

HOUSE BILL NO. 4177

February 13, 2019, Introduced by Reps. Cherry, Ellison, Kennedy, Sneller, Neeley, Byrd, Cynthia Johnson, Hood and Hoadley and referred to the Committee on Oversight.

A bill to create the office of government accountability; to prescribe the powers and duties of the office, the legislative council, and state departments and agencies; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "government accountability act".

3 (2) As used in this act:

4 (a) "Administrative act" means an action, rule, regulation,

1 order, omission, decision, recommendation, practice, or procedure
2 of a public body.

3 (b) "Complaint" means an allegation of wrongdoing or a report
4 as described in section 2 of the whistleblowers' protection act,
5 1980 PA 469, MCL 15.362.

6 (c) "Council" means the legislative council.

7 (d) "Office" means the office of government accountability
8 created in section 2.

9 (e) "Person" means an individual, sole proprietorship,
10 partnership, corporation, association, or any other legal entity.

11 (f) "Public body" includes all of the following:

12 (i) An officer, employee, agency, department, division, bureau,
13 board, commission, council, authority, or other body, or a member
14 thereof, of the executive branch of state government.

15 (ii) An officer, employee, agency, board, commission, council,
16 or other body, or member thereof, of the legislative branch of
17 state government.

18 (iii) A county, city, township, village, intercounty, intercity,
19 or regional governing body; a council, school district, special
20 district, or municipal corporation; a board, department,
21 commission, council, agency; or a member or employee thereof.

22 (iv) The judiciary or a member or employee of the judiciary.

23 (v) A person that has contracted with a public body to provide
24 a service that the public body is required to or would otherwise
25 provide or to fulfill an obligation or duty of the public body.

26 (g) "Wrongdoing" means an action by a public body that does
27 any of the following:

28 (i) Violates a law of this state, a political subdivision of
29 this state, or the United States.

1 (ii) Results in the gross mismanagement or gross waste of
2 public funds.

3 (iii) Creates a substantial and specific danger to public health
4 or safety.

5 (iv) Results in the alteration, concealment, or destruction of
6 or tampering with data used in the preparation of an official
7 report for the purpose of falsifying or misrepresenting the data or
8 misleading a person relying on the report.

9 Sec. 2. (1) The office of government accountability is created
10 within the legislative council.

11 (2) The principal executive officer of the office of
12 government accountability is the government accountability officer
13 who is appointed by and serves at the pleasure of the council.

14 (3) The council shall establish procedures for approving the
15 budget and expenditures for the office and for employing personnel.

16 Sec. 3. (1) Within 30 business days after receiving a
17 complaint, the government accountability officer shall conduct an
18 investigation. The government accountability officer may decline to
19 conduct an investigation if he or she determines that the complaint
20 pertains to a matter that is outside the scope of the government
21 accountability officer's powers.

22 (2) Subject to approval of the council, the government
23 accountability officer shall establish procedures for receiving and
24 processing complaints, conducting investigations, holding hearings,
25 and reporting the findings resulting from the investigations.

26 Sec. 4. If the government accountability officer decides to
27 investigate a complaint, the government accountability officer
28 shall notify the complainant in writing. If the government
29 accountability officer declines to investigate a complaint, the

1 government accountability officer shall, in writing, notify the
2 complainant and inform the complainant of the reasons for the
3 government accountability officer's decision.

4 Sec. 5. (1) Upon request and without the requirement of any
5 release, a public body shall give the government accountability
6 officer access to all information, records, and documents in the
7 possession of the public body that the government accountability
8 officer considers relevant to an investigation.

9 (2) Upon request and without notice, a public body shall grant
10 the government accountability officer entrance to inspect at any
11 time any premises under the control of the public body that the
12 government accountability officer considers relevant to an
13 investigation.

14 (3) The government accountability officer may hold informal
15 hearings and may request that any person appear before the
16 government accountability officer or at a hearing and give
17 testimony or produce documentary or other evidence that the
18 government accountability officer considers relevant to an
19 investigation.

20 Sec. 6. Upon request of the government accountability officer,
21 the council may hold a hearing. The council may administer oaths,
22 subpoena witnesses, and examine the books and records of the
23 relevant public body or of a person, partnership, or corporation
24 involved, in accordance with section 104 of the legislative council
25 act, 1986 PA 268, MCL 4.1104, in a matter that is or was a proper
26 subject of investigation by the government accountability officer
27 under this act.

28 Sec. 7. (1) Correspondence between the government
29 accountability officer and a complainant is confidential, is not

1 discoverable in a legal proceeding, is exempt from disclosure under
2 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
3 and must be processed as privileged correspondence.

4 (2) The government accountability officer shall maintain
5 confidentiality with respect to all complaints and the identities
6 of the complainants, except so far as disclosures may be necessary
7 to enable the government accountability officer to perform the
8 duties of the office and to support any recommendations resulting
9 from an investigation.

10 (3) A report prepared and recommendations made by the
11 government accountability officer and submitted to the council
12 under section 8 are exempt from disclosure under the freedom of
13 information act, 1976 PA 442, MCL 15.231 to 15.246.

14 Sec. 8. (1) The government accountability officer shall,
15 within 30 days after completing an investigation, prepare and
16 submit a report of the findings of the investigation to the
17 complainant and the council and, if the government accountability
18 officer finds any of the following, make recommendations to the
19 council:

20 (a) A wrongdoing.

21 (b) An administrative act for which justification is
22 necessary.

23 (c) A matter that raises an issue that it is in the best
24 interest of the state for the public body to address.

25 (d) Any other significant concerns as determined by the
26 government accountability officer.

27 (2) The council may forward the report prepared and submitted
28 under this section to the relevant public body or other persons
29 affected. In an appropriate case, the council may forward a report

1 to the Michigan state police or Ingham County prosecutor for
2 further investigation or prosecution.

3 Sec. 9. The government accountability officer shall submit to
4 the legislature an annual report on the conduct of the office.

5 Sec. 10. (1) A complainant or any other individual must not be
6 subject to adverse employment action or be penalized in any way by
7 a public body because of filing a complaint or cooperating with the
8 government accountability officer in investigating a complaint,
9 unless the complainant knowingly filed a complaint based on false
10 information or the individual provided information the individual
11 knew to be false or misleading in the course of the investigation
12 of a complaint. As used in this subsection, "adverse employment
13 action" means discharge, threats, or other discrimination against
14 an employee regarding the employee's compensation, terms,
15 conditions, location, or privileges of employment.

16 (2) A person shall not hinder the lawful actions of the
17 government accountability officer or employees of the office, or
18 willfully refuse to comply with lawful demands of the office.

19 (3) A person that violates this act is guilty of a felony
20 punishable by imprisonment for not more than 2 years or a fine of
21 not more than \$5,000.00, or both.

22 Sec. 11. The authority granted to the government
23 accountability officer is in addition to the authority granted
24 under any other act or rule that provides a remedy or right to
25 appeal or object, or any procedure provided for inquiring into or
26 investigating any matter. The authority granted the government
27 accountability officer does not limit or affect the remedy or right
28 of appeal or objection and is not part of an exclusionary process.

29 Sec. 12. (1) The government accountability officer shall

1 prepare a written notice of the rights of individuals under this
2 act and the whistleblowers' protection act, 1980 PA 469, MCL 15.361
3 to 15.369, and shall prepare a training guide of those rights.

4 (2) A public body shall train its employees utilizing the
5 training guide prepared by the government accountability officer
6 under subsection (1).

7 Enacting section 1. This act takes effect 90 days after the
8 date it is enacted into law.