

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 628

An Act to amend and reenact § 2.2-309 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 28 of Title 2.2 a section numbered 2.2-2832, relating to retaliatory actions by state officers and employees against persons providing testimony before a committee or subcommittee of the General Assembly.

[S 294]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-309 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 28 of Title 2.2 a section numbered 2.2-2832 as follows:

§ 2.2-309. Powers and duties of State Inspector General.

A. The State Inspector General shall have power and duty to:

1. Operate and manage the Office and employ such personnel as may be required to carry out the provisions of this chapter;

2. Make and enter contracts and agreements as may be necessary and incidental to carry out the provisions of this chapter and apply for and accept grants from the United States government and agencies and instrumentalities thereof, and any other source, in furtherance of the provisions of this chapter;

3. Receive complaints from whatever source that allege fraud, waste, including task or program duplication, abuse, or corruption by a state agency or nonstate agency or by any officer or employee of the foregoing and determine whether the complaints give reasonable cause to investigate;

4. *Receive complaints under § 2.2-2832 from persons alleging retaliation by an officer or employee of a state agency for providing testimony before a committee or subcommittee of the General Assembly and determine whether the complaints give reasonable cause to investigate;*

5. Investigate the management and operations of state agencies, nonstate agencies, and independent contractors of state agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or independent contractors of a state agency or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies. However, no investigation of an elected official of the Commonwealth to determine whether a criminal violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a grand jury;

~~5-~~ 6. Prepare a detailed report of each investigation stating whether fraud, waste, abuse, or corruption has been detected. If fraud, waste, abuse, or corruption is detected, the report shall (i) identify the person committing the wrongful act or omission, (ii) describe the wrongful act or omission, and (iii) describe any corrective measures taken by the state agency or nonstate agency in which the wrongful act or omission was committed to prevent recurrences of similar actions;

~~6-~~ 7. Provide timely notification to the appropriate attorney for the Commonwealth and law-enforcement agencies whenever the State Inspector General has reasonable grounds to believe there has been a violation of state criminal law;

~~7-~~ 8. Administer the Fraud and Abuse Whistle Blower Reward Fund created pursuant to § 2.2-3014;

~~8-~~ 9. Oversee the Fraud, Waste and Abuse Hotline;

~~9-~~ 10. Conduct performance reviews of state agencies to assess the efficiency, effectiveness, or economy of programs and to ascertain, among other things, that sums appropriated have been or are being expended for the purposes for which the appropriation was made and prepare a report for each performance review detailing any findings or recommendations for improving the efficiency, effectiveness, or economy of state agencies, including recommending changes in the law to the Governor and the General Assembly that are necessary to address such findings;

~~10-~~ 11. Coordinate and require standards for those internal audit programs in existence as of July 1, 2012, and for other internal audit programs in state agencies and nonstate agencies as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls;

~~11-~~ 12. As deemed necessary, assess the condition of the accounting, financial, and administrative controls of state agencies and nonstate agencies and make recommendations to protect the Commonwealth's assets;

~~12-~~ 13. Assist agency internal auditing programs with technical auditing issues and coordinate and provide training to the Commonwealth's internal auditors;

~~13-~~ 14. Assist citizens in understanding their rights and the processes available to them to express concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the

foregoing;

~~14.~~ 15. Maintain data on inquiries received, the types of assistance requested, any actions taken, and the disposition of each such matter;

~~15.~~ 16. Upon request, assist citizens in using the procedures and processes available to express concerns regarding the activities of a state or nonstate agency or any officer or employee of the foregoing;

~~16.~~ 17. Ensure that citizens have access to the services provided by the State Inspector General and that citizens receive timely responses to their inquiries from the State Inspector General or his representatives; and

~~17.~~ 18. Do all acts necessary or convenient to carry out the purposes of this chapter.

B. If the State Inspector General receives a complaint from whatever source that alleges fraud, waste, abuse, or corruption by a public institution of higher education or any of its officers or employees, the State Inspector General shall, but for reasonable and articulable causes, refer the complaint to the internal audit department of the public institution of higher education for investigation. However, if the complaint concerns the president of the institution or its internal audit department, the investigation shall be conducted by the State Inspector General. The State Inspector General may provide assistance for investigations as may be requested by the public institution of higher education.

The public institution of higher education shall provide periodic updates on the status of any investigation and make the results of any such investigation available to the State Inspector General.

§ 2.2-2832. Retaliatory actions against persons providing testimony before a committee or subcommittee of the General Assembly.

A. *No officer or employee of a state agency shall use his public position to retaliate or threaten to retaliate against a person providing testimony before a committee or subcommittee of the General Assembly.*

B. *To be covered by the provisions of this section, a person who provides testimony before a committee or subcommittee of the General Assembly shall do so in good faith and upon a reasonable belief that the information is accurate. Testimony that is reckless or that the person knew or should have known was false, confidential, malicious, or otherwise prohibited by law or policy shall not be deemed good faith testimony.*

C. *Any person who believes that he is the subject of retaliatory action by an officer or employee of a state agency on account of testimony that he provided before a committee or subcommittee of the General Assembly may file a complaint with the Office of the State Inspector General.*

D. *Intentional violation of subsection A by an officer or employee of a state agency shall constitute malfeasance in office and shall subject the officer or employee responsible to suspension or removal from office, as may be provided by law in other cases of malfeasance.*