

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2006

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HANSHAW, SOBONYA, ATKINSON, HILL, FLEISCHAUER,
PUSHKIN, LOVEJOY AND CANESTRARO

[Originating in the Committee on the Judiciary]

1 A BILL to amend and reenact §6C-1-6 of the Code of West Virginia, 1931, as amended, relating
2 to increasing the penalties for violating the Whistle-Blower Law; increasing the civil fine;
3 clarifying that the civil fine is a personal liability; removing the authority of the court to
4 suspend a person from public service; authorizing a Court's finding of a violation to be
5 deemed a finding of official misconduct and malfeasance in office; providing that a court
6 finding of a violation may be relied upon as admissible evidence in any subsequent
7 proceeding or petition to remove the person from public office; authorizing a Court's finding
8 of a violation to be relied upon by the public body as a basis to impose discipline upon an
9 employee; and clarifying that a civil action, civil penalty or a court finding under this section
10 is not a condition or prerequisite for a public body to take disciplinary action.

Be it enacted by the Legislature of West Virginia:

1 That §6C-1-6 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 1. WHISTLE-BLOWER LAW.

§6C-1-6. Civil penalty; ~~suspension~~ termination from public service.

1 (a) A person who, as an employer or under color of an employer's authority, violates this
2 article is personally liable for a civil fine of not more than ~~\$500~~ \$5,000. ~~Additionally, except where~~
3 ~~the person holds a public office by election or appointment, if the court specifically finds that the~~
4 ~~person, while in the employment of the state or a political subdivision, committed a violation of~~
5 ~~section three of this article with the intent to discourage the disclosure of information, the court~~
6 ~~may order the person's suspension from public service for not more than six months~~ A civil fine
7 which is collected under this section shall be paid to the State Treasurer for deposit into the
8 General Fund.

9 (b) In addition to subsection (a) of this section, and notwithstanding any provision in this
10 code to the contrary, if the court specifically finds that the person, while in the employment of a
11 public body, committed a violation of section three of this article with the intent to discourage the

12 disclosure of information, such finding: (1) shall be deemed a finding of official misconduct and
13 malfeasance in office, and may be relied upon as admissible evidence in any subsequent
14 proceeding or petition to remove the person from public office; and (2) may be relied upon by the
15 public body as a basis to discipline the person, including, but not limited to, termination from
16 employment: *Provided*, That nothing shall be construed as requiring a civil action, civil penalty or
17 a court finding under this section as a condition or prerequisite for a public body to take disciplinary
18 action against the person.

NOTE: The purpose of this bill is to increase the penalties for violating the Whistle-blower Law. The bill additionally authorizes the termination from employment for a violation, instead of the current allowance of a suspension not to exceed six months.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.