COMMITTEE REPORT

April 22, 2021

**H. 4149**

Introduced by Reps. Ott and Sandifer

S. Printed 4/22/21--H.

Read the first time April 6, 2021.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 4149) to amend the Code of Laws of South Carolina, 1976, by adding Section 8‑27‑70 so as to provide definitions; by adding Section 8‑27‑, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8‑27‑70 SO AS TO PROVIDE DEFINITIONS; BY ADDING SECTION 8‑27‑80 SO AS TO PROHIBIT A PUBLIC UTILITY FROM TAKING ADVERSE EMPLOYMENT ACTION AGAINST AN EMPLOYEE WHO MADE A REPORT OF WRONGDOING BY THE PUBLIC UTILITY TO THE OFFICE OF REGULATORY STAFF; AND BY ADDING SECTION 8‑27‑90 SO AS TO PROVIDE REMEDIES IF A PUBLIC UTILITY TAKES ADVERSE EMPLOYMENT ACTION AGAINST AN EMPLOYEE WHO MADE A REPORT OF WRONGDOING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 27, Title 8 of the 1976 Code is amended by adding:

“Section 8‑27‑70. For purposes of Sections 8‑27‑80 and 8‑27‑90:

(1) ‘Public utility’ means public utility as defined in Sections 58‑3‑5(6) and 58‑33‑20(6), the South Carolina Public Service Authority, and electric cooperatives.

(2) ‘Employee’ means an employee of a public utility.

(3) ‘Report’ means:

(a) a written or oral allegation made to the Office of Regulatory Staff of waste or wrongdoing that contains the following information:

(i) the date of disclosure;

(ii) the name of the employee making the report; and

(iii) the nature of the wrongdoing and the date or range of dates on which the wrongdoing allegedly occurred. A report must be made within one hundred eighty days of the date the reporting employee first learns of the alleged wrongdoing; or

(b) sworn testimony regarding wrongdoing, regardless of when the wrongdoing allegedly occurred, given to any standing committee, subcommittee of a standing committee, oversight committee, oversight subcommittee, or study committee of the Senate or the House of Representatives.

(c) If a report is made to the Office of Regulatory Staff, the employing public utility must be notified as soon as practicable by the Office of Regulatory Staff.

(5) ‘Wrongdoing’ means action by a public utility which results in substantial abuse, misuse, destruction, or loss of substantial public utility funds or public utility resources. ‘Wrongdoing’ also includes an allegation that a public utility has intentionally violated federal or state statutory law or regulations or other political subdivision ordinances or regulations or a code of ethics, which violation is not merely technical or of a minimum nature.

Section 8‑27‑80. (A) A public utility may not dismiss, suspend from employment, demote, or decrease the compensation of an employee of a public utility because the employee files a report of wrongdoing with the Office of Regulatory Staff. If the Office of Regulatory Staff determines the employee’s report is unfounded, or amounts to a mere technical violation, and is not made in good faith, the public utility may take disciplinary action including termination. Any public utility covered by this chapter may impose disciplinary sanctions, in accordance with its internal disciplinary procedures, against any of its direct line supervisory employees who retaliate against another employee for having filed a good faith report under this chapter.

(B) Notwithstanding the filing of a report pursuant to this chapter, a public utility may dismiss, suspend, demote, or decrease the compensation of an employee for causes independent of the filing of a protected report as described in this section.

Section 8‑27‑90. (A) If an employee is dismissed, suspended from employment, demoted, or receives a decrease in compensation, within one year after having timely reported an alleged wrongdoing under this chapter, the employee may institute a nonjury civil action against the employing public utility for:

(1) reinstatement to his former position;

(2) lost wages;

(3) actual damages not to exceed fifteen thousand dollars; and

(4) reasonable attorney’s fees as determined by the court. This award of attorney’s fees may not exceed ten thousand dollars for a trial and five thousand dollars for an appeal. The action must be brought in the court of common pleas of the county in which the employment action occurred. An action may not be brought under this chapter unless the employee has exhausted all available grievance or other administrative remedies, and any previous proceedings have resulted in a finding that the employee would not have been disciplined but for the reporting of alleged wrongdoing.

(B) An action under this chapter must be commenced within one year after the accrual of the cause of action or exhaustion of all available grievance or other administrative and judicial remedies or is forever barred.”

SECTION 2. This act takes effect upon approval by the Governor.

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