

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S3/6/19

A Bill

SENATE BILL 236

5 By: Senator K. Hammer
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE PUBLIC EMPLOYEES' POLITICAL
9 FREEDOM ACT OF 1999; TO DECLARE AN EMERGENCY; AND FOR
10 OTHER PURPOSES.
11

Subtitle

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13 TO AMEND THE PUBLIC EMPLOYEES' POLITICAL
14 FREEDOM ACT OF 1999 AND TO DECLARE AN
15 EMERGENCY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 21-1-502(1) and (2), concerning definitions
22 under the Public Employees' Political Freedom Act of 1999, are amended to
23 read as follows:

24 (1)(A) "Elected public official" means an individual elected to
25 serve in a public office, including without limitation the Governor,
26 Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of
27 State, Attorney General, Commissioner of State Lands, a member of the Senate,
28 and a member of the House of Representatives, a state office, a county
29 office, a local office, or a federal office.

30 (B) "Elected public official" shall include the staff of
31 an elected public official;

32 (C) "Elected public official" does not mean an individual
33 appointed to an office, board, or commission under this subchapter;

34 (2)(A) "Public employee" means any person providing services for
35 the State of Arkansas, a county, a municipal corporation, or any other
36 political subdivision of this state for which compensation is paid.



1 (B) The General Assembly recognizes the non-partisan and
 2 confidentiality requirements of legislative staff, and therefore “public
 3 employee” does not mean an employee of the General Assembly, including
 4 without limitation an employee of the Bureau of Legislative Research and an
 5 employee of Arkansas Legislative Audit; and

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 7 SECTION 2. Arkansas Code § 21-1-503 is amended to read as follows:

8 21-1-503. ~~Employer~~ Public employer not to penalize public employee’s
 9 political activity.

10 (a) A public employee shall not be prohibited from communicating with
 11 an elected public official or a member of the public concerning a matter
 12 related to the public employee’s job, except for a matter exempted under §
 13 25-19-105 or prohibited by law from disclosure.

14 (b) A public employee shall not be prohibited from exercising a right
 15 or privilege under the Freedom of Information Act of 1967, § 25-19-101 et
 16 seq.

17 (c)(1) A public employee shall not be restricted or prohibited from
 18 expressing his or her views or opinions related to:

19 (A) A matter of public concern;

20 (B) A matter of individual or private concern;

21 (C) The public employee’s job; or

22 (D) The action of a public official.

23 (2) A reasonable time and place restrictions may be established
 24 and apply to a public employee if the time and place restriction:

25 (A) Applies during the employee’s working hours;

26 (B) Applies while the public employee is located at the
 27 public employee’s place of employment; and

28 (C) Is provided in writing no less than sixty (60) days in
 29 advance of implementation.

30 ~~(e)(1)~~ (d)(1) It ~~shall be~~ is unlawful for any public employer to
 31 discipline, to threaten to discipline, to reprimand either orally or in
 32 writing, to place any notation in a public employee’s personnel file
 33 disciplining or reprimanding the public employee, or to otherwise
 34 discriminate against a public employee because the public employee exercised
 35 the right to communicate with an elected public official, exercised the right
 36 to communicate with a member of the public, or exercised a right or privilege

1 under the Freedom of Information Act of 1967, § 25-19-101 et seq., as granted
2 under this subchapter.

3 (2) A public employer ~~shall not be~~ is not prohibited from
4 disciplining a public employee who has intentionally made an untrue
5 allegation of illegal activity by an elected public official to an elected
6 public official concerning a matter related to the public employee's job.

7 (3) A public employer is not prohibited from disciplining a
8 public employee for disclosing information that is prohibited from disclosure
9 by state or federal law.

10 ~~(d)(e)~~ Any person ~~willfully violating~~ who negligently violates a
11 provision of this subchapter ~~shall be~~ is guilty of a Class A misdemeanor.

12 (f)(1) A public employee may bring a civil action for injunctive
13 relief to restrain a violation of this subchapter.

14 (2) If the court finds that this subchapter has been violated,
15 the court shall restrain the violation by issuing:

16 (A) A temporary restraining order;

17 (B) After due notice and hearing, a temporary injunction;

18 (C) After a final trial, a permanent injunction; and

19 (D) An award of monetary damages to the public employee in
20 the amount of fifty dollars (\$50.00) for each day of the violation.

21 (g)(1) The following shall adopt a policy concerning communications
22 with elected public officials:

23 (A) The House of Representatives;

24 (B) The Senate;

25 (C) The Bureau of Legislative Research; and

26 (D) Arkansas Legislative Audit.

27 (2)(A) The policy adopted by the Bureau of Legislative Research
28 shall be approved by the Legislative Council, and the policy adopted by
29 Arkansas Legislative Audit shall be approved by the Legislative Joint
30 Auditing Committee.

31 (B) The policies shall balance the nonpartisan interests
32 of legislative staff with the need for employees of the General Assembly to
33 communicate with elected public officials about matters of public concern,
34 including without limitation exercising rights under the Freedom of
35 Information Act of 1967, § 25-19-101 et seq.

36 (C) The policy adopted by Arkansas Legislative Audit shall

1 also be consistent with auditing standards, including without limitation the
2 need to maintain independence.

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4 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that public employees face
6 restrictions on their right to express their opinions in the workplace; that
7 these restrictions cause fear in those public employees to use their right of
8 free speech; and that this act is immediately necessary to ensure the public
9 employees' freedom of speech is not restricted. Therefore, an emergency is
10 declared to exist, and this act being immediately necessary for the
11 preservation of the public peace, health, and safety shall become effective
12 on:

13 (1) The date of its approval by the Governor;

14 (2) If the bill is neither approved nor vetoed by the Governor,
15 the expiration of the period of time during which the Governor may veto the
16 bill; or

17 (3) If the bill is vetoed by the Governor and the veto is
18 overridden, the date the last house overrides the veto.

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21 /s/K. Hammer
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