

# HOUSE BILL 766

P4

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By: **Delegates Shank, Hubbard, Kelly, Kirk, Krysiak, McKee, Minnick, Myers, and Weldon**

Introduced and read first time: February 9, 2007

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Employees – Whistleblower Protection**

3 FOR the purpose of prohibiting an agent of a supervisor, appointing authority, or head  
4 of a principal unit from taking, threatening to take, or refusing to take certain  
5 personnel actions against an employee who takes certain actions; providing that  
6 a violation of certain provisions is a misdemeanor; establishing a certain  
7 penalty; prohibiting certain actions from being taken against a certain  
8 employee; authorizing an employee to provide a copy of certain complaints or  
9 grievances to any person after a certain time; requiring the Attorney General to  
10 adopt certain regulations; requiring the Secretary of Budget and Management  
11 to provide copies of certain regulations to certain employees at certain intervals;  
12 and generally relating to State employees and protection for whistleblowers.

13 BY repealing and reenacting, with amendments,  
14 Article – State Personnel and Pensions  
15 Section 5–302, 5–303, 5–305, 5–307, and 5–313  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume and 2006 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – State Personnel and Pensions**

21 5–302.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) This subtitle does not preclude action for defamation or invasion of  
2 privacy.

3 (b) This subtitle does not prohibit a personnel action that would have been  
4 taken regardless of a disclosure of information.

5 (c) **THIS SUBTITLE DOES NOT LIMIT OR IMPAIR ANY OTHER RIGHT OR**  
6 **LEGAL REMEDY AVAILABLE TO AN EMPLOYEE.**

7 5-303.

8 (A) The Secretary shall adopt regulations for processing and resolving  
9 complaints brought under this subtitle.

10 (B) **THE SECRETARY SHALL PROVIDE COPIES OF REGULATIONS**  
11 **ADOPTED UNDER SUBSECTION (A) OF THIS SECTION TO EMPLOYEES AT LEAST**  
12 **ONCE A YEAR.**

13 5-305.

14 (A) Subject to the limitations of § 5-306 of this subtitle, a supervisor,  
15 appointing authority, [or] the head of a principal unit, **OR THE AGENT OF A**  
16 **SUPERVISOR, APPOINTING AUTHORITY, OR HEAD OF A PRINCIPAL UNIT** may not  
17 take, **THREATEN TO TAKE**, or refuse to take any personnel action as a reprisal  
18 against an employee [who]:

19 (1) **WHO** discloses information that the employee reasonably believes  
20 evidences:

21 (i) an abuse of authority, gross mismanagement, [or] gross  
22 waste of money, **OR MISUSE OF PUBLIC RESOURCES;**

23 (ii) a substantial and specific danger to public health or safety;  
24 or

25 (iii) a violation of **STATE OR FEDERAL** law; [or]

26 (2) **FOR BEING A MEMBER OF AN EMPLOYEE ORGANIZATION;**

1           **(3) WHO ENGAGES OR REFUSES TO ENGAGE IN POLITICAL**  
2 **ACTIVITY, UNLESS THE EMPLOYEE IS:**

3                   **(I) ON DUTY;**

4                   **(II) ACTING IN AN OFFICIAL CAPACITY; OR**

5                   **(III) OTHERWISE AUTHORIZED OR PROHIBITED BY STATE OR**  
6 **FEDERAL LAW; OR**

7           **(4) WHO, following [a disclosure under item (1)] AN ACTION**  
8 **DESCRIBED IN ITEM (1), (2), OR (3) of this [section] SUBSECTION,** seeks a remedy  
9 provided under this subtitle or any other law or policy governing the employee's unit.

10           **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**  
11 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**  
12 **\$5,000.**

13 5-307.

14           (a) An employee in the State Personnel Management System who seeks  
15 relief for a violation of § 5-305 of this subtitle may elect to file:

16                   (1) a complaint under § 5-309 of this subtitle; or

17                   (2) a grievance under Title 12 of this article.

18           (b) An employee of the University System of Maryland who is eligible to file  
19 a grievance under Title 13 of the Education Article and seeks relief for a violation of §  
20 5-305 of this subtitle may elect to file:

21                   (1) a complaint under § 5-309 of this subtitle; or

22                   (2) a grievance under Title 13 of the Education Article.

23           (c) An employee of Morgan State University who is eligible to file a grievance  
24 under Title 14 of the Education Article and seeks relief for a violation of § 5-305 of  
25 this subtitle may elect to file:

26                   (1) a complaint under § 5-309 of this subtitle; or

1           (2) a grievance under Title 14 of the Education Article.

2           **(D) AN EMPLOYEE MAY NOT BE TERMINATED, HAVE SALARY INCREASES**  
3 **OR BENEFITS WITHHELD, BE TRANSFERRED OR REASSIGNED, BE DENIED A**  
4 **PROMOTION, OR BE DEMOTED SOLELY BECAUSE THE EMPLOYEE EXERCISED A**  
5 **RIGHT GRANTED UNDER SUBSECTION (A), (B), OR (C) OF THIS SECTION.**

6           **(E) AN EMPLOYEE MAY PROVIDE A COPY OF A COMPLAINT OR**  
7 **GRIEVANCE TO ANY PERSON 30 OR MORE DAYS AFTER FILING THE COMPLAINT**  
8 **OR GRIEVANCE.**

9 5-313.

10           For purposes of this subtitle, the Attorney General shall:

11           (1) designate an assistant Attorney General to receive from applicants  
12 and employees any information the disclosure of which is otherwise protected by law;

13           (2) investigate each allegation of illegality or impropriety;

14           (3) take appropriate legal action; [and]

15           (4) if the investigation concerns an allegation of illegality or  
16 impropriety in the Executive Branch, submit a confidential report to the Governor  
17 that describes the content of the disclosure; **AND**

18           **(5) ADOPT REGULATIONS ESTABLISHING PROCEDURES FOR**  
19 **PROCESSING INFORMATION FILED UNDER THIS SUBTITLE.**

20           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2007.