

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 583

BY WAYS AND MEANS 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 AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 6-2105,
5 IDAHO CODE, TO PROVIDE A LIMIT ON CERTAIN DAMAGES AND TO MAKE A TECHNICAL
6 CORRECTION.

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

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

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

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

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

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

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

39 (3) An employer may not take adverse action against an employee because
40 the employee has objected to or refused to carry out a directive that the em-
41 ployee reasonably believes violates a law or a rule or regulation adopted un-

1 der the authority of the laws of this state, political subdivision of this
2 state or the United States.

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

7 SECTION 2. That Section 6-2105, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 6-2105. REMEDIES FOR EMPLOYEE BRINGING ACTION -- PROOF REQUIRED. (1)
10 As used in this section, "damages" means damages for injury or loss caused
11 by each violation of this chapter, and includes court costs and reasonable
12 attorneys' fees.

13 (2) An employee who alleges a violation of this chapter may bring a
14 civil action for appropriate injunctive relief or actual damages, or both,
15 within one hundred eighty (180) days after the occurrence of the alleged
16 violation of this chapter.

17 (3) An action begun under this section may be brought in the district
18 court for the county where the alleged violation occurred, the county where
19 the complainant resides, or the county where the person against whom the
20 civil complaint is filed resides or has his principal place of business.

21 (4) To prevail in an action brought under the authority of this section,
22 the employee shall establish, by a preponderance of the evidence, that the
23 employee has suffered an adverse action because the employee, or a person
24 acting on his behalf, engaged or intended to engage in an activity protected
25 under section 6-2104, Idaho Code.

26 (5) (a) In no action brought pursuant to this chapter shall a judgment
27 for noneconomic damages be entered for a claimant exceeding the limita-
28 tion on damages contained in section 6-1603(1), Idaho Code.

29 (b) The limitation contained in this subsection shall apply to the sum
30 of noneconomic damages sustained by a claimant.

31 (c) Governmental entities and their employees shall not be liable for
32 punitive damages on any claim allowed under the provisions of this sec-
33 tion.