

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 597

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 15 of Title 15.2 a section numbered 15.2-1512.4 and by adding a section numbered 15.2-2511.2, relating to rights of residents and employees of a locality to contact local elected officials and report government wrongdoing.

[H 781]

Approved April 5, 2006

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 15 of Title 15.2 a section numbered 15.2-1512.4 and by adding a section numbered 15.2-2511.2 as follows:

§ 15.2-1512.4. Rights of local employees to contact elected officials.

Nothing in this chapter shall be construed to prohibit or otherwise restrict the right of any local employee to express opinions to state or local elected officials on matters of public concern, nor shall a local employee be subject to acts of retaliation because the employee has expressed such opinions.

For the purposes of this section, "matters of public concern" means those matters of interest to the community as a whole, whether for social, political, or other reasons, and shall include discussions that disclose any (i) evidence of corruption, impropriety, or other malfeasance on the part of government officials; (ii) violations of law; or (iii) incidence of fraud, abuse, or gross mismanagement.

§ 15.2-2511.2. Duties of local government auditors.

A. As used in this section:

"Abuse" means the excessive or improper use of something, or the employment of something in a manner contrary to the natural or legal rules for its use; the intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of resources owned or operated by the locality; or extravagant or excessive use so as to abuse one's position or authority.

"Fraud" means the intentional deception perpetrated by an individual or individuals, or an organization or organizations, either internal or external to local government, that could result in a tangible or intangible benefit to themselves, others, or the locality or could cause detriment to others or the locality. Fraud includes a false representation of a matter of fact, whether by words or by conduct, by false or misleading statements, or by concealment of that which should have been disclosed, which deceives and is intended to deceive.

"Waste" means the intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of resources owned or operated by the locality to the detriment or potential detriment of the locality. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.

B. Any fraud, waste, and abuse auditor appointed by the local governing body of any county, city, or town having a population of at least 10,000, or any town constituting a separate school division regardless of its population, who by charter, ordinance, or statute has responsibility for conducting an investigation of any officer, department or program of such body, shall be responsible for administering a telephone hotline, and a website, if cost-effective, through which employees and residents of the locality may report anonymously any incidence of fraud, waste, or abuse committed by any such officer, or within any such department or program, of that body. Such auditor may inform employees of the locality of the hotline and website, if any, and the conditions of anonymity, through the conspicuous posting of announcements in the locality's personnel newsletters, articles in local newspapers issued daily or regularly at average intervals, hotline posters on local employee bulletin boards, periodic messages on local employee payroll check stubs, or other reasonable efforts.

Such auditor shall determine the authenticity of every allegation received on the hotline or website and ensure that investigation and resolution activities are undertaken in response to any such authentic allegation in the most cost-effective and confidential manner available; provided, however, that the officer shall assign responsibility for investigation and resolution to other investigative and law-enforcement personnel where such responsibility is prescribed by general law and where appropriate to avoid duplicating or replacing existing investigation and resolution functions.