

CHAPTER 251

---

**GOVERNMENT - STATE**

---

**SENATE BILL 97-080**

BY SENATORS Tanner, Bishop, Blickensderfer, Chlouber, Hopper, Johnson, Martinez, Pascoe, Phillips, Rizzuto, Rupert, Thiebaut, and Weddig;  
also REPRESENTATIVES Kreutz, Chavez, Leyba, and Tucker.

**AN ACT**

CONCERNING THE PROTECTION AFFORDED TO STATE EMPLOYEES FROM RETALIATION FOR DISCLOSURE OF INFORMATION.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 24-50.5-104, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-50.5-104. Complaints by state personnel system employees - limitation period.** (1) Any employee in the state personnel system may file a written complaint with the state personnel board WITHIN THIRTY DAYS AFTER THE EMPLOYEE KNEW OR SHOULD HAVE KNOWN OF A DISCIPLINARY ACTION alleging a violation of section 24-50.5-103 if the employee demonstrates that reasonable communication to ~~his~~ THE EMPLOYEE'S supervisor, appointing authority, or member of the general assembly has occurred in regard to the alleged violation. WITHIN TEN DAYS AFTER RECEIVING THE COMPLAINT, THE STATE PERSONNEL BOARD SHALL SEND A COPY OF THE COMPLAINT TO THE AFFECTED STATE AGENCY AND SHALL PROVIDE THE EMPLOYEE WITH WRITTEN NOTICE THAT THE COMPLAINT HAS BEEN RECEIVED AND DOCKETED, THAT THE INVESTIGATION OF THE CHARGES HAS COMMENCED, AND THAT SETS FORTH THE PROCESS FOR REVIEWING SUCH COMPLAINT. THE AFFECTED STATE AGENCY SHALL SUBMIT A WRITTEN RESPONSE TO THE COMPLAINT WITHIN FORTY-FIVE DAYS AFTER THE DATE THE COMPLAINT WAS FILED WITH THE STATE PERSONNEL BOARD. WITHIN FIFTY DAYS AFTER THE DATE THE COMPLAINT WAS FILED WITH THE STATE PERSONNEL BOARD, the ~~state personnel~~ board shall cause an investigation of the charges to be made by the state personnel director. THE STATE PERSONNEL DIRECTOR SHALL

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

COMPLETE THE INVESTIGATION WITHIN FORTY-FIVE DAYS AFTER THE COMMENCEMENT THEREOF. WITHIN FIVE DAYS AFTER RECEIVING THE INVESTIGATOR'S REPORT, THE STATE PERSONNEL BOARD SHALL MAIL A COPY OF THE INVESTIGATOR'S WRITTEN REPORT TO THE EMPLOYEE AND TO THE AFFECTED STATE AGENCY. If the investigation establishes that there is a reasonable basis for the charges, the appointing authority or supervisor shall be given written notice thereof. Within ten days after ~~he receives~~ RECEIVING such notice, the appointing authority or supervisor may petition the board for a hearing on the matter, and the board shall grant such hearing. THE BOARD SHALL SET THE MATTER FOR HEARING TO COMMENCE NOT LATER THAN FORTY-FIVE DAYS AFTER THE RECEIPT OF THE PETITION FOR HEARING FILED BY THE APPOINTING AUTHORITY OR SUPERVISOR OR THE COMPLETION OF ANY ONGOING INVESTIGATION RELATED TO OTHER ALLEGATIONS OF THE EMPLOYEE, WHICHEVER IS LATER. THE HEARING DATE MAY BE CONTINUED ONCE ONLY FOR GOOD CAUSE SHOWN FOR NO LONGER THAN FORTY-FIVE DAYS WITH THE APPROVAL OF THE STATE PERSONNEL BOARD. ANY HEARING CONDUCTED PURSUANT TO THIS SECTION SHALL TAKE PRECEDENCE OVER ANY OTHER MATTER PENDING BEFORE THE STATE PERSONNEL BOARD.

(2) If the state personnel board after hearing determines that a violation of section 24-50.5-103 has occurred, or if the investigation establishes a reasonable basis for the charges and no hearing is requested, the board shall order, WITHIN THIRTY DAYS AFTER SUCH HEARING OR INVESTIGATION, the appropriate relief, including, but not limited to, reinstatement, back pay, restoration of lost service credit, and expungement of the records of the employee who disclosed information, and, in addition, the state personnel board shall order that the employee filing the complaint be reimbursed for any costs, INCLUDING ANY COURT COSTS AND ATTORNEY FEES, IF ANY, incurred in the proceeding. Such reimbursement shall be made out of moneys appropriated to the agency which employs such employee. Judicial review of any determination by the state personnel board under this subsection (2) may be had in accordance with section 24-4-106.

(3) It shall be a defense in any ~~disciplinary proceeding against an employee under section 24-50-125 that such proceeding~~ GRIEVANCE OR APPEAL BEFORE THE STATE PERSONNEL BOARD THAT THE DISCIPLINARY ACTION AGAINST AN EMPLOYEE was initiated in violation of section 24-50.5-103, and the issue of the violation of section 24-50.5-103 shall be determined by the state personnel board as a part of the ~~disciplinary proceeding~~ RELATED GRIEVANCE OR APPEAL. THE FAILURE TO RAISE ANY SUCH DEFENSE SHALL BAR ANY SUBSEQUENT CAUSE OF ACTION FOR A VIOLATION OF SECTION 24-50.5-103 ARISING OUT OF THE SAME SET OF FACTS AT ISSUE IN THE RELATED GRIEVANCE OR APPEAL.

(4) Whenever the state personnel board determines that an appointing authority or supervisor has violated section 24-50.5-103, ~~it shall cause an entry to that effect to be made in the supervisor's personnel records~~ THE APPOINTING AUTHORITY OR SUPERVISOR SHALL RECEIVE A DISCIPLINARY ACTION WHICH SHALL REMAIN A PERMANENT PART OF THE APPOINTING AUTHORITY'S OR SUPERVISOR'S PERSONNEL FILE, AND A COPY OF THE DISCIPLINARY ACTION SHALL BE PROVIDED TO THE EMPLOYEE. THE DISCIPLINARY ACTION SHALL BE APPROPRIATE TO THE CIRCUMSTANCES, FROM A MANDATORY MINIMUM OF ONE WEEK SUSPENSION OR EQUIVALENT UP TO AND INCLUDING TERMINATION. IN CONSIDERING THE APPROPRIATE DISCIPLINARY ACTION PURSUANT TO THIS SUBSECTION (4), THE APPOINTING

AUTHORITY OR SUPERVISOR OF THE APPOINTING AUTHORITY OR SUPERVISOR WHO HAS COMMITTED SUCH VIOLATION SHALL CONSIDER THE NATURE AND SEVERITY OF THE RETALIATORY CONDUCT INVOLVED.

(5) THE STATE PERSONNEL BOARD SHALL PROMULGATE RULES CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE THAT ESTABLISH THE PROCEDURES FOR FILING COMPLAINTS WITH THE STATE PERSONNEL BOARD UNDER THIS SECTION AND THAT IDENTIFY THE RIGHTS AND OBLIGATIONS OF EMPLOYEES UNDER THIS ARTICLE.

**SECTION 2. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 1997, and shall apply to employee complaints filed on or after said date.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1997