

Regular Session, 2013

HOUSE BILL NO. 387

BY REPRESENTATIVES SCHRODER AND JIM MORRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ETHICS/CODE: Protects public employees from reprisal for providing information to a legislator or legislative committee upon request

1 AN ACT

2 To enact R.S. 42:1169.1, relative to the Code of Governmental Ethics; to prohibit acts of  
3 reprisal for the provision of information by public employees; to provide penalties  
4 for violations; to provide remedies for wrongful acts of reprisal; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:1169.1 is hereby enacted to read as follows:

8 §1169.1. Freedom from reprisal for providing information to the legislature

9 A.(1) Any public employee who provides information to a legislator or to a  
10 legislative committee upon request of a legislator or legislative committee shall be  
11 free from discipline, reprisal, or threats of discipline or reprisal by the public  
12 employer for providing such information.

13 (2) No public employee with authority to hire, fire, or discipline employees,  
14 supervisor, agency head, nor any elected official shall subject to reprisal or threaten  
15 to subject to reprisal any public employee because of the employee's disclosure of  
16 information to a legislator or legislative committee upon request of a legislator or  
17 legislative committee.

18 B.(1) If any public employee is suspended, demoted, dismissed, or  
19 threatened with suspension, demotion, or dismissal as an act of reprisal in violation  
20 of this Section, such employee shall report such action to the board.

1           (2) An employee who is wrongfully suspended, demoted, or dismissed shall  
2           be entitled to reinstatement of his employment and entitled to receive any lost  
3           income and benefits for the period of any suspension, demotion, or dismissal.

4           C. The board shall provide written notice of the commencement of an  
5           investigation of a report of a violation of this Section to the agency head of the  
6           employee, or if the agency head is the subject of the investigation, then to an agency  
7           head of the governmental entity that supervises the agency, or if none, then to the  
8           governing authority of the governmental entity, not less than ten days prior to the  
9           date set for the investigation. If the board determines, following an investigation,  
10          that it shall offer a consent opinion or conduct a public or private hearing to receive  
11          evidence and determine whether any violation of this Section has occurred, the board  
12          shall provide written notice of the hearing or consent opinion to the agency head of  
13          the employee, or if the agency head is the subject of the hearing or consent opinion,  
14          then to an agency head of the governmental entity that supervises the agency, or if  
15          none, then to the governing authority of the governmental entity, not less than sixty  
16          days prior to the date set for the action by the board. The employee's agency shall  
17          cooperate in every possible manner in connection with any investigation conducted  
18          by the board. The agency shall be considered to be an indispensable party to any  
19          investigation, hearing, or consent opinion and may have legal counsel, cross-examine  
20          witnesses, call witnesses, and present evidence on its behalf.

21          D. Any employee with the authority to hire, fire, or discipline employees,  
22          supervisor, agency head, or elected official who violates this Section shall be subject  
23          to the same fines and penalties provided for other violations of this Chapter.

24          E. Any action or remedy ordered by the board pursuant to this Section  
25          directed at a public employee who has attained permanent status in the classified  
26          service shall be subject to the approval of the appropriate civil service commission  
27          prior to implementation.

1           F.(1) For purposes of this Section, the term "information" shall not include  
2           information that the public employee knows or reasonably should know is false at  
3           the time the employee provided the information.

4           (2) For purposes of this Section, the phrase "request of a legislator or  
5           legislative committee" shall mean a request from a legislator or legislative committee  
6           made in writing or during a public meeting.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Schroder

HB No. 387

**Abstract:** Prohibits reprisals against public employees for providing information to a legislator or legislative committee upon request of a legislator or legislative committee.

Proposed law (Ethics Code) provides that a public employee who provides information to a legislator or legislative committee at the request of a legislator or legislative committee shall be free from discipline or reprisal or threats of discipline or reprisal by the public employer. Specifies that "information" shall not include information that the public employee knows or reasonably should know is false at the time the employee provided the information. Defines "request of a legislator or legislative committee" as a request from a legislator or legislative committee made in writing or during a public meeting.

Proposed law prohibits an employee who has the authority to hire, fire, or discipline employees, a supervisor, an agency head, or an elected official from subjecting a public employee to reprisal for such disclosure of information.

Proposed law requires that a public employee report to the Board of Ethics any such act of reprisal. Provides that an employee who is wrongfully suspended, demoted, or dismissed shall be entitled to reinstatement of his employment and entitled to receive any lost income and benefits for the period of any suspension, demotion, or dismissal.

Proposed law requires the board to provide written notice of the commencement of an investigation of a report of a violation of proposed law to the agency head of the employee, or if the agency head is the subject of the investigation, then to the agency head of the governmental entity that supervises the agency, or if none, then to the governing authority of the governmental entity not less than 10 days prior to the date set for the investigation. Requires the board to provide written notice that it will offer a consent opinion or of a hearing, if one is to be held, to the agency head of the employee, or if the agency head is the subject of the consent opinion or hearing, then to the agency head of the governmental entity that supervises the agency, or if none, then to the governing authority of the governmental entity not less than 60 days prior to the date set for the hearing. Requires the employee's agency to cooperate in every possible manner in connection with any investigation or hearing conducted by the board. Provides that the employee's agency shall be considered to be an indispensable party to any investigation or hearing and that such agency may have legal counsel, cross-examine witnesses, call witnesses, and present evidence on its behalf.

Present law provides that violations of present law (Ethics Code) are punishable by a fine of up to \$10,000. Also provides that an elected official may be censured and that a public employee may be removed, suspended, demoted, or have his pay reduced. Proposed law makes penalties and provisions in present law (Ethics Code) applicable to proposed law. Proposed law provides that any action or remedy ordered by the board pursuant to proposed law directed at a classified employee who has attained permanent status shall be subject to the approval of the appropriate civil service commission prior to implementation.

(Adds R.S. 42:1169.1)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Defines "request of a legislator or legislative committee".
2. Subjects actions or remedy directed at certain classified employees to approval from the appropriate civil service commission prior to implementation.

#### House Floor Amendments to the engrossed bill.

1. Removes limiting reference to state and city civil service as provided in the constitution in relation to approval of certain actions relative to permanent, classified employees by the appropriate civil service commission.
2. Provides that "information" shall not include information that the public employee knows or reasonably should know is false at the time the employee provided the information.