

By Senator Gaetz

1-00194A-26

202692__

A bill to be entitled

An act relating to employee protections; creating s. 112.3242, F.S.; providing legislative intent; defining terms; prohibiting agencies and independent contractors from taking specified actions against employees or certain persons for disclosing certain information to the Commission on Ethics; providing applicability; requiring that information disclosed include specified violations or alleged violations; requiring disclosure of specified information to the commission under specified circumstances; providing that specified provisions protect employees and persons who submit written complaints to the commission or provide information to an investigator during an investigation of a complaint or referral; providing applicability; authorizing certain employees or applicants for employment to file complaints in accordance with specified provisions; authorizing such employees or applicants to pursue a specified administrative remedy or a civil action within a specified timeframe; defining the term "local governmental authority"; authorizing local public employees to file a complaint with the appropriate local governmental authority under specified circumstances; specifying requirements for administrative procedures created by local governmental authorities; authorizing such employees to bring civil actions in a court of competent jurisdiction under specified conditions; requiring

1-00194A-26

202692__

specified relief; providing applicability; providing that it is an affirmative defense to certain actions that the adverse personnel action was predicated on grounds other than the exercising of certain protected rights; providing construction; amending s. 112.324, F.S.; requiring the commission to deliver complaints and any amendment thereto to the agency conducting a certain investigation, upon the agency's written request; providing that such delivery does not affect specified exemptions in regard to the complaint and amendments; requiring that such delivery be within a reasonable timeframe; requiring that the commission redact certain information under specified conditions; requiring the commission to deliver complaints and any amendment thereto to certain persons upon a notarized written request; providing that such delivery does not affect the specified exemptions of the complaint; requiring that such delivery be within a reasonable timeframe; requiring that the commission redact certain information under specified conditions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 112.3242, Florida Statutes, is created to read:

112.3242 Adverse action against employee for disclosing information of specified nature to the Commission on Ethics prohibited; employee remedy and relief.—

1-00194A-26

202692__

59 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature
60 to prevent agencies or independent contractors from taking
61 retaliatory action against an employee who reports to an
62 appropriate agency any violation of this part or s. 8(f), Art.
63 II of the State Constitution on the part of a public employer or
64 an independent contractor. It is further the intent of the
65 Legislature to prevent agencies or independent contractors from
66 taking retaliatory action against any person who discloses
67 information to an appropriate agency regarding alleged breaches
68 of the public trust or violations of s. 8(f), Art. II of the
69 State Constitution on the part of an agency, a public officer,
70 or an employee.

71 (2) DEFINITIONS.—As used in this section, unless otherwise
72 specified, the term:

73 (a) "Adverse personnel action" means the discharge,
74 suspension, transfer, or demotion of any employee or the
75 withholding of bonuses, the reduction in salary or benefits, or
76 any other adverse action taken against an employee within the
77 terms and conditions of employment by an agency or independent
78 contractor.

79 (b) "Agency" means any state, regional, county, local, or
80 municipal governmental entity, whether executive, judicial, or
81 legislative; any official, officer, department, division,
82 bureau, commission, authority, or political subdivision therein;
83 or any public school, community college, or state university.

84 (c) "Employee" means a person who performs services for,
85 and is under the control and direction of, or contracts with, an
86 agency or independent contractor for wages or other
87 remuneration.

1-00194A-26

202692__

88 (d) "Independent contractor" means a person, other than an
89 agency, who is engaged in any business and enters into a
90 contract, including a provider agreement, with an agency.

91 (3) ACTIONS PROHIBITED.—

92 (a) An agency or independent contractor may not dismiss,
93 discipline, or take any other adverse personnel action against
94 an employee for disclosing information pursuant to this section.

95 (b) An agency or independent contractor may not take any
96 adverse personnel action that affects the rights or interests of
97 a person in retaliation for the person's disclosure of
98 information under this section.

99 (c) This subsection does not apply when an employee or a
100 person discloses information known by the employee or person to
101 be false or when the employee or person discloses information
102 that forms the basis of an award of costs or attorney fees or
103 both pursuant to s. 112.317(7).

104 (4) NATURE OF INFORMATION DISCLOSED.—The information
105 disclosed under this section must include any violation or
106 suspected violation of:

107 (a) Any standard of conduct imposed by this part;

108 (b) Section 8, Art. II of the State Constitution; or

109 (c) Section 11.062, s. 16.715, part II of chapter 287, s.
110 350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605.

111 (5) TO WHOM INFORMATION IS DISCLOSED.—The information
112 disclosed under this section must be disclosed to the Commission
113 on Ethics.

114 (6) EMPLOYEES AND PERSONS PROTECTED.—This section protects
115 employees and persons who submit a written complaint to the
116 Commission on Ethics executed on a form prescribed by the

1-00194A-26

202692__

commission and signed under oath or affirmation or who provide information to an investigator during an investigation of a complaint or referral. A remedy or other protection under this section does not apply to any employee or person who has committed or intentionally participated in committing the violation or suspected violation for which protection under this section is being sought.

(7) REMEDIES.—

(a) Any employee of or applicant for employment with any state agency as defined in s. 216.011 who is discharged, disciplined, or subjected to other adverse personnel action or denied employment because he or she engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. 112.31895. Upon receipt of notice from the Florida Commission on Human Relations of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. 112.31895 or bring a civil action within 180 days after receipt of the notice.

(b) For the purpose of this paragraph, the term "local governmental authority" includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision thereof. Within 60 days after the action prohibited by this section, any local public employee protected by this section may file a complaint with the appropriate local governmental authority if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings under s. 120.65 to

1-00194A-26

202692__

146 conduct hearings under this section. The administrative
147 procedure created by ordinance must provide for the complaint to
148 be heard by a panel of impartial persons appointed by the
149 appropriate local governmental authority. Upon hearing the
150 complaint, the panel shall make findings of fact and conclusions
151 of law for a final decision by the local governmental authority.
152 Within 180 days after the entry of a final decision by the local
153 governmental authority, the local public employee who filed the
154 complaint may bring a civil action in any court of competent
155 jurisdiction. If the local governmental authority has not
156 established an administrative procedure by ordinance or
157 contract, a local public employee may, within 180 days after the
158 action prohibited by this section, bring a civil action in a
159 court of competent jurisdiction.

160 (c) Any other person protected by this section may, after
161 exhausting all available contractual or administrative remedies,
162 bring a civil action in any court of competent jurisdiction
163 within 180 days after the action prohibited by this section.

164 (8) RELIEF.—In any action brought under this section, the
165 relief must include the following:

166 (a) Reinstatement of the employee to the same position held
167 before the adverse personnel action was commenced, or to an
168 equivalent position, or reasonable front pay as an alternative
169 relief.

170 (b) Reinstatement of the employee's full fringe benefits
171 and seniority rights, as appropriate.

172 (c) Compensation to the employee, if appropriate, for lost
173 wages, benefits, or other lost remuneration caused by the
174 adverse personnel action.

1-00194A-26

202692__

175 (d) Payment of reasonable costs, including attorney fees,
176 to a substantially prevailing employee, or to the prevailing
177 employer if the employee filed a frivolous action in bad faith.

178 (e) Issuance of an injunction, if appropriate, by a court
179 of competent jurisdiction.

180 (f) Temporary reinstatement of the employee to his or her
181 former position or to an equivalent position, pending the final
182 outcome on the complaint, if an employee complains of being
183 discharged in retaliation for a protected disclosure and if a
184 court of competent jurisdiction or the Florida Commission on
185 Human Relations, as applicable under s. 112.31895, determines
186 that the disclosure was not made in bad faith or for a wrongful
187 purpose or occurred after an agency's initiation of a personnel
188 action against the employee which includes documentation of the
189 employee's violation of a disciplinary standard or performance
190 deficiency. This paragraph does not apply to an employee of a
191 municipality.

192 (9) DEFENSE.—It is an affirmative defense to any action
193 brought pursuant to this section that the adverse personnel
194 action was predicated upon grounds other than, and would have
195 been taken absent, the employee's or person's exercise of rights
196 protected by this section.

197 (10) EXISTING RIGHTS.—This section does not diminish the
198 rights, privileges, or remedies of an employee under any other
199 law or rule or under any collective bargaining agreement or
200 employment contract; however, the election of remedies in s.
201 447.401 also applies to actions under this section.

202 Section 2. Paragraphs (g) and (h) are added to subsection
203 (2) of section 112.324, Florida Statutes, to read:

1-00194A-26

202692__

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(2)

(g) Notwithstanding the exemptions in paragraphs (a)-(d), the commission shall deliver a copy of an ethics complaint, and its timely amendments, to an agency conducting an investigation of a claim asserted under s. 112.3242, upon receiving a written request from the agency. The commission's delivery of the complaint, and any amendments thereto, does not affect the exemptions in paragraphs (a)-(d) in any other context. The commission shall deliver the complaint, and any amendments thereto, within a reasonable timeframe. If the exemptions in paragraphs (a)-(d) are applicable at the time of the request, the commission must redact any designations to the complaint form it supplied after the form was filed, including, but not limited to, date stamps, receipt stamps, and complaint serial numbers.

(h) Notwithstanding the exemptions in paragraphs (a)-(d), the commission shall deliver a copy of an ethics complaint, and its timely amendments, to the person who filed the ethics complaint and to the person who identified himself or herself in the text of the complaint or its timely amendments as a current or former employee of the agency associated with the respondent named in the complaint or of an independent contractor of that agency, upon receiving a notarized, written request from such person. The commission's delivery of the complaint, and any amendments thereto, does not affect the exemptions in paragraphs (a)-(d) in any other context. The commission shall deliver the complaint in a reasonable timeframe. If the exemptions in

1-00194A-26

202692__

233 paragraphs (a)-(d) are applicable at the time of the request,
234 the commission must redact any designations to the complaint
235 form it supplied after the form was filed, including, but not
236 limited to, date stamps, receipt stamps, and complaint serial
237 numbers.

238 Section 3. This act shall take effect July 1, 2026.