

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 430

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1
2 RELATING TO THE PROTECTION OF PUBLIC EMPLOYEES; AMENDING SECTION 6-2104,
3 IDAHO CODE, TO REVISE A PROVISION REGARDING ADVERSE ACTION BY AN EM-
4 PLOYER, TO PROVIDE A LIMIT ON CERTAIN DAMAGES, AND TO MAKE TECHNICAL
5 CORRECTIONS.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 6-2104, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 6-2104. REPORTING OF GOVERNMENTAL WASTE OR VIOLATION OF LAW -- EM-
10 PLOYER ACTION.

11 (1) (a) An employer may not take adverse action against an employee be-
12 cause the employee, or a person authorized to act on behalf of the em-
13 ployee, communicates in good faith the existence of any waste of public
14 funds, property or manpower, or a violation or suspected violation of a
15 law, rule or regulation adopted under the law of this state, a politi-
16 cal subdivision of this state or the United States. Such communication
17 shall be made at a time and in a manner ~~which~~ that gives the employer rea-
18 sonable opportunity to correct the waste or violation.

19 (b) For purposes of paragraph (a) of this subsection, an employee
20 communicates in good faith if there is a reasonable basis in fact for
21 the communication. Good faith is lacking where the employee knew or
22 reasonably ought to have known that the report is malicious, false or
23 frivolous.

24 (2) (a) An employer may not take adverse action against an employee be-
25 cause an employee in good faith participates or ~~gives~~ communicates in-
26 formation in good faith in an investigation, hearing, court proceed-
27 ing, legislative or other inquiry, or other form of administrative re-
28 view concerning the existence of any waste of public funds, property, or
29 manpower, or a violation or suspected violation of a law, rule, or reg-
30 ulation adopted under the law of this state, a political subdivision of
31 this state, or the United States.

32 (b) For purposes of paragraph (a) of this subsection, an employee par-
33 ticipates or gives information in good faith if there is a reasonable
34 basis in fact for the participation or the provision of the information.
35 Good faith is lacking where the employee knew or reasonably ought to
36 have known that the employee's participation or the information pro-
37 vided by the employee is malicious, false or frivolous.

38 (3) An employer may not take adverse action against an employee because
39 the employee has objected to or refused to carry out a directive that the em-
40 ployee reasonably believes violates a law or a rule or regulation adopted un-
41 der the authority of the laws of this state, political subdivision of this
42 state or the United States.

1 (4) An employer may not implement rules or policies that unreasonably
2 restrict an employee's ability to document the existence of any waste of pub-
3 lic funds, property or manpower, or a violation, or suspected violation of
4 any laws, rules or regulations.

5 (5) (a) In no action brought pursuant to this chapter shall a judg-
6 ment for noneconomic damages be entered for a claimant exceeding three
7 hundred seventy thousand dollars (\$370,000); provided, however, that
8 beginning on July 1, 2020, and each July 1 thereafter, the cap on noneco-
9 nomical damages established in this paragraph shall increase or decrease
10 in accordance with the percentage amount of increase or decrease by
11 which the Idaho industrial commission adjusts the average annual wage
12 as computed pursuant to section 72-409(2), Idaho Code.

13 (b) The limitation contained in this subsection shall apply to the sum
14 of noneconomic damages sustained by a claimant regardless of the number
15 of persons responsible for the damages or the number of actions filed.

16 (c) If a case is tried by a jury, the jury shall not be informed of the
17 limitation contained in paragraph (a) of this subsection.

18 (d) Governmental entities and their employees shall not be liable for
19 punitive damages on any claim allowed under the provisions of this sec-
20 tion.