As Reported by the House Civil Justice Committee

133rd General Assembly

Regular Session 2019-2020

Sub. H. B. No. 238

Representatives Cera, Scherer

Cosponsors: Representatives Kelly, Rogers, Lipps, Galonski, Miller, A., Miranda, Boggs, Crossman, Green, Patterson, O'Brien, Howse, Clites, Smith, K., Sobecki, Kent, Hambley, Hillyer

A BILL

То	amend section 124.341 of the Revised Code to	1
	extend whistleblower protection to certain	2
	reports made to the Inspector General under the	3
	Public Employee Whistleblower Law.	4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 124.341 of the Revised Code be	5
amended to read as follows:	6
Sec. 124.341. (A) (1) If an employee in the classified or	7
unclassified civil service becomes aware in the course of	8
employment of a violation of state or federal statutes, rules,	9
or regulations or the misuse of public resources, and the	10
employee's supervisor or appointing authority has authority to	11
correct the violation or misuse, the employee may file a written	12
report identifying the violation or misuse with the supervisor	13
or appointing authority. In addition to or instead of filing a	14
written report with the supervisor or appointing authority, the	15
employee may file do any of the following:	16

(a) File a written report with the office of internal	17
audit created under section 126.45 of the Revised Code—or file;	18
(b) File a complaint with the auditor of state's fraud-	19
reporting system under section 117.103 of the Revised Code;	20
(c) File a complaint with the inspector general in	21
accordance with section 121.46 of the Revised Code.	22
(2) If the employee reasonably believes that a violation	23
or misuse of public resources is a criminal offense, the	24
employee, in addition to or instead of filing a written report	25
or complaint with the supervisor, appointing authority, the	26
office of internal audit, or the auditor of state's fraud-	27
reporting system, or the inspector general, may report it to a	28
prosecuting attorney, director of law, village solicitor, or	29
similar chief legal officer of a municipal corporation, or to a	30
peace officer, as defined in section 2935.01 of the Revised	31
Code, or, if the violation or misuse of public resources is	32
within the jurisdiction of the inspector general, to the	33
inspector general in accordance with section 121.46 of the	34
Revised Code. In addition to that report, if the employee	35
reasonably believes the violation or misuse is also a violation	36
of Chapter 102., section 2921.42, or section 2921.43 of the	37
Revised Code, the employee may report it to the appropriate	38
ethics commission.	39
(B) Except as otherwise provided in division divisions (C)	40
and (E) of this section, no officer or employee in the	41
classified or unclassified civil service shall take any	42
disciplinary action against an employee in the classified or	43
unclassified civil service for making any report or filing a	44
complaint as authorized by division (A) of this section,	45
including, without limitation, doing any of the following:	46

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- (1) Removing or suspending the employee from employment; 47 (2) Withholding from the employee salary increases or 48 employee benefits to which the employee is otherwise entitled; 49 (3) Transferring or reassigning the employee; 50 (4) Denying the employee promotion that otherwise would 51 have been received; 52 (5) Reducing the employee in pay or position. 5.3 (C) An employee in the classified or unclassified civil 54 service shall make a reasonable effort to determine the accuracy 55 of any information reported under division (A) of this section. 56 The employee is subject to disciplinary action, including 57 suspension or removal, as determined by the employee's 58 appointing authority, for purposely, knowingly, or recklessly 59 reporting false information under division (A) of this section. 60 (D) If an appointing authority takes any disciplinary or 61 retaliatory action against a classified or unclassified employee 62 as a result of the employee's having filed a report or complaint 63 under division (A) of this section, the employee's sole and 64 exclusive remedy, notwithstanding any other provision of law, is 65 to file an appeal with the state personnel board of review 66 within thirty days after receiving actual notice of the 67 appointing authority's action. If the employee files such an 68 appeal, the board shall immediately notify the employee's 69 appointing authority and shall hear the appeal. The board may 70 affirm or disaffirm the action of the appointing authority or 71 may issue any other order as is appropriate. The order of the 72 board is appealable in accordance with Chapter 119. of the 73 Revised Code. 74
 - (E) Divisions (B), (C), and (D) of this section apply to a

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complaint filed with the inspector general under division (A) of	76
this section only if the complaint is made regarding a state	77
officer or state employee, as those terms are defined in section	78
121.41 of the Revised Code, over whom the inspector general has	79
investigational authority under section 121.42 of the Revised	80
Code.	81
(F) As used in this section:	82
(1) "Purposely," "knowingly," and "recklessly" have the	83
same meanings as in section 2901.22 of the Revised Code.	84
(2) "Appropriate ethics commission" has the same meaning	85
as in section 102.01 of the Revised Code.	86
(3) "Inspector general" means the inspector general	87
appointed under section 121.48 of the Revised Code.	88
Section 2. That existing section 124.341 of the Revised	89
Code is hereby repealed.	