

CHAPTER 32

GOVERNMENT - STATE

HOUSE BILL 06-1061

BY REPRESENTATIVE(S) Coleman, Schultheis, Vigil, White, Berens, Borodkin, Butcher, Cloer, Decker, Garcia, Green, Jahn, Madden, Marshall, McFadyen, Merrifield, Paccione, Pommer, and Soper;
also SENATOR(S) Takis, Hanna, and Taylor.

AN ACT**CONCERNING COMPLAINTS BY STATE EMPLOYEES ALLEGING RETALIATION FOR DISCLOSURE OF INFORMATION.**

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

SECTION 1. 24-50.5-104 (1) and (2), Colorado Revised Statutes, are 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~~ **TEN** 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 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 board shall cause an investigation of the charges to be made by the state personnel director. The state personnel director shall 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~~

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

appointing authority or supervisor shall be given written notice thereof. Within ten days after 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 STATE PERSONNEL board shall set the matter for REVIEW IN ACCORDANCE WITH SECTION 24-50-123 OR FOR hearing to commence not later than ~~forty-five~~ NINETY 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~~ WRITTEN RESPONSE FILED BY THE AGENCY. The hearing date may be continued once only for good cause shown for no longer than ~~forty-five~~ THIRTY 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 STATE PERSONNEL board shall order, within ~~thirty~~ FORTY-FIVE 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~~ THAT 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.

SECTION 2. 24-50.5-105, Colorado Revised Statutes, is amended to read:

24-50.5-105. Civil action. Any employee not in the state personnel system, or any employee in the state personnel system who ~~has~~ filed a complaint under section 24-50.5-104 (1) but ~~no reasonable basis was found for the charges~~ THE STATE PERSONNEL BOARD DETERMINED AFTER REVIEW OR HEARING THAT NO VIOLATION OF SECTION 24-50.5-103 OCCURRED, may bring a civil action in the district court alleging a violation of section 24-50.5-103. If the employee prevails, the employee may recover damages, together with court costs, and the court may order such other relief as it deems appropriate.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 9, 2006, if adjournment sine die is on May 10, 2006); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to complaints filed on or after the applicable effective date of this act.

Approved: March 27, 2006