorney fees, and court costs.
9	C. For the purposes of this Section, the following terms shall have the
10	definitions ascribed below:
11	(2) (1) "Damages" include compensatory damages, back pay, benefits,
12	reinstatement, reasonable attorney fees, and court costs resulting from the reprisal.
13	(2) "Law" includes any federal, state, or local statute, ordinance, rule, or
14	regulation.
15	(1) (3) "Reprisal" includes firing, layoff, loss of benefits, or any
16	discriminatory retaliatory action the court finds was taken as a result of an action by
17	the employee that is protected under Subsection A of this Section; however, nothing
18	in this Section shall prohibit an employer from enforcing an established employment
19	policy, procedure, or practice or exempt an employee from compliance with such.
20	* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abstract: Provides for protection against workplace reprisal for employees who report employer violations of federal, state, or local law, or endangerment to public health or safety.

<u>Present law</u> prohibits an employer from acting in a retaliatory manner or taking reprisal against an employee who in good faith discloses or threatens to disclose a workplace act, practice, or omission that is a violation of law; provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any potential violation of

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law; or objects to or refuses to participate in a workplace act, practice, or omission that is a violation of law.

<u>Proposed law</u> extends protection for a disclosure of any such workplace act, practice, or omission that an employee reasonably believes is in violation of any federal, state, or local law, statute, ordinance, or rule or regulation, or otherwise endangers public health or safety.

<u>Present law</u> requires that an employee first notify the employer of a violation of law prior to protection from disclosure.

<u>Proposed law</u> provides an exception to the employer notification requirement in <u>present law</u> when the notification would be futile.

<u>Present law</u> provides that an employee may only bring suit for reprisal in the district court in which the violation occurred.

<u>Proposed law</u> extends <u>present law</u> to allow an employee to bring suit for reprisal in the district court where the complainant resides, or the employer maintains his principal place of business.

<u>Present law</u> provides that an employer may not take reprisal, which means firing, laying off, reducing benefits, or taking discriminatory action against an employee for engaging in protected disclosure activities.

<u>Proposed law</u> extends <u>present law</u> by defining reprisal as firing, laying off, reducing benefits, or taking any retaliatory action against an employee for engaging in protected disclosure activities.

(Amends R.S. 23:967(A), (B), and (C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by <u>House Committee on Labor and Industrial</u> <u>Relations</u> to the <u>original</u> bill.

1. Restored <u>present law</u> to provide that an employer may be entitled to reasonable attorney fees and court costs from the employee if it is determined by a court that the employer did not violate the law.