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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 91  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Schaffer

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### SUMMARY

- Requires the Auditor of State to create training material detailing Ohio's fraud-reporting system and the means of reporting fraud, waste, and abuse.
- Requires the Department of Administrative Services to administer the training material to each new employee or elected official upon taking office or beginning employment with a public office in a manner prescribed by the Auditor of State.
- Specifies certain persons required to make a report on the fraud-reporting system immediately after becoming aware of a violation of state or federal statutes, rules, regulations, misuse of public resources, or a cybersecurity event.
- Adds that an employee who believes a violation or misuse is criminal may also make a report to the prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a township or other public office, as is permitted to be made to those persons in a municipal corporation, to a peace officer, or the Inspector General.
- Requires the office of internal audit to immediately forward to the Auditor of State any written report the office receives regarding those violations.
- Changes the timeline for a person who believes they have been subject to disciplinary or retaliatory action for filing a report of a violation from 30 days to 180 days to file an appeal with the State Personnel Board of Review after receiving actual notice of the appointing authority's action.
- Specifies that a person required to report a violation and recklessly fails to do so may be found in violation of dereliction of duty, which is a second degree misdemeanor and subject to not more than 90 days in jail and a fine of not more than \$750.

### DETAILED ANALYSIS

## **Fraud-reporting system**

The bill requires the Auditor of State to create training material detailing Ohio's fraud-reporting system and the means of reporting fraud, waste, and abuse. The training material must be as concise as practicable. Under continuing law, the Auditor of State must establish and maintain a system for reporting fraud, including misuse and misappropriation of public money by any public office or official. The system must allow residents and employees of any public office to make anonymous complaints using a toll free telephone number, the Auditor of State's website, or by mail to the Auditor of State's office. The Auditor of State must review all complaints in a timely manner.

Additionally, the bill requires the Department of Administrative Services to administer the training material to each new employee or elected official upon taking office or beginning employment with a public office in a manner prescribed by the Auditor of State. Each new employee or elected official must confirm receipt of the training material on a form model provided by the Auditor of State within 30 days after taking office or beginning employment. The training is required every four years for each employee or elected official. Under current law, a public office is required to provide employees with information about Ohio's fraud reporting system within 30 days upon employment with a public office and is satisfied if the public office provides the information in an employee handbook and requires an employee's signature for receipt of the handbook.<sup>1</sup>

## **Persons required to report fraud and abuse**

The bill requires the following persons to make a report on the fraud reporting system immediately after becoming aware of a violation of state or federal statutes, rules, regulations, misuse of public resources, or, as added by the bill, a cybersecurity event:

- The person is an elected official;
- The person is appointed to or within a public office;
- The person has a fiduciary duty to a public office;
- The person holds a supervisory position within a public office;
- The person is employed in the department or office responsible for processing any expenses of the public office.

The bill reorganizes but does not change the continuing law that allows a classified or unclassified employee, regardless of whether the employee is required to report a violation, to also file a written report of the violation or misuse to the employee's supervisor or appointing authority if that supervisor or appointing authority has the authority to correct the violation or misuse. Continuing law permits an employee of the classified or unclassified civil service to also file a written reporting identifying violations or misuse with the Office of Internal Audit (within

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<sup>1</sup> R.C. 117.103.

the Office of Budget and Management) or Auditor of State. Current law permits an employee of the classified or unclassified civil service to file a written report with the Office of Internal Audit or Auditor of State instead of filing a report with the employee's supervisor or appointing authority.

Under continuing law, if an employee that reasonably believes that a violation or misuse of public resources is a criminal offense, the employee may also report it to a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, to a peace officer, or if the violation is within the jurisdiction of the Inspector General, to the Inspector General. The bill adds that an employee may report a violation or misuse to the prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a township or other public office. Under current law, the criminal report could be made instead of filing a report or complaint with the employee's supervisor, appointing authority, Office of Internal Audit, or the fraud-reporting system.<sup>2</sup>

Additionally, the bill requires the Office of Internal Audit to immediately forward to the Auditor of State any written report the office receives.<sup>3</sup> Under continuing law, the Office of Internal Audit directs internal audits of state agencies or divisions of state agencies to improve their operations in areas of risk management, internal controls, and governance.<sup>4</sup>

### **Disciplinary action**

Continuing law prohibits a public office from taking any disciplinary action against a person for making any report or filing any complaint as required of the person. Specifically, an office may not do any of the following:

- Remove or suspend the person from employment;
- Withhold from the person salary increases or benefits to which the person is otherwise entitled;
- Transfer or reassign the person;
- Deny the person a promotion that otherwise would have been received;
- Reduce the person in pay or position.<sup>5</sup>

The bill changes the timeline for a person who believes they have been subject to disciplinary or retaliatory action from 30 days to 180 days to file an appeal with the State Personnel Board of Review after receiving actual notice of the appointing authority's action. Filing an appeal is the person's sole and exclusive remedy.

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<sup>2</sup> R.C. 124.341; conforming changes in R.C. 1347.15 and 4113.52.

<sup>3</sup> R.C. 126.47(E).

<sup>4</sup> R.C. 126.45, not in the bill.

<sup>5</sup> R.C. 124.341(D) and (F).

The bill specifies that a person required to report a violation who recklessly fails to do so may be found in violation of dereliction of duty, which is a second degree misdemeanor and subject to not more than 90 days in jail and a fine of not more than \$750.<sup>6</sup>

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## HISTORY

Action	Date
Introduced	03-22-23

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<sup>6</sup> R.C. 124.341(G); R.C. 2921.44, 2929.24, and 2929.28, not in the bill.