

WHISTLEBLOWER AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stuart C. Reid

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies grievance procedure provisions and the Utah Protection of Public Employees Act to address protections for employees who report certain wasteful or wrongful actions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ empowers the Career Service Review Office to review a grievance by a public entity employee who alleges that adverse action was taken against the public entity employee in retaliation for reporting wasteful or wrongful actions;
- ▶ outlines the grievance procedure for a public entity employee;
- ▶ protects an employee from adverse action for reporting wasteful or wrongful conduct;
- ▶ describes when the exhaustion of administrative remedies is required;
- ▶ provides for a political subdivision or a state institution of higher education to create an administrative procedure for an employee to file a complaint;
- ▶ shifts the burden of proof to the employer to prove that a communication was not made in good faith;
- ▶ permits the award of costs and attorney fees to a party that prevails in court;
- ▶ increases fines imposed under the chapter and addresses who pays the fines;



- 28 ▶ requires an employer to provide a copy of the chapter to an employee under certain
- 29 circumstances;
- 30 ▶ addresses false accusations; and
- 31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **67-19a-101**, as last amended by Laws of Utah 2010, Chapter 249
- 39 **67-19a-202**, as repealed and reenacted by Laws of Utah 2010, Chapter 249
- 40 **67-19a-301**, as last amended by Laws of Utah 2010, Chapter 249
- 41 **67-19a-302**, as last amended by Laws of Utah 2010, Chapter 249
- 42 **67-19a-303**, as last amended by Laws of Utah 2010, Chapter 249
- 43 **67-21-2**, as last amended by Laws of Utah 2007, Chapter 329
- 44 **67-21-3**, as last amended by Laws of Utah 2010, Chapter 324
- 45 **67-21-4**, as last amended by Laws of Utah 1999, Chapter 177
- 46 **67-21-5**, as last amended by Laws of Utah 1999, Chapter 177
- 47 **67-21-6**, as enacted by Laws of Utah 1985, Chapter 216
- 48 **67-21-9**, as enacted by Laws of Utah 1985, Chapter 216

49 ENACTS:

- 50 **67-19a-402.5**, Utah Code Annotated 1953
- 51 **67-21-3.5**, Utah Code Annotated 1953
- 52 **67-21-3.6**, Utah Code Annotated 1953
- 53 **67-21-3.7**, Utah Code Annotated 1953
- 54 **67-21-10**, Utah Code Annotated 1953



56 *Be it enacted by the Legislature of the state of Utah:*

57 Section 1. Section **67-19a-101** is amended to read:

58 **67-19a-101. Definitions.**

59 As used in this chapter:

60 (1) "Administrator" means the person appointed under Section 67-19a-201 to head the
61 Career Service Review Office.

62 (2) "Career service employee" means a person employed in career service as defined in
63 Section 67-19-3.

64 (3) "Employer" means the state of Utah and all supervisory personnel vested with the
65 authority to implement and administer the policies of an agency.

66 (4) "Grievance" means:

67 (a) a complaint by a career service employee concerning any matter touching upon the
68 relationship between the employee and the employer; ~~and~~

69 (b) any dispute between a career service employee and the employer[-]; and

70 (c) a complaint by a reporting employee that a public entity has engaged in retaliatory
71 action against the reporting employee.

72 (5) "Office" means the Career Service Review Office created under Section
73 67-19a-201.

74 (6) "Public entity" is as defined in Section 67-21-2.

75 (7) "Reporting employee" means an employee of a public entity who alleges that the
76 public entity engaged in retaliatory action against the employee.

77 (8) "Retaliatory action" means to do any of the following to an employee in violation of
78 Section 67-21-3:

79 (a) dismiss the employee;

80 (b) reduce the employee's compensation;

81 (c) fail to increase the employee's compensation by an amount that the employee is
82 otherwise entitled to or was promised;

83 (d) fail to promote the employee if the employee would have otherwise been promoted;

84 (e) cause the employee to resign by subjecting the employee to conditions that a
85 reasonable person would consider intolerable; or

86 (f) threaten to take an action described in Subsections (8)(a) through (e).

87 ~~[(6)]~~ (9) "Supervisor" means the person:

88 (a) to whom an employee reports; or

89 (b) who assigns and oversees an employee's work.

90 Section 2. Section **67-19a-202** is amended to read:

91 **67-19a-202. Powers -- Scope of authority.**

92 (1) (a) The office shall serve as the final administrative body to review a grievance
93 from a career service employee and an agency of a decision regarding:

- 94 (i) a dismissal;
- 95 (ii) a demotion;
- 96 (iii) a suspension;
- 97 (iv) a reduction in force;
- 98 (v) a dispute concerning abandonment of position;
- 99 (vi) a wage grievance if an employee is not placed within the salary range of the
100 employee's current position;
- 101 (vii) a violation of a rule adopted under Chapter 19, Utah State Personnel Management
102 Act; or
- 103 (viii) except as provided by Subsection (1)(b)(iii), equitable administration of the
104 following benefits:

- 105 (A) long-term disability insurance;
- 106 (B) medical insurance;
- 107 (C) dental insurance;
- 108 (D) post-retirement health insurance;
- 109 (E) post-retirement life insurance;
- 110 (F) life insurance;
- 111 (G) defined contribution retirement;
- 112 (H) defined benefit retirement; and
- 113 (I) a leave benefit.

114 (b) The office shall serve as the final administrative body to review a grievance by a
115 reporting employee alleging retaliatory action.

116 [~~(b)~~] (c) The office may not review or take action on:

- 117 (i) a personnel matter not listed in Subsection (1)(a) or (b);
- 118 (ii) a grievance listed in Subsection (1)(a) or (b) that alleges discrimination or
119 retaliation related to a claim of discrimination that is a violation of a state or federal law for
120 which review and action by the office is preempted by state or federal law; or

121 (iii) a grievance related to a claim for which an administrative review process is
122 provided by statute and administered by:

123 (A) the Utah State Retirement Systems under Title 49, Utah State Retirement and
124 Insurance Benefit Act;

125 (B) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20,
126 Public Employees' Benefit and Insurance Program Act; or

127 (C) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21,
128 Public Employees' Long-Term Disability Act.

129 (2) The time limits established in this chapter supersede the procedural time limits
130 established in Title 63G, Chapter 4, Administrative Procedures Act.

131 Section 3. Section **67-19a-301** is amended to read:

132 **67-19a-301. Charges submissible under grievance procedure.**

133 (1) This grievance procedure may only be used by career service employees who are
134 not:

135 (a) public applicants for a position with the state's work force;

136 (b) public employees of the state's political subdivisions;

137 (c) public employees covered by other grievance procedures; or

138 (d) employees of state institutions of higher education.

139 (2) (a) Whenever a question or dispute exists as to whether an employee is qualified to
140 use this grievance procedure, the administrator shall resolve the question or dispute.

141 (b) The administrator's decision under Subsection (2)(a) is reviewable only by the
142 Court of Appeals.

143 (3) Any career service employee may submit a grievance based upon a claim or charge
144 of injustice or oppression, including dismissal from employment, resulting from an act,
145 occurrence, omission, or condition for solution through the grievance procedures set forth in
146 this chapter.

147 (4) A reporting employee shall use the grievance procedure described in Section
148 67-19a-402.5 to bring a claim of retaliatory action.

149 Section 4. Section **67-19a-302** is amended to read:

150 **67-19a-302. Levels of procedure.**

151 (1) A career service employee may grieve the issues specified under Subsection

152 67-19a-202(1)(a) to all levels of the grievance procedure described in Section 67-19a-402.

153 (2) (a) A career service employee may grieve all other matters only to the level of the
154 department head.

155 (b) The decision of the department head on a matter under Subsection (2)(a) is final
156 and may not be advanced to the office.

157 (3) In accordance with Section 67-19a-402.5, a reporting employee may file directly
158 with the office a grievance alleging retaliatory action.

159 Section 5. Section **67-19a-303** is amended to read:

160 **67-19a-303. Employees' rights in grievance procedure.**

161 (1) For the purpose of submitting and advancing a grievance, a career service
162 employee, or a reporting employee alleging retaliatory action, may:

163 (a) obtain assistance by a representative of the employee's choice to act as an advocate
164 at any level of the grievance procedure;

165 (b) request a reasonable amount of time during work hours to confer with the
166 representative and prepare the grievance; and

167 (c) call other employees as witnesses at a grievance hearing.

168 (2) The state shall allow employees to attend and testify at the grievance hearing as
169 witnesses if the employee has given reasonable advance notice to the employee's immediate
170 supervisor.

171 (3) No person may take any reprisals against ~~[any]~~ a career service employee or a
172 reporting employee for use of a grievance ~~[procedures specified]~~ procedure described in this
173 chapter.

174 (4) (a) The employing agency of an employee who files a grievance may not place
175 grievance forms, grievance materials, correspondence about the grievance, agency and
176 department replies to the grievance, or other documents relating to the grievance in the
177 employee's personnel file.

178 (b) The employing agency of an employee who files a grievance may place records of
179 disciplinary action in the employee's personnel file.

180 (c) If any disciplinary action against an employee is rescinded through the grievance
181 procedures ~~[established]~~ described in this chapter, the agency and the Department of Human
182 Resource Management shall remove the record of the disciplinary action from the employee's

183 agency personnel file and central personnel file.

184 (d) An agency may maintain a separate grievance file relating to an employee's
185 grievance, but shall discard the file after three years.

186 Section 6. Section **67-19a-402.5** is enacted to read:

187 **67-19a-402.5. Procedural steps to be followed by reporting employee alleging**
188 **retaliatory action.**

189 (1) A reporting employee who has a grievance of retaliatory action:

190 (a) shall submit the grievance in writing within 10 days after the day on which the
191 retaliatory action occurs;

192 (b) is not required to comply with Section 63G-7-402 to file the grievance; and

193 (c) is required to comply with Section 63G-7-402 before appealing a grievance to
194 district court.

195 (2) (a) When a reporting employee files a grievance with the administrator under
196 Subsection (1), the administrator shall initially determine:

197 (i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah
198 Protection of Public Employees Act, to bring the grievance and use the grievance procedure;

199 (ii) whether the office has authority to review the grievance;

200 (iii) whether, if the alleged grievance were found to be true, the reporting employee
201 would be entitled to relief under Subsection 67-21-3.5(2); and

202 (iv) whether the reporting employee has been directly harmed.

203 (b) To make the determinations described in Subsection (2)(a), the administrator may:

204 (i) hold an initial hearing, where the parties may present oral arguments, written
205 arguments, or both; or

206 (ii) conduct an administrative review of the grievance.

207 (3) (a) If the administrator holds an initial hearing, the administrator shall issue a
208 written decision within 15 days after the day on which the hearing is adjourned.

209 (b) If the administrator chooses to conduct an administrative review of the grievance,
210 the administrator shall issue the written decision within 15 days after the day on which the
211 administrator receives the grievance.

212 (4) (a) If the administrator determines the office has authority to review the grievance,
213 the administrator shall provide for an evidentiary hearing in accordance with Section

214 67-19a-404.

215 (b) The administrator may dismiss the grievance, without holding a hearing or taking
216 evidence, if the administrator:

217 (i) finds that, even if the alleged grievance were found to be true, the reporting
218 employee would not be entitled to relief under Subsection 67-21-3.5(2); and

219 (ii) provides the administrator's findings, in writing, to the reporting employee.

220 (c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act,
221 in taking action under this section.

222 (5) A decision reached by the office in reviewing a retaliatory action grievance from a
223 reporting employee:

224 (a) may be reviewed de novo in district court; and

225 (b) may not be appealed directly to the Utah Court of Appeals.

226 (6) (a) Except as provided in Subsection (6)(b), a district court that reviews a decision
227 reached by the office in a retaliatory action grievance may award costs and attorney fees,
228 accrued at the district court level, to the prevailing party.

229 (b) A court may not order the office to pay costs or attorney fees under this section.

230 Section 7. Section **67-21-2** is amended to read:

231 **67-21-2. Definitions.**

232 As used in this chapter:

233 (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:

234 (a) adversely affects the employment rights of another; or

235 (b) results in personal gain to the person exercising the authority or to another person.

236 ~~[(1)]~~ (2) "Adverse action" means to discharge, threaten, or [otherwise] discriminate
237 against an employee in [any] a manner that affects the employee's employment, including
238 compensation, terms, conditions, location, rights, immunities, promotions, or privileges.

239 ~~[(2)]~~ (3) "Communicate" means a verbal, written, broadcast, or other communicated
240 report.

241 (4) "Damages" means general and special damages for injury or loss caused by each
242 violation of this chapter.

243 ~~[(3)]~~ (5) "Employee" means a person who performs a service for wages or other
244 remuneration under a contract of hire, written or oral, express or implied.

245 ~~[(4)]~~ (6) (a) "Employer" means the ~~[employing state agency or political subdivision of~~
246 ~~the state]~~ public body or public entity that employs the employee.

247 (b) "Employer" includes an agent of an employer.

248 (7) "Gross mismanagement" means action or failure to act by a person, with respect to
249 a person's responsibility, that causes significant harm or risk of harm to the mission of the
250 public entity or public body that employs, or is managed or controlled by, the person.

251 (8) "Judicial employee" means an employee of the judicial branch of state government.

252 (9) "Legislative employee" means an employee of the legislative branch of state
253 government.

254 (10) "Political subdivision employee" means an employee of a political subdivision of
255 the state.

256 ~~[(5)]~~ (11) "Public body" means any of the following:

257 (a) a state officer, employee, agency, department, division, bureau, board, commission,
258 council, authority, educational institution, or any other body in the executive branch of state
259 government;

260 (b) an agency, board, commission, council, institution member, or employee of the
261 legislative branch of state government;

262 (c) a county, city, town, regional governing body, council, school district, local district,
263 special service district, or municipal corporation, board, department, commission, council,
264 agency, or any member or employee of them;

265 (d) any other body that is created by state or local authority, or that is primarily funded
266 by or through state or local authority, or any member or employee of that body;

267 (e) a law enforcement agency or any member or employee of a law enforcement
268 agency; and

269 (f) the judiciary and any member or employee of the judiciary.

270 (12) "Public entity" means a department, division, board, council, committee,
271 institution, office, bureau, or other similar administrative unit of the executive branch of state
272 government.

273 (13) "Public entity employee" means an employee of a public entity.

274 (14) "Retaliatory action" is as defined in Section 67-19a-101.

275 (15) "State institution of higher education" is as defined in Section 53B-3-102.

276 Section 8. Section **67-21-3** is amended to read:

277 **67-21-3. Reporting of governmental waste or violations of law -- Employer action**

278 **-- Exceptions.**

279 (1) (a) An employer may not take adverse action against an employee because the
280 employee, or a person authorized to act on behalf of the employee, communicates in good
281 faith;

282 (i) ~~the [existence of any] waste or misuse of public funds, property, or manpower[, or];~~

283 (ii) a violation or suspected violation of a law, rule, or regulation adopted under the law
284 of this state, a political subdivision of this state, or any recognized entity of the United
285 States[-];

286 (iii) gross mismanagement;

287 (iv) abuse of authority; or

288 (v) unethical conduct.

289 (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated
290 in good faith if ~~[he] the employee~~ gives written notice or otherwise formally communicates the
291 ~~[waste, violation, or reasonable suspicion to the state auditor. This]~~ conduct described in
292 Subsection (1)(a) to:

293 (i) a person in authority over the person alleged to have engaged in the conduct
294 described in Subsection (1)(a);

295 (ii) the attorney general's office;

296 (iii) law enforcement, if the conduct is criminal in nature;

297 (iv) if the employee is a public entity employee, public body employee, legislative
298 employee, or a judicial employee:

299 (A) the state auditor;

300 (B) the president of the Senate;

301 (C) the speaker of the House of Representatives;

302 (D) the governor's office;

303 (E) the state court administrator; or

304 (F) the Division of Finance;

305 (v) if the employee is a public entity employee, but not an employee of a state
306 institution of higher education, the Director of the Division of Purchasing and General

307 Services:

308 (vi) if the employee is a political subdivision employee:

309 (A) the legislative body, or a member of the legislative body, of the political
310 subdivision;

311 (B) the governing body, or a member of the governing body, of the political
312 subdivision;

313 (C) the top executive of the political subdivision; or

314 (D) any government official with authority to audit the political subdivision or the
315 applicable part of the political subdivision; or

316 (vii) if the employee is an employee of a state institution of higher education:

317 (A) the State Board of Regents or a member of the State Board of Regents;

318 (B) the commissioner of higher education;

319 (C) the president of the state institution of higher education where the employee is
320 employed; or

321 (D) the entity that conducts audits of the state institution of higher education where the
322 employee is employed.

323 (c) The presumption described in Subsection (1)(b) may be rebutted by showing that
324 the employee knew or reasonably ought to have known that the report is malicious, false, or
325 frivolous.

326 (2) An employer may not take adverse action against an employee because an
327 employee participates or gives information in an investigation, hearing, court proceeding,
328 legislative or other inquiry, or other form of administrative review held by the public body.

329 (3) An employer may not take adverse action against an employee because the
330 employee has objected to or refused to carry out a directive that the employee reasonably
331 believes violates a law of this state, a political subdivision of this state, or the United States, or
332 a rule or regulation adopted under the authority of the laws of this state, a political subdivision
333 of this state, or the United States.

334 (4) An employer may not implement rules or policies that unreasonably restrict an
335 employee's ability to document ~~[the existence of any]~~:

336 (a) the waste or misuse of public funds, property, or manpower~~[-or a]~~;

337 (b) a violation or suspected violation of any ~~[laws, rules, or regulations.]~~ law, rule, or

338 regulation;

339 (c) gross mismanagement;

340 (d) abuse of authority; or

341 (e) unethical conduct.

342 Section 9. Section **67-21-3.5** is enacted to read:

343 **67-21-3.5. Administrative review of adverse action against a public entity**
344 **employee.**

345 (1) A public entity employee who believes that the employee's employer has taken
346 retaliatory action against the employee in violation of this chapter may file a grievance with the
347 Career Service Review Office in accordance with Section 67-19a-402.5.

348 (2) If the Career Service Review Office determines that retaliatory action is taken in
349 violation of this chapter against the public entity employee, the Career Service Review Office
350 may order:

351 (a) reinstatement of the public entity employee at the same level held by the public
352 entity employee before the retaliatory action;

353 (b) the payment of back wages;

354 (c) full reinstatement of benefits; or

355 (d) full reinstatement of other employment rights.

356 (3) A public entity employer has the burden to prove by substantial evidence that the
357 public entity employer's action was justified by reasons unrelated to the public entity
358 employee's good faith actions under Section 67-21-3.

359 (4) A public entity employee or public entity employer may appeal a determination of
360 the Career Service Review Office as provided in Section 67-19a-402.5.

361 Section 10. Section **67-21-3.6** is enacted to read:

362 **67-21-3.6. Administrative review for political subdivision employees.**

363 (1) (a) A political subdivision may adopt an ordinance to establish an independent
364 personnel board to hear and take action on a complaint alleging adverse action.

365 (b) The ordinance described in Subsection (1)(a) shall include:

366 (i) procedures for filing a complaint and conducting a hearing; and

367 (ii) a burden of proof on the employer to establish by substantial evidence that the

368 employer's action was justified by reasons unrelated to the employee's good faith actions under

369 Section 67-21-3.

370 (2) If a political subdivision adopts an ordinance described in Subsection (1), a
371 political subdivision employee may file a complaint with the independent personnel board
372 alleging adverse action.

373 (3) If an independent personnel board finds that adverse action is taken in violation of
374 this chapter, the independent personnel board may order:

375 (a) reinstatement of the employee at the same level as before the adverse action;

376 (b) the payment of back wages;

377 (c) full reinstatement of fringe benefits; or

378 (d) full reinstatement of seniority rights.

379 Section 11. Section **67-21-3.7** is enacted to read:

380 **67-21-3.7. Administrative review for state institution of higher education**
381 **employees.**

382 (1) (a) A state institution of higher education may adopt a policy to establish an
383 independent personnel board to hear and take action on a complaint alleging adverse action.

384 (b) The policy described in Subsection (1)(a) shall include:

385 (i) procedures for filing a complaint and conducting a hearing; and

386 (ii) a burden of proof on the employer to establish by substantial evidence that the
387 employer's action was justified by reasons unrelated to the employee's good faith actions under
388 Section 67-21-3.

389 (2) If a state institution of higher education adopts a policy described in Subsection (1),
390 an employee of the state institution of higher education may file a complaint with the
391 independent personnel board alleging adverse action.

392 (3) If an independent personnel board finds that adverse action is taken in violation of
393 this chapter, the independent personnel board may order:

394 (a) reinstatement of the employee at the same level as before the adverse action;

395 (b) the payment of back wages;

396 (c) full reinstatement of fringe benefits; or

397 (d) full reinstatement of seniority rights.

398 Section 12. Section **67-21-4** is amended to read:

399 **67-21-4. Remedies for employee bringing action -- Proof required.**

400 ~~[(1) As used in this section, "damages" means damages for injury or loss caused by~~
401 ~~each violation of this chapter.]~~

402 ~~[(2)]~~ (1) An employee who alleges a violation of this chapter may bring a civil action
403 for appropriate injunctive relief ~~[or actual]~~, damages, or both, within 180 days after:

404 (a) the exhaustion of administrative action under this chapter, including appeals of
405 administrative action, if the employee is a public entity employee;

406 (b) the exhaustion of administrative action for a political subdivision employee of a
407 political subdivision that adopts an ordinance described in Section 67-21-3.6;

408 (c) the exhaustion of administrative action for an employee of an institution of higher
409 education that adopts a policy described in Section 67-21-3.7; or

410 (d) the occurrence of the alleged violation of this chapter[-] for:

411 (i) a political subdivision employee of a political subdivision that has not adopted an
412 ordinance described in Section 67-21-3.6;

413 (ii) an employee of a state institution of higher education that has not adopted a policy
414 described in Section 67-21-3.7;

415 (iii) a legislative employee; or

416 (iv) a judicial employee.

417 ~~[(3)]~~ (2) An ~~[action begun]~~ employee who brings a civil action under this section ~~[may~~
418 ~~be brought]~~ shall bring the action in the district court for the county where the alleged violation
419 occurred, the county where the complainant resides, or the county where the person against
420 whom the civil complaint is filed resides or has ~~[his]~~ the person's principal place of business.

421 ~~[(4) To prevail in an action brought under the authority of this section, the employee~~
422 ~~shall establish, by a preponderance of the evidence, that the employee has suffered an adverse~~
423 ~~action because the employee, or a person acting on his behalf engaged or intended to engage in~~
424 ~~an activity protected under Section 67-21-3.]~~

425 (3) To prevail in an action brought under this section, the employer shall prove by
426 substantial evidence that the employer's action was justified by a reason unrelated to the
427 employee's good faith action under Subsection 67-21-3(1)(a).

428 (4) Nothing in this section prohibits an employee from bringing a civil action against
429 the employee's employer or former employer during the time that an administrative action is
430 pending under this section, if the issues in the civil action are outside of the jurisdiction of the

431 administrative action.

432 Section 13. Section **67-21-5** is amended to read:

433 **67-21-5. Court orders for violation of chapter.**

434 (1) A court, in rendering a judgment in an action brought under this chapter, may order
435 reinstatement of the employee at the same level, the payment of back wages, full reinstatement
436 of fringe benefits and seniority rights, [~~actual~~] damages, or any combination of these remedies.

437 (2) A court shall [~~also~~] award the complainant all or a portion of the costs of litigation,
438 which are defined to include reasonable attorney fees and witness fees, if the court determines
439 that the [~~award is appropriate~~] complainant prevails.

440 Section 14. Section **67-21-6** is amended to read:

441 **67-21-6. Civil fine.**

442 (1) (a) A person who violates this chapter is liable for a civil fine of not more than
443 [~~\$500~~] \$5,000.

444 (b) The person who takes an adverse action against an employee in violation of this
445 chapter, and not the public body that employs the employee, shall pay the civil fine under this
446 Subsection (1).

447 (c) If a person is ordered to pay a civil fine under this Subsection (1), the employer may
448 dismiss the person who took the adverse action in violation of this chapter.

449 (2) A civil fine [~~which is~~] ordered under this chapter shall be submitted to the state
450 treasurer for deposit in the General Fund.

451 (3) The civil fine described in this section may be imposed if a violation of this chapter
452 is found by:

453 (a) an independent personnel board described in Subsection 67-21-3.6(1)(a) or
454 67-21-3.7(1)(a);

455 (b) the Career Service Review Office; or

456 (c) a court.

457 Section 15. Section **67-21-9** is amended to read:

458 **67-21-9. Notice of contents of this chapter -- Posting.**

459 (1) An employer shall post notices and use other appropriate means to keep employees
460 informed of their protections and obligations under this chapter.

461 (2) Upon request by an employee, or when an employee alleges an adverse action, the

462 employer shall provide the employee with a copy of this chapter.

463 Section 16. Section **67-21-10** is enacted to read:

464 **67-21-10. False accusations.**

465 (1) An employee violates this chapter if the employee knowingly makes a false
466 accusation against an employer under this chapter.

467 (2) An employee who violates Subsection (1), is subject to:

468 (a) a fine not to exceed \$5,000; and

469 (b) dismissal from employment.

Legislative Review Note

as of 2-6-13 11:02 AM

Office of Legislative Research and General Counsel