

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2497

BY DELEGATES KUMP, PUSHKIN, N. BROWN, S. BROWN,
LOVEJOY, CANESTRARO, FLUHARTY, HOUSEHOLDER, AND
C. THOMPSON

[Passed February 18, 2020; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §6C-1-3, §6C-1-4, and §6C-1-7 of the Code of West Virginia,
2 1931, as amended, all relating to the whistle-blower law; protecting promotion or increase
3 in compensation; lengthening the statute of limitations; allowing the use of grievance
4 procedure; protecting use of other right or legal action; protecting rights related to political
5 activity; and protecting rights related to membership in organizations of employees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. WHISTLE-BLOWER LAW.

**§6C-1-3. Discriminatory and retaliatory actions against whistle-blowers prohibited;
promotion, increased compensation protected.**

1 (a) No employer may discharge, threaten, or otherwise discriminate or retaliate against an
2 employee by changing the employee's compensation, terms, conditions, location, or privileges of
3 employment because the employee, acting on his or her own volition, or a person acting on behalf
4 of or under the direction of the employee, makes a good faith report, or is about to report, verbally
5 or in writing, to the employer or appropriate authority, an instance of wrongdoing or waste.

6 (b) No employer may discharge, threaten, or otherwise discriminate or retaliate against an
7 employee by changing the employee's compensation, terms, conditions, location, or privileges of
8 employment because the employee is requested or subpoenaed by an appropriate authority to
9 participate in an investigation, hearing, or inquiry held by an appropriate authority or in a court
10 action.

11 (c) No employer may deny a whistle-blower covered by the civil service system, because
12 of his or her status or actions as a whistle-blower, a promotion or other increase in compensation
13 that the whistle-blower otherwise would have received.

**§6C-1-4. Civil action by whistle-blower for violation; limitation on actions; burden of proof;
defense; use of evidence in civil service proceeding; grievance action available;
other rights and actions not limited.**

1 (a) A person who alleges that he or she is a victim of a violation of this article may bring a
2 civil action in a court of competent jurisdiction for appropriate injunctive relief or damages, or both,
3 within two years after the occurrence of the alleged violation.

4 (b) An employee alleging a violation of this article must show by a preponderance of the
5 evidence that, prior to the alleged reprisal, the employee, or a person acting on behalf of or under
6 the direction of the employee, had reported or was about to report in good faith, verbally or in
7 writing, an instance of wrongdoing or waste to the employer or an appropriate authority.

8 (c) It shall be a defense to an action under this section if the defendant proves by a
9 preponderance of the evidence that the action complained of occurred for separate and legitimate
10 reasons, which are not merely pretexts.

11 (d) An employee covered by the civil service system who contests a civil service action,
12 believing it to be motivated by the employee having made a disclosure of information, may submit
13 as admissible evidence any or all material relating to the action as whistle-blower and to the
14 resulting alleged reprisal.

15 (e) Any employee covered by the civil service system who has suffered a retaliatory action
16 as a result of being a whistle-blower may pursue a grievance under the West Virginia Public
17 Employees Grievance Procedure.

18 (f) Nothing in this article shall impair or limit any other right or legal action of an employee
19 covered by the civil service system.

**§6C-1-7. Limitations on scope of construction; protections related to political activity and
membership in organization of employee.**

1 (a) The provisions of this article shall not be construed to require an employer to
2 compensate an employee for participation in an investigation, hearing, or inquiry held by an
3 appropriate authority or impair the rights of any employee covered by the civil service system to
4 be a member of an organization of employees or to refrain from being a member of an
5 organization of employees.

6 (b) Except when on duty or acting in an official capacity, and except where otherwise
7 prohibited by state or federal law, no employee covered by the civil service system may be
8 prohibited from engaging in political activity or be denied the right to refrain from engaging in
9 political activity.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2020.

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Governor