

Senate Study Bill 3093

SENATE/HOUSE FILE _____
BY (PROPOSED CITIZENS' AIDE/
OMBUDSMAN BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to whistleblower complaints received by the
2 citizens' aide.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5510DP 82
5 ec/nh/5

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1 1 Section 1. Section 2C.11A, Code 2007, is amended to read
1 2 as follows:

1 3 2C.11A SUBJECTS FOR INVESTIGATIONS == DISCLOSURES OF
1 4 INFORMATION.

1 5 The office of citizens' aide ~~shall investigate~~ may receive
1 6 a complaint filed by an employee who is not a merit system
1 7 employee or an employee covered by a collective bargaining
1 8 agreement and who alleges that adverse employment action has
1 9 been taken against the employee in violation of section
1 10 70A.28, subsection 2. A complaint filed pursuant to this
1 11 section shall be made within thirty calendar days following
1 12 the effective date of the adverse employment action. The
1 13 citizens' aide shall review the complaint and make a
1 14 determination of whether to investigate the matter and shall
1 15 pursuant to the requirements of section 2C.12. The citizens'
1 16 aide shall, in an expeditious manner, either issue a written
1 17 notice to the employee indicating that the citizens' aide
1 18 declined to investigate the complaint and the reason for that
1 19 decision or investigate the complaint and issue a report with
1 20 findings relative to the complaint in an expeditious manner.
1 21 The report with findings shall be issued to the employee and
1 22 to the director or head of the employee's agency, or to the
1 23 governor if the agency director or head is the subject of the
1 24 investigation, and to the legislative oversight committee.

1 25 Sec. 2. Section 70A.28, subsection 6, Code Supplement
1 26 2007, is amended to read as follows:

1 27 6. Subsection 2 may also be enforced by an employee
1 28 through an administrative action pursuant to the requirements
1 29 of this subsection if the employee is not a merit system
1 30 employee or an employee covered by a collective bargaining
1 31 agreement. An employee eligible to pursue an administrative
1 32 action pursuant to this subsection who is discharged,
1 33 suspended, demoted, or otherwise receives a reduction in pay
1 34 and who believes the adverse employment action was taken as a
1 35 result of the employee's disclosure of information that was
2 1 authorized pursuant to subsection 2, may file an appeal of the
2 2 adverse employment action with the public employment relations
2 3 board within thirty calendar days following the later of the
2 4 effective date of the action or the date a finding notice or
2 5 report with findings is issued to the employee by the office
2 6 of the citizens' aide pursuant to section 2C.11A. The report
2 7 with findings issued by the citizens' aide may be introduced
2 8 as evidence before the public employment relations board as to
2 9 the merits of the action but the citizens' aide or any member
2 10 of the citizens' aide staff shall not be compelled to testify
2 11 before the board with respect to the report. The employee has
2 12 the right to a hearing closed to the public, but may request a
2 13 public hearing. The hearing shall otherwise be conducted in
2 14 accordance with the rules of the public employment relations
2 15 board and the Iowa administrative procedure Act, chapter 17A.
2 16 If the public employment relations board finds that the action
2 17 taken in regard to the employee was in violation of subsection
2 18 2, the employee may be reinstated without loss of pay or
2 19 benefits for the elapsed period, or the public employment

2 20 relations board may provide other appropriate remedies.
2 21 Decisions by the public employment relations board constitute
2 22 final agency action.

2 23 EXPLANATION

2 24 This bill relates to whistleblower complaints submitted to
2 25 the office of citizens' aide. The bill provides that the
2 26 citizens' aide may decline to investigate a whistleblower
2 27 complaint in the same manner as the citizens' aide may decline
2 28 to investigate other complaints filed with the office. The
2 29 bill requires the citizens' aide to issue a written notice to
2 30 the employee if the office declines to investigate a
2 31 whistleblower complaint, with the reason for that
2 32 determination. The bill further provides that if the
2 33 citizens' aide investigates and issues a report with findings,
2 34 the report with findings shall be provided to the
2 35 complainant=employee, the director or head of the employee's
3 1 agency, or to the governor if the agency director or head is
3 2 the subject of the investigation, and to the legislative
3 3 oversight committee. The bill further provides that the
3 4 citizens' aide or any staff member of the citizens' aide shall
3 5 not be compelled to testify about any report with findings it
3 6 issues relative to a whistleblower complaint before the public
3 7 employment relations board.

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3 9 ec/nh/5.1