

Stricken language would be deleted from and underlined language would be added to present law.
Act 1103 of the Regular Session

State of Arkansas *As Engrossed: H3/17/15 S3/24/15 S3/27/15*
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1945

By: Representative Hammer

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING THE
PREVENTION AND DETECTION OF FRAUD AND OTHER IMPROPER
ACTIVITIES WITHIN STATE GOVERNMENT; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING THE
PREVENTION AND DETECTION OF FRAUD AND
OTHER IMPROPER ACTIVITIES WITHIN STATE
GOVERNMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 21-1-603, concerning certain prohibited public employer conduct, is amended to add an additional subsection to read as follows:

(e) A public employer shall not take an adverse action against a public employee because of a report of a loss of public funds under § 25-1-124.

*SECTION 2. Arkansas Code § 21-1-607 is amended to read as follows:
21-1-607. Protection of confidentiality.*

(a) This subchapter shall not be construed to permit a disclosure which would diminish or impair the rights of any person or any public official to the continued protection of confidentiality of records or working papers where a statute or the common law provides for protection.

(b)(1) All materials and documentation, including without limitation



notes, memoranda, recordings, preliminary drafts of investigation reports, and other data gathered in connection with a communication regarding the existence of waste or of a violation are privileged and confidential and are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., except as provided in subdivisions (b)(2) and (b)(3) of this section.

(2) Final reports issued by a public employer or an appropriate authority concerning a communication regarding the existence of waste or of a violation and any supporting documentation shall be open to public inspection and copying, except for documents that are exempt from disclosure under other law.

(3) This section does not apply to the name and identifying information of a state employee eligible to receive a reward under § 21-1-610 who does not request confidentiality under § 21-1-610(g).

(c) This section applies without limitation to communications regarding the existence of waste or of a violation received by a telephone hotline allowing for the reporting of fraud, waste, or abuse in government.

SECTION 3. Arkansas Code § 21-1-608 is amended to read as follows:
21-1-608. Notification of rights.

(a) A public employer shall use appropriate means to notify its public employees of their protection and obligations under this subchapter.

(b)(1) A public employer shall post in a conspicuous place a printed sign at least eight and one-half inches by eleven inches (8 1/2" x 11") in size that:

(A) Informs a public employee of the provisions of this subchapter;

(B) Describes an appropriate authority to whom the public employee may communicate in good faith regarding the existence of waste or of a violation; and

(C) If a telephone hotline exists for the reporting of fraud, waste, or abuse in government, contains the number of the telephone hotline.

(2) Arkansas Legislative Audit shall:

(A) Prepare the printed sign under subdivision (b)(1) of this section; and

(B) Make the sign available electronically on its Internet

website in a format that allows it to be printed by a public employer for posting in compliance with subdivision (b)(1) of this section.

SECTION 4. Arkansas Code § 21-1-610(h), concerning rewards to state employees when communications of waste or a violation result in a savings of state funds, is amended to read as follows:

(h)(1) Except as provided in ~~subdivision~~ subdivisions (h)(2) and (h)(3) of this section, a reward under this section shall not be payable for a communication made by a state employee in the normal course of the state employee's job duties.

(2) If a communication in the normal course of a state employee's job duties detailing waste or a violation is not acted upon by the state employer within ninety (90) days, the state employee may make a communication under § 21-1-603 to an appropriate authority and be eligible for a reward under this section.

(3) A report by a state employee of a loss of public funds under § 25-1-124 shall be considered a communication in the normal course of the state employee's job duties if the state employee:

(A) Handles or exerts control over the funds of the state employer;

(B) Participates in making decisions or recommendations concerning the deposit, investment, or expenditure of the funds of the state employer; or

(C) Is responsible for auditing the funds of the state employer.

SECTION 5. Arkansas Code Title 25, Chapter 1, Subchapter 1, is amended to add additional sections to read as follows:

25-1-123. Criminal background checks for public employees controlling public funds.

(a) As used in this section, "public employer" means any of the following:

(1) An agency, department, board, commission, division, office, bureau, council, authority, or other instrumentality of the State of Arkansas, including the offices of the various Arkansas elected constitutional officers and the General Assembly and its agencies, bureaus,

and divisions;

(2) A state-supported college, university, technical college, community college, or other institution of higher education or department, division, or agency of a state institution of higher education;

(3) The Supreme Court, the Court of Appeals, the Administrative Office of the Courts, the circuit courts, and the prosecuting attorneys' offices;

(4) An office, department, commission, council, agency, board, bureau, committee, corporation, or other instrumentality of a county government or a municipality or a district court, a county subordinate service district, a municipally owned utility, or a regional or joint governing body of one (1) or more counties or municipalities; or

(5) A public school district, school, or an office or department of a public school district in Arkansas.

(b)(1) A public employer shall obtain a state criminal background check to be conducted by the Identification Bureau of the Department of Arkansas State Police before finalizing the hiring of an applicant for an employment position with supervisory fiduciary responsibility over all fiscal matters.

(2) The applicant shall sign a release of information to the public employer.

(3) The public employer may:

(A) Choose to be responsible for the payment of any fee associated with the state criminal background check; or

(B) Provide that the applicant is responsible for the payment of any fee associated with the criminal background check.

(4) Upon completion of the criminal background check, the Identification Bureau shall forward to the public employer all releasable information obtained concerning the applicant.

25-1-124. Reporting by public employee.

(a) As used in this section:

(1) "Public employee" means a person who performs a full or part-time service for wages, salary, or other remuneration for a public employer; and

(2) "Public employer" means any of the following:

(A) An agency, department, board, commission, division, office, bureau, council, authority, or other instrumentality of the State of Arkansas, including the offices of the various Arkansas elected constitutional officers and the General Assembly and its agencies, bureaus, and divisions;

(B) A state-supported college, university, technical college, community college, or other institution of higher education or department, division, or agency of a state institution of higher education;

(C) The Supreme Court, the Court of Appeals, the Administrative Office of the Courts, the circuit courts, and the prosecuting attorneys' offices;

(D) An office, department, commission, council, agency, board, bureau, committee, corporation, or other instrumentality of a county government or a municipality or a district court, a county subordinate service district, a municipally owned utility, or a regional or joint governing body of one (1) or more counties or municipalities; or

(E) A public school district, school, or an office or department of a public school district in Arkansas.

(b)(1) A public employee with supervisory fiduciary responsibility over all fiscal matters of a public employer shall report a loss of public funds to Arkansas Legislative Audit, including without limitation:

(A) Apparent unauthorized disbursements of public funds;

or

(B) The apparent theft or misappropriation of public funds or property.

(2) A report under subdivision (b)(1) shall be made within five (5) business days of the date the public employee learns of the loss of public funds.

(c) A public employee with supervisory fiduciary responsibility over all fiscal matters who purposely fails to comply with subsection (b) of this section is guilty of a Class A misdemeanor.

/s/Hammer

APPROVED: 04/06/2015