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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 238  
133<sup>rd</sup> General Assembly

## Bill Analysis

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**Version:** As Reported by House Civil Justice

**Primary Sponsors:** Reps. Cera and Scherer

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### SUMMARY

- Allows an employee in the classified or unclassified civil service to receive whistleblower protection under the Public Employee Whistleblower Law for a complaint made to the Inspector General of a noncriminal violation of state or federal law or the misuse of public resources.
- Specifies that an employee filing a complaint with the Inspector General receives that protection only if the complaint is made regarding a state officer or employee over whom the Inspector General has investigational authority.

### DETAILED ANALYSIS

#### Whistleblower protection for Inspector General complaints

The bill permits an employee in the classified or unclassified civil service to receive whistleblower protection under the Public Employee Whistleblower Law (PEWL) for a complaint filed with the Inspector General of a noncriminal violation of state or federal law or the misuse of public resources.<sup>1</sup> Currently, an employee who makes a complaint to the Inspector General only receives whistleblower protection under the PEWL if the employee reasonably believes that the violation or misuse of public resources is a criminal offense.<sup>2</sup> Under continuing law, an employee may receive whistleblower protection for a written report or complaint concerning a

<sup>1</sup> R.C. 124.341(A).

<sup>2</sup> R.C. 124.341(B) and *Sommer v. Bureau of Workers' Compensation*, 10<sup>th</sup> Dist. No. 13AP-412 (December 30, 2013).

noncriminal violation made to the Office of Internal Audit or Auditor of State's fraud reporting system.<sup>3</sup>

For an employee filing a complaint with the Inspector General to receive whistleblower protection under the bill, the complaint must be regarding a state officer or state employee over whom the Inspector General has investigational authority.<sup>4</sup> A "state officer" is a person elected or appointed to a public office in an executive branch state agency (state agency does not include the General Assembly, any court, or the Secretary of State, Auditor of State, Treasurer of State, or Attorney General and their respective offices). A "state employee" is a state agency employee or any person who does business with the state.<sup>5</sup> Under continuing law, any person may report a state officer's or employee's alleged wrongful act or omission to the Inspector General, even if the Inspector General does not have investigation or enforcement authority over the officer or employee that is the subject of the complaint. The Inspector General then must report the wrongful act or omission to the appropriate ethics commission for possible disciplinary action as appropriate.<sup>6</sup>

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## HISTORY

Action	Date
Introduced	05-07-19
Reported, H. Civil Justice	02-26-20

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<sup>3</sup> R.C. 124.341(A).

<sup>4</sup> R.C. 124.341(E), by reference to R.C. 121.41 and 121.42, not in the bill.

<sup>5</sup> R.C. 121.41, not in the bill.

<sup>6</sup> R.C. 121.42(C) and 121.46, not in the bill.