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SENATE BILL 5796

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State of Washington                      65th Legislature                      2017 Regular Session  
By Senators Zeiger, Miloscia, Keiser, and Hasegawa

1            AN ACT Relating to written correspondence regarding ethics  
2 complaints; and amending RCW 42.52.410, 42.52.420, 42.52.425, and  
3 42.52.450.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 42.52.410 and 2013 c 190 s 2 are each amended to  
6 read as follows:

7            (1) A person may, personally or by his or her attorney, make,  
8 sign, and file with the appropriate ethics board a complaint on a  
9 form provided by the appropriate ethics board. The complaint shall  
10 state the name of the person alleged to have violated this chapter or  
11 rules adopted under it and the particulars thereof, and contain such  
12 other information as may be required by the appropriate ethics board.

13            (2) If it has reason to believe that any person has been engaged  
14 or is engaging in a violation of this chapter or rules adopted under  
15 it, an ethics board may issue a complaint.

16            (3) A complaint issued under this section must be provided by  
17 registered or certified mail, or other delivery service requiring  
18 notice of receipt, to the person named in the complaint.

19            (4)(a) A state employee who files a complaint with the  
20 appropriate ethics board shall be afforded the protection afforded to  
21 a whistleblower under RCW 42.40.050 and 49.60.210(2), subject to the

1 limitations of RCW 42.40.035 and 42.40.910. An agency, manager, or  
2 supervisor may not retaliate against a state employee who, after  
3 making a reasonable attempt to ascertain the correctness of the  
4 information furnished, files a complaint with the appropriate ethics  
5 board.

6 (b) A state employee may not be denied the protections in chapter  
7 42.40 RCW even if the ethics board denies an investigation of the  
8 complaint.

9 ~~((4))~~ (5) If a determination is made that a reprisal or  
10 retaliatory action has been taken against the state employee, the  
11 retaliator may be subject to a civil penalty of up to five thousand  
12 dollars.

13 **Sec. 2.** RCW 42.52.420 and 2013 c 190 s 4 are each amended to  
14 read as follows:

15 (1) After the filing of any complaint, except as provided in RCW  
16 42.52.450, the staff of the appropriate ethics board shall  
17 investigate the complaint. The ethics board may request the  
18 assistance of the office of the attorney general or a contract  
19 investigator in conducting its investigation.

20 (2) The results of the investigation shall be reduced to writing  
21 and the staff shall either make a determination that the complaint  
22 should be dismissed pursuant to RCW 42.52.425, or recommend to the  
23 board that there is or that there is not reasonable cause to believe  
24 that a violation of this chapter or rules adopted under it has been  
25 or is being committed.

26 (3) The board's determination on reasonable cause shall be  
27 provided by registered or certified mail, or other delivery service  
28 requiring notice of receipt, to the complainant and to the person  
29 named in such complaint.

30 (4) The identity of a person filing a complaint under RCW  
31 42.52.410(1) is exempt from public disclosure, as provided in RCW  
32 42.56.240.

33 **Sec. 3.** RCW 42.52.425 and 2005 c 116 s 1 are each amended to  
34 read as follows:

35 (1) Based on the investigation conducted under RCW 42.52.420 or  
36 42.52.450, and subject to rules issued by each board, the board or  
37 the staff of the appropriate ethics board may issue an order of  
38 dismissal based on any of the following findings:

1 (a) Any violation that may have occurred is not within the  
2 jurisdiction of the board;

3 (b) The complaint is obviously unfounded or frivolous; or

4 (c) Any violation that may have occurred does not constitute a  
5 material violation because it was inadvertent and minor, or has been  
6 cured, and, after consideration of all of the circumstances, further  
7 proceedings would not serve the purposes of this chapter.

8 (2) Written notice of the determination under subsection (1) of  
9 this section shall be provided by registered or certified mail, or  
10 other delivery service requiring notice of receipt, to the  
11 complainant, respondent, and the board. The written notice to the  
12 complainant shall include a statement of the complainant's right to  
13 appeal to the board under subsection (3) of this section if the  
14 dismissal order was issued by staff.

15 (3) In the event that a complaint is dismissed by staff under  
16 this section, the complainant may request that the board review the  
17 action. Following review, the board shall:

18 (a) Affirm the staff dismissal;

19 (b) Direct the staff to conduct further investigation; or

20 (c) Issue a determination that there is reasonable cause to  
21 believe that a violation has been or is being committed.

22 (4) The board's decision under subsection (3) of this section  
23 shall be reduced to writing and provided by registered or certified  
24 mail, or other delivery service requiring notice of receipt, to the  
25 complainant and the respondent.

26 **Sec. 4.** RCW 42.52.450 and 2005 c 116 s 2 are each amended to  
27 read as follows:

28 (1) If a complaint alleges a violation of RCW 42.52.180 by a  
29 legislator or statewide elected official other than the attorney  
30 general, the attorney general shall, if requested by the appropriate  
31 ethics board, conduct the investigation under RCW 42.52.420 and  
32 recommend action.

33 (2) If a complaint alleges a violation of RCW 42.52.180 by the  
34 attorney general, the state auditor shall conduct the investigation  
35 under RCW 42.52.420 and recommend action to the appropriate ethics  
36 board.

1       (3) Written correspondence regarding complaints must be provided  
2 by registered or certified mail, or other delivery service requiring  
3 notice of receipt.

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