

HB5780



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5780

by Rep. Melissa Conyears-Ervin

SYNOPSIS AS INTRODUCED:

New Act

Creates the Scientist Whistleblower Act. Defines terms. Provides that a licensing entity shall not take disciplinary action against an employee for reporting improper federal government activity or disclosing the results of or information about scientific or technical research to the public. Provides that an employer may not retaliate against an employee for disclosing information about an improper federal government activity. Provides that retaliation is a Class A misdemeanor. Provides the damages an employee may receive if an employer retaliates against the employee. Limits the concurrent exercise of home rule powers.

LRB100 17827 LNS 33007 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Scientist Whistleblower Act.

6 Section 5. Definitions. As used in this Act:

7 "Employee" means any individual who is employed on a
8 full-time, part-time, or contractual basis by an employer,
9 including, but not limited to, an employee who conducts
10 scientific or technical research.

11 "Employer" means any government contractor, subcontractor,
12 or grantee, including, but not limited to, a licensing entity.

13 "Improper federal government activity" means conduct by a
14 federal governmental organization or by its employees,
15 contractors, or agents, or that is undertaken in the
16 performance of the employee's, contractor's, or agent's duties
17 inside a governmental office or conduct by an employee,
18 contractor, or agent that directly relates to the government,
19 whether or not that activity is within the scope of the
20 employee's, contractor's, or agent's duties, if undertaken
21 outside a government office that: (i) is in violation of any
22 State or federal law or regulation to perform a duty; (ii) is
23 in violation of the federal Constitution, a federal rule of

1 court, any policy or procedure mandated by the federal Contract
2 Compliance Manual, or a federal court decision that is binding
3 on the federal governmental organization; (iii) is
4 economically wasteful or involves gross misconduct,
5 incompetency, or inefficiency; or (iv) substantially conflicts
6 with the consensus of peer-reviewed scientific or technical
7 research.

8 "Scientific or technical research" means the results of
9 scientific activities related to environmental sciences or
10 climate change, including, but not limited to, the analysis,
11 synthesis, compilation, or translation of scientific
12 information and data into formats used in official
13 decision-making processes or publications.

14 Section 10. Disciplinary action by a licensing entity. A
15 licensing entity shall not take disciplinary action, including
16 suspension, loss of credential, or other professional
17 privilege, against an employee based upon any of the following
18 actions taken by that employee:

19 (1) reporting improper federal governmental activity if
20 the employee:

21 (A) urges reconsideration of the matter while
22 explaining its likely consequences to the organization;

23 (B) refers the matter to a higher authority in the
24 organization, including, if warranted by the seriousness
25 of the matter, referral to the highest internal authority

1 that can act on behalf of the organization;

2 (C) refers the matter to the law enforcement agency
3 charged with responsibility over the matter or to any other
4 governmental agency or official charged with overseeing or
5 regulating the matter if all of the following have
6 occurred:

7 (i) the employee has taken both actions described
8 in paragraphs (A) and (B);

9 (ii) the employee reasonably believes that the
10 highest internal authority that can act on behalf of
11 the organization has already, directly or indirectly,
12 participated in the improper federal governmental
13 activity;

14 (iii) the referral is warranted by the seriousness
15 of the circumstances and is not otherwise prohibited by
16 law; and

17 (iv) further action is required in order to prevent
18 or rectify substantial harm to public health, safety,
19 the environment, public interest, or the governmental
20 organization resulting from the improper federal
21 governmental activity; or

22 (2) disclosing the results of or information about
23 scientific or technical research to the public by means that
24 include, but are not limited to, publishing the information in
25 a scientific or public forum or sharing it with the media.

1 Section 15. Retaliation for disclosures.

2 (a) An employer may not retaliate against an employee who
3 discloses information in a court, an administrative hearing, or
4 before a legislative commission or committee, or in any other
5 proceeding, where the employee has reasonable cause to believe
6 that the information discloses an improper federal
7 governmental activity.

8 (b) An employer may not retaliate against an employee for
9 disclosing information to a government or law enforcement
10 agency where the employee has reasonable cause to believe that
11 the information discloses an improper federal governmental
12 activity.

13 Section 20. Retaliation for refusal. An employer may not
14 retaliate against an employee for refusing to participate in an
15 improper federal governmental activity.

16 Section 25. Civil penalty. Violation of this Act is a Class
17 A misdemeanor.

18 Section 30. Damages. If an employer takes any action
19 against an employee in violation of Section 15 or 20, the
20 employee may bring a civil action against the employer for all
21 relief necessary to make the employee whole, including but not
22 limited to the following, as appropriate:

23 (1) reinstatement with the same status that the

1 employee would have had, but for the violation;
2 (2) back pay, with interest; and
3 (3) compensation for any damages sustained as a result
4 of the violation, including litigation costs, expert
5 witness fees, and reasonable attorney's fees.

6 Section 35. Exception. This Act does not apply to
7 disclosures that would constitute a violation of the
8 attorney-client privilege.

9 Section 40. Home rule limitation. A home rule unit may not
10 regulate scientific whistleblowers. This Section is a denial
11 and limitation of home rule powers and functions under
12 subsection (h) of Section 6 of Article VII of the Illinois
13 Constitution.