

By Mr. Robinson of Melrose, petition of William G. Robinson and other members of the House relative to the protection of public employees from certain personnel practices. Public Services.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

AN ACT PROVIDING FOR PROTECTION OF CERTAIN PERSONNEL.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws, Tercentenary Edition, are hereby amend-
2 ed by inserting after Chapter 12A the following Chapter: —

CHAPTER 12B

4 Section 1. Definitions. As used in this chapter,

5 (a) 'Employer' means the commonwealth, any district, author-
6 ity or political subdivision, including the cities and towns, or
7 any person or entity who has contracted with the common-
8 wealth, or with any district, authority or political subdivision,
9 including the cities and towns.

10 (b) 'Employee' means any person performing services for or
11 holding an office or position with an employer.

12 (c) 'Personnel action' means an appointment, promotion,
13 discharge or other termination of employment, suspension, loss
14 of grade, rank or compensation, evaluation, change in the
15 terms and conditions of employment, transfer, significant
16 change in the duties or responsibilities of employment, or
17 denial or modification of contracting opportunities.

18 (d) 'Public body' means any public officer, employee, agency,
19 department, division, bureau, board, commission, council, or
20 authority.

21 Section 2. Prohibited Personnel Practices

22 No employer or person acting on behalf of an employer shall

23 take or fail to take, or threaten to take or fail to take, any
24 personnel action with respect to an employee or applicant for
25 employment because of a complaint or disclosure of informa-
26 tion to a public body, or a proposed complaint or disclosure of
27 information to a public body, which relates to the possible
28 existence of fraud, waste, abuse or neglect of duty or violation
29 of law involving public programs or activities unless such com-
30 plaint or disclosure was made with the knowledge that it was
31 false or with reckless disregard for its truth or falsity.

32 Section 3. Conciliation

33 Any person claiming to be aggrieved by a personnel practice
34 prohibited by this Chapter may so notify the Inspector General.
35 The Inspector General shall have the authority to seek to
36 eliminate any prohibited personnel practice by conciliation.

37 Section 4. Enforcement

38 (a) Any person claiming to be aggrieved by a personnel
39 practice prohibited by this Chapter may institute and prosecute
40 in his own name a civil action for injunctive and other appro-
41 priate equitable relief, actual damages or both. Such action
42 shall be filed within 90 days of the occurrence of the alleged
43 prohibited personnel practice. Any aggrieved person who pre-
44 vails in an action authorized by this section shall be entitled to
45 an award of the costs of the litigation and reasonable attorneys'
46 fees in an amount to be fixed by the court.

47 (b) The Attorney General may bring a civil action for injunc-
48 tive or other appropriate equitable relief in order to enforce the
49 prohibitions and protect the rights secured by this chapter.
50 Such civil action shall be brought in the name of the Common-
51 wealth. The right of a person to bring a civil action under sub-
52 section (a) of this section shall not terminate upon the com-
53 mencement of an action by the Attorney General.

54 (c) Civil actions commenced under subsections (a) and (b)
55 shall be brought in the superior court department for Suffolk
56 County or the county in which the alleged prohibited personnel
57 action occurred. The plaintiff in any civil action commenced
58 under subsections (a) or (b) of this Section shall notify the
59 public body to which the complaint or disclosure of informa-
60 tion was made of the commencement of such action.

61 (d) The remedies available under this section shall not be

62 deemed to diminish or impair any other rights or remedies
63 provided by statute, common law, or collective bargaining
64 agreement.

65 Section 5. Penalty for Violation

66 In addition to any relief awarded pursuant to section four of
67 this Chapter, a person found to have committed a prohibited
68 personnel practice shall be liable for a civil fine of not more
69 than \$1,000 be paid to the state treasurer for deposit in the
70 general fund.

