

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend _____ SCS/Senate Bill No. 1007, Pages 32-35, Section 105.055, Line _____,

2 by striking all of said section and inserting in lieu thereof the
3 following:

4 "105.055. 1. As used in this section, the following terms
5 mean:

6 (1) "Disciplinary action", any dismissal, demotion,
7 transfer, reassignment, suspension, reprimand, warning of
8 possible dismissal or withholding of work, regardless of whether
9 the withholding of work has affected or will affect the
10 employee's compensation;

11 (2) "Public employee", any employee, volunteer, intern, or
12 other individual performing work or services for a public
13 employer;

14 (3) "Public employer", any state agency or office, the
15 general assembly, any legislative or governing body of the state,
16 any unit or political subdivision of the state, or any other
17 instrumentality of the state.

18 2. No supervisor or appointing authority of any [state
19 agency] public employer shall prohibit any employee of the
20 [agency] public employer from discussing the operations of the
21 [agency] public employer, either specifically or generally, with

1 any member of the legislature, state auditor, attorney general, a
2 prosecuting or circuit attorney, a law enforcement agency, news
3 media, the public, or any state official or body charged with
4 investigating [such] any alleged misconduct described in this
5 section.

6 [2.] 3. No supervisor or appointing authority of any [state
7 agency] public employer shall:

8 (1) Prohibit a [state] public employee from or take any
9 disciplinary action whatsoever against a [state] public employee
10 for the disclosure of any alleged prohibited activity under
11 investigation or any related activity, or for the disclosure of
12 information which the employee reasonably believes evidences:

13 (a) A violation of any law, rule or regulation; or

14 (b) Mismanagement, a gross waste of funds or abuse of
15 authority, violation of policy, waste of public resources,
16 alteration of technical findings or communication of scientific
17 opinion, breaches of professional ethical canons, or a
18 substantial and specific danger to public health or safety, if
19 the disclosure is not specifically prohibited by law; [or]

20 (2) Require [any such] a public employee to give notice to
21 the supervisor or appointing authority prior to [making any such
22 report] disclosing any activity described in subdivision (1) of
23 this subsection; or

24 (3) Prevent a public employee from testifying before a
25 court, administrative body, or legislative body regarding the
26 alleged prohibited activity or disclosure of information.

27 [3.] 4. This section shall not be construed as:

28 (1) Prohibiting a supervisor or appointing authority from

1 requiring that [an] a public employee inform the supervisor or
2 appointing authority as to legislative requests for information
3 to the [agency] public employer or the substance of testimony
4 made, or to be made, by the public employee to legislators on
5 behalf of the [employee to legislators on behalf of the agency]
6 public employer;

7 (2) Permitting [an] a public employee to leave the
8 employee's assigned work areas during normal work hours without
9 following applicable rules and regulations and policies
10 pertaining to leaves, unless the public employee is requested by
11 a legislator or legislative committee to appear before a
12 legislative committee;

13 (3) Authorizing [an] a public employee to represent [the
14 employee's] his or her personal opinions as the opinions of a
15 [state agency] public employer; or

16 (4) Restricting or precluding disciplinary action taken
17 against a [state] public employee if: the employee knew that the
18 information was false; the information is closed or is
19 confidential under the provisions of the open meetings law or any
20 other law; or the disclosure relates to the employee's own
21 violations, mismanagement, gross waste of funds, abuse of
22 authority or endangerment of the public health or safety.

23 [4. As used in this section, "disciplinary action" means
24 any dismissal, demotion, transfer, reassignment, suspension,
25 reprimand, warning of possible dismissal or withholding of work,
26 whether or not the withholding of work has affected or will
27 affect the employee's compensation.]

28 5. In addition to any other remedies provided by law, any

1 state employee may file an administrative appeal whenever the
2 employee alleges that disciplinary action was taken against the
3 employee in violation of this section. The appeal shall be filed
4 with the administrative hearing commission[; provided that the
5 appeal shall be filed with the appropriate agency review board or
6 body of nonmerit agency employers which have established appeal
7 procedures substantially similar to those provided for merit
8 employees in subsection 5 of section 36.390]. The appeal shall
9 be filed within [thirty days] one year of the alleged
10 disciplinary action. Procedures governing the appeal shall be in
11 accordance with chapter 536. If the commission [or appropriate
12 review body] finds that disciplinary action taken was
13 [unreasonable] taken for any reason that violates this section,
14 the commission [or appropriate review body] shall modify or
15 reverse the agency's action and order such relief for the
16 employee as the commission considers appropriate. If the
17 commission finds a violation of this section, it may review and
18 recommend to the appointing authority that the violator be
19 suspended on leave without pay for not more than thirty days or,
20 in cases of willful or repeated violations, may review and
21 recommend to the appointing authority that the violator forfeit
22 the violator's position as a state officer or employee and
23 disqualify the violator for appointment to or employment as a
24 state officer or employee for a period of not more than two
25 years. The decision of the commission [or appropriate review
26 body] in such cases may be appealed by any party pursuant to law.

27 6. Each [state agency] public employer shall prominently
28 post a copy of this section in locations where it can reasonably

1 be expected to come to the attention of all employees of the
2 [agency] public employer.

3 7. (1) In addition to the remedies in subsection ~~[6]~~ 5 of
4 this section or any other remedies provided by law, a person who
5 alleges a violation of this section may bring a civil action
6 against the public employer for damages within ~~[ninety days]~~ one
7 year after the occurrence of the alleged violation.

8 (2) A civil action commenced pursuant to this subsection
9 may be brought in the circuit court for the county where the
10 alleged violation occurred, the county where the complainant
11 resides, or the county where the person against whom the civil
12 complaint is filed resides. A person commencing such action may
13 request a trial by jury.

14 (3) ~~[An]~~ A public employee ~~[must]~~ shall show by clear and
15 convincing evidence that he or she or a person acting on his or
16 her behalf has reported or was about to report, verbally or in
17 writing, a prohibited activity or a suspected prohibited
18 activity. Upon such a showing, the burden shall be on the public
19 employer to demonstrate that the disciplinary action was not the
20 result of such a report.

21 (4) A court, in rendering a judgment in an action brought
22 pursuant to this section, shall order, as the court considers
23 appropriate, actual damages including, but not limited to, lost
24 wages and restoration of benefits, punitive damages of no more
25 than five times the amount of actual damages, reinstatement, and
26 an injunction against further employment actions related to the
27 reporting of misconduct, and may also award the complainant all
28 or a portion of the costs of litigation, including court costs
29 and reasonable attorney fees.

1 8. If the alleged misconduct is related to the receipt and
2 expenditures of public funds, a public employee alleging that
3 disciplinary action was taken against the employee in violation
4 of this section may request the state auditor to investigate the
5 alleged misconduct and whether the disciplinary action was taken
6 in violation of this section. If the state auditor uses his or
7 her discretion to make such an investigation, the time to appeal
8 such disciplinary action under subsections 5 and 7 of this
9 section shall be the later of one year from the date of the
10 alleged disciplinary action or ninety days following the release
11 of the state auditor's report.

12 9. The provisions of this section shall apply to public
13 employees, notwithstanding any provisions of section 213.070 and
14 section 285.575 to the contrary.

15 105.725. Any person who obtains a claim or final judgment
16 for a payment to be made out of the state legal expense fund
17 shall not be offered or required to sign any confidentiality
18 agreement stating that he or she will not discuss his or her
19 claim or final judgment or stating that if he or she does discuss
20 such claim or final judgment, he or she will waive any right to
21 moneys from the state legal expense fund. If a confidentiality
22 agreement is offered to a person in violation of this section and
23 such agreement is signed, such signed agreement shall be
24 unenforceable."; and

25 Further amend the title and enacting clause accordingly.