

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

House Bill 4383

(BY DELEGATES R. PHILLIPS, REYNOLDS, MARCUM,
HAMRICK, WALTERS, SOBONYA, P.WHITE, BUTLER,
MCCUSKEY, WELD AND HANSHAW)

[Originating in the Committee on the Judiciary;

February 19, 2016.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §5-30-1, relating to excessive filing of false complaints; defining terms;
3 providing for the discretionary suspension of investigatory obligations by agencies or
4 departments; setting forth time frames for determination of excessive false complaints;
5 limiting the time frame investigatory obligations may be suspended; providing for
6 exceptions in the agency's or department's sole discretion; providing for written notice of
7 determinations that a complaint was a false complaint; providing that a copy of this article
8 accompany notices; providing for exceptions to this article for emergency investigations
9 and the West Virginia State Police; providing for civil actions; establishing burden of proof
10 and remedies for civil actions; and preserving other available remedies of an agency or
11 department.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 article, designated §5-30-1, to read as follows:

ARTICLE 30. EXCESSIVE FILING OF FALSE COMPLAINTS.

**§5-30-1. Filing of false claims; suspension of investigatory obligations; notice;
exceptions; civil actions and remedies.**

1 (a) For purposes of this section:

2 (1) "Complaint" means a claim, allegation, report or action that prompts a required
3 inspection or investigation by an agency or department of the state.

4 (2) "False complaint" means a complaint received by an agency or department of the state
5 by an individual that, after it has been investigated and concluded, is found to be frivolous, without
6 merit, or made in bad faith.

7 (b) Any agency or department of the state that is required by statute, rule, regulation or
8 policy to conduct inspections or investigate complaints by individuals to determine whether there
9 is violation of a statute, rule or regulation may, in its sole discretion, suspend any obligations with

10 respect to such required inspections or investigations as to that individual if the agency or
11 department determines that the individual has made three or more false complaints in a two-
12 month period: *Provided*, That any such suspension shall not last longer than six months and the
13 agency or department may still undertake any inspections or investigations as a result of a
14 complaint by the individual within this time period.

15 (c) Any individual whose complaint is determined to be a false complaint shall be advised
16 of the same, in writing, within forty-eight hours of the conclusion of the inspection or investigation.
17 A copy of this article shall be provided with the written notice.

18 (d) This article does not apply to any agency or department inspections or investigations
19 that are required in the event of emergencies or the West Virginia State Police.

20 (e) In the event an agency or department subject to this article suspends its obligations
21 to an individual, the agency or department is authorized to file a civil action against the individual
22 and, upon proof by a preponderance of the evidence that any of the complaints giving rise to the
23 suspension were false complaints, is entitled to recover its actual costs associated with the
24 inspection or investigation and resolution of those false complaints, plus attorney's fees and costs,
25 as well as any injunctive or equitable relief.

26 (f) Nothing in this article is intended to affect or supersede any other available legal or
27 administrative remedies of any agency or department.