

MAR 9 1989

HOUSE FILE 542
BY BEATTY

LABOR & INDUSTRIAL RELATIONS
DO PASS 3-17-89 (p. 840)
SUN. STATE GOV.
DO PASS 4-5-89 (p. 1203)

Passed House, Date 3-23-89 (p. 981) Passed Senate, Date 4-11-89 (p. 1334)
Vote: Ayes 94 Nays 0 Vote: Ayes 49 Nays 0
Approved 5-4-89 (p. 2496)

A BILL FOR

1 An Act relating to reprisals and orders with respect to certain
2 disclosures of information and other actions by employees of
3 the state and its political subdivisions, providing penalties,
4 providing civil remedies, and providing properly related
5 matters.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 19A.19, unnumbered paragraph 4, Code
2 1989, is amended to read as follows:

3 A person shall not discharge an employee from or take or
4 fail to take action regarding an employee's appointment or
5 proposed appointment to, promotion or proposed promotion to,
6 or any advantage in, a position in a merit system administered
7 by, or subject to approval of, the director as a reprisal for
8 a disclosure of any information by that employee to a member
9 or employee of the general assembly, ~~the legislative service~~
10 ~~bureau, the legislative fiscal bureau, the citizens' aide, the~~
11 ~~computer support bureau, or the respective caucus staffs of~~
12 ~~the general assembly,~~ or for a disclosure of information which
13 to any other public official or law enforcement agency if the
14 employee reasonably believes the information evidences a
15 violation of law or rule, mismanagement, a gross abuse of
16 funds, an abuse of authority, or a substantial and specific
17 danger to public health or safety. ~~This subsection~~ However,
18 this paragraph does not apply if the disclosure of that the
19 information is prohibited by statute.

20 Sec. 2. Section 79.28, Code 1989, is amended to read as
21 follows:

22 79.28 PROHIBITIONS RELATING TO CERTAIN ACTIONS BY STATE
23 EMPLOYEES -- PENALTY -- CIVIL REMEDIES.

24 1. A person who serves as the head of a state department
25 or agency or otherwise serves in a supervisory capacity within
26 the executive branch of state government shall not prohibit an
27 employee of the state from disclosing any information to a
28 member or employee of the general assembly, ~~the legislative~~
29 ~~service bureau, the legislative fiscal bureau, the citizens'~~
30 ~~aide, the computer support bureau, or the respective caucus~~
31 ~~staffs of the general assembly,~~ or from disclosing information
32 which to any other public official or law enforcement agency
33 if the employee reasonably believes the information evidences
34 a violation of law or rule, mismanagement, a gross abuse of
35 funds, an abuse of authority, or a substantial and specific

1 danger to public health or safety.

2 2. A person shall not discharge an employee from or take
3 or fail to take action regarding an employee's appointment or
4 proposed appointment to, promotion or proposed promotion to,
5 or any advantage in, a position in a state employment system
6 administered by, or subject to approval of, a state agency as
7 a reprisal for a disclosure of any information by that
8 employee to a member or employee of the general assembly, the
9 ~~legislative-service-bureau, the legislative-fiscal-bureau, the~~
10 ~~citizens'-aide, the computer-support-bureau, or the respective~~
11 ~~caucus-staffs-of-the-general-assembly,~~ or a disclosure of
12 information which to any other public official or law
13 enforcement agency if the employee reasonably believes the
14 information evidences a violation of law or rule,
15 mismanagement, a gross abuse of funds, an abuse of authority,
16 or a substantial and specific danger to public health or
17 safety.

18 3. Subsections 1 and 2 do not apply if the disclosure of
19 the information is prohibited by statute.

20 4. A person who violates subsection 1 or 2 commits a
21 simple misdemeanor.

22 5. Subsection 2 may be enforced through a civil action.

23 a. A person who violates subsection 2 is liable to an
24 aggrieved employee for affirmative relief including rein-
25 statement, with or without back pay, or any other equitable
26 relief the court deems appropriate, including attorney fees
27 and costs.

28 b. When a person commits, is committing, or proposes to
29 commit an act in violation of subsection 2, an injunction may
30 be granted through an action in district court to prohibit the
31 person from continuing such acts. The action for injunctive
32 relief may be brought by an aggrieved employee or the attorney
33 general.

34 5 6. A person shall not discharge an employee from or take
35 or fail to take action regarding an employee's appointment or

1 proposed appointment to, promotion or proposed promotion to,
2 or any advantage in, a position in a state employment system
3 administered by, or subject to approval of, a state agency as
4 a reprisal for the employee's declining to participate in
5 contributions or donations to charities or community
6 organizations.

7 7. The director of the department of personnel shall
8 provide procedures for notifying new state employees of the
9 provisions of this section and shall periodically conduct
10 promotional campaigns to provide similar information to all
11 state employees. The information shall include the toll-free
12 telephone number of the citizens' aide.

13 Sec. 3. Section 79.29, Code 1989, is amended to read as
14 follows:

15 79.29 REPRISALS PROHIBITED -- POLITICAL SUBDIVISIONS --
16 PENALTY -- CIVIL REMEDIES.

17 1. A person shall not discharge an employee from or take
18 or fail to take action regarding an employee's appointment or
19 proposed appointment to, promotion or proposed promotion to,
20 or any advantage in, a position in employment by a political
21 subdivision of this state as a reprisal for a disclosure of
22 any information by that employee to a member or employee of
23 the general assembly, or an official of that political
24 subdivision or a state official or for a disclosure of
25 information which to any other public official or law
26 enforcement agency if the employee reasonably believes the
27 information evidences a violation of law or rule,
28 mismanagement, a gross abuse of funds, an abuse of authority,
29 or a substantial and specific danger to public health or
30 safety. This section does not apply if the disclosure of that
31 the information is prohibited by statute.

32 2. A person who violates subsection 1 commits a simple
33 misdemeanor.

34 3. Subsection 1 may be enforced through a civil action.

35 a. A person who violates subsection 1 is liable to an

1 aggrieved employee for affirmative relief including
2 reinstatement, with or without back pay, or any other
3 equitable relief the court deems appropriate, including
4 attorney fees and costs.

5 b. When a person commits, is committing, or proposes to
6 commit an act in violation of subsection 1, an injunction may
7 be granted through an action in district court to prohibit the
8 person from continuing such acts. The action for injunctive
9 relief may be brought by an aggrieved employee or the county
10 attorney.

11 EXPLANATION

12 Current law prohibits department heads and other super-
13 visors from ordering state employees not to make certain dis-
14 closures of information and prohibits reprisals against
15 employees who make such disclosures. This bill expressly
16 provides for enforcement of the reprisal provision through a
17 civil action and makes certain other revisions. The
18 department of personnel is directed to publicize the
19 provisions of the statute.

20 The bill also revises the reprisal statute applicable to
21 political subdivisions. Criminal and civil enforcement
22 provisions are added.

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AN ACT

RELATING TO REPRISALS AND ORDERS WITH RESPECT TO CERTAIN DISCLOSURES OF INFORMATION AND OTHER ACTIONS BY EMPLOYEES OF THE STATE AND ITS POLITICAL SUBDIVISIONS, PROVIDING PENALTIES, PROVIDING CIVIL REMEDIES, AND PROVIDING PROPERLY RELATED MATTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 19A.19, unnumbered paragraph 4, Code 1989, is amended to read as follows:

A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a merit system administered

by, or subject to approval of, the director as a reprisal for a disclosure of any information by that employee to a member or employee of the general assembly, ~~the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the computer support bureau, or the respective caucus staffs of the general assembly,~~ or for a disclosure of information which to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. ~~This subsection~~ However, this paragraph does not apply if the disclosure of that the information is prohibited by statute.

Sec. 2. Section 79.20, Code 1989, is amended to read as follows:

79.20 PROHIBITIONS RELATING TO CERTAIN ACTIONS BY STATE EMPLOYEES -- PENALTY -- CIVIL REMEDIES.

1. A person who serves as the head of a state department or agency or otherwise serves in a supervisory capacity within the executive branch of state government shall not prohibit an employee of the state from disclosing any information to a member or employee of the general assembly, ~~the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the computer support bureau, or the respective caucus staffs of the general assembly,~~ or from disclosing information which to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

2. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as

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a reprisal for a disclosure of any information by that employee to a member or employee of the general assembly, the legislative-service-bureau, the legislative-fiscal-bureau, the citizens'-aide, the computer-support-bureau, or the respective caucus-staffs-of-the-general-assembly, or a disclosure of information which to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

3. Subsections 1 and 2 do not apply if the disclosure of the information is prohibited by statute.

4. A person who violates subsection 1 or 2 commits a simple misdemeanor.

5. Subsection 2 may be enforced through a civil action.

a. A person who violates subsection 2 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

b. When a person commits, is committing, or proposes to commit an act in violation of subsection 2, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the attorney general.

5 6. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for the employee's declining to participate in contributions or donations to charities or community organizations.

7. The director of the department of personnel shall provide procedures for notifying new state employees of the provisions of this section and shall periodically conduct promotional campaigns to provide similar information to all state employees. The information shall include the toll-free telephone number of the citizens' aide.

Sec. 3. Section 79.29, Code 1989, is amended to read as follows:

79.29 REPRISALS PROHIBITED -- POLITICAL SUBDIVISIONS -- PENALTY -- CIVIL REMEDIES.

1. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in employment by a political subdivision of this state as a reprisal for a disclosure of any information by that employee to a member or employee of the general assembly, or an official of that political subdivision or a state official or for a disclosure of information which to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This section does not apply if the disclosure of that the information is prohibited by statute.

2. A person who violates subsection 1 commits a simple misdemeanor.

3. Subsection 1 may be enforced through a civil action.

a. A person who violates subsection 1 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

b. When a person commits, is committing, or proposes to commit an act in violation of subsection 1, an injunction may

be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the county attorney.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 542, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 4, 1989

TERRY E. BRANSTAD
Governor

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