

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P12:13

RECEIVED BY: 

SENATE

S. NO. 38

Introduced by Senator Juan M. Flavier

Explanatory Note

A young, idealistic new graduate applies for a job at a government agency. She sees an employee punching the Bundy clock for another employee. It may be something she discovers during her first week in office. Should she or shouldn't she report the matter to the authorities?

We hear of people who bravely tell on a public official and find themselves in the doghouse, so to speak. Whistle-blowers may be assigned to windowless basement offices with no duties to perform. Hardship posts are given to those *na ayaw makisama or makihati. Dalhin sa kangkungan* is what we hear in this regard.

The exposure of wrongdoing or shortcoming deserves every encouragement. But, some unscrupulous employees scorn whistle blowers who denounce disgraceful or wrongful government conduct, as it were. Whistleblowers should be protected, even rewarded, if possible. They play a valuable role in the task of creating a good and ideal government.

The purpose of this bill is to help eliminate wrongdoing or shortcoming in the government by helping insure that employees do not suffer from adverse career moves resulting from their exposure or revelation of wrongdoings of other government employees.

The early approval of this bill is earnestly urged.


JUAN M. FLAVIER
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P12:13

SENATE

S. NO. 38

RECEIVED BY: 

Introduced by Senator Flavier

**AN ACT
PROTECTING INCUMBENT AND FORMER GOVERNMENT
EMPLOYEES AND APPLICANTS FOR GOVERNMENT EMPLOYMENT
FROM REPRISAL OR HARRASSMENT FOR MAKING DISCLOSURES
IN THE PUBLIC INTEREST AND PROVIDING PENALTIES FOR
VIOLATIONS THEREOF**

*Be it enacted by the Senate and the House of Representatives of
the Philippines in Congress Assembled:*

Section 1. *Short Title.* – This Act may be cited as the “Watchdog
Act of 2004”

Section 2. *Prohibited Acts or Omissions.* – It shall be unlawful for a
public officer or employee to penalize any employee or applicant for
employment thru an act of reprisal or harassment against the latter for
disclosing information or evidence of misconduct against the former. The
said misconduct must be any of the following:

- a) a violation of any law, rule or regulation; or

- b) mismanagement, waste of funds, abuse of authority, or any act that pose substantial and specific danger to public health or safety

Section 3. *Scope of Reprisal or harassment.* - Reprisal or harassment may relate to the appointment, promotion, disciplinary or other correctional action, detail, transfer, reassignment, reinstatement, reemployment, performance evaluation, restriction, and the like, of an employee, former employee or applicant for employment, or to any decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, positive performance evaluation, or other action described in this paragraph, or any other significant changes in duties or responsibilities inconsistent with the status, salary or grade level, or accepted practice, with respect to an employee or former employee in, or applicant for, a government position.

Section 4. *Groundless and Malicious Disclosure.* - The disclosing party cannot be penalized or disciplined or otherwise held liable unless the disclosure is found to be groundless and one in bad faith or in gross and reckless disregard of the truth, as to be violative of existing laws on perjury, false testimony, libel, and similar offenses.

Section 5. *Burden of Proof.* - If the disclosing party complains of reprisal or harassment under this Act, the respondent has the burden of

proof that the complaint has not been the object of reprisal or harassment for making an exposure or disclosure under Section 2 of this Act.

Section 6. *Preference in Transfer.* – (a) in filling a position within any agency, the head of such agency may give preference to any employee of such agency, or any other agency, to transfer to a position of the same status and tenure as the position of such employee on the date of applying for a transfer if:

- 1) such employee is otherwise qualified and eligible for appointment for such position; and
 - 2) The Civil Service Commission makes a determination that an act of reprisal or harassment was taken or threatened against such employee.
- b) An employee who meets the conditions described in this Act may voluntarily apply for a transfer to a position, within the agency employing such employee or any other agency.
- c) If an employee applies for a transfer and the selecting official disapproves such application, the selecting official shall provide him with a written explanation of the reasons for the disapproval within fifteen (15) working days after receiving such application.
- d) An employee whose application for transfer is disapproved may request the head of such agency to review the disapproval. Such

request for review shall be submitted to the head of the agency within fifteen (15) working days after the employee receives such notification. Within fifteen (15) working days after receiving the request for review, the head of the agency shall complete the review and provide a written statement of findings to the employee and the Civil Service Commission.

Section 7. *Limitations.* – The provisions of Section 6 hereof shall apply with regard to any officer, employee or applicant-

- 1) for no more than one transfer;
- 2) for a transfer from within the agency he is employed at the time of a determination by the Civil Service Commission that he was a victim of reprisal or harassment; and
- 3) Not later than twelve (12) months after such a determination is made by the Civil Service Commission.

Section 8. *Interim Relief.* - If an employee, former employee or applicants for employment is the prevailing party is stayed remain in effect pending the outcome of any proceeding for review, unless-

- a) the deciding official determines that the grant of such relief is not appropriate; or
- b) the relief granted in the decision provides that such prevailing party shall return or be presented at the place of employment

during the period pending the outcome of any petition for review; and

- c) The employing agency, subject to the provisions of the following paragraph, determines that the return or presence of such prevailing party is unduly disruptive to the work environment.

If an agency makes a determination under subparagraphs (b) and (c) above that prevents the return or presence of an employee at the place of assignments, such employee shall receive pay, compensation, and all other benefits as terms and conditions of employment during the period pending the outcome of any petition for review.

Section 9. Penalties. – Any public official or employee who violates this act shall be punished with a fine not exceeding the equivalent of one (1) year's salary or suspension not exceeding one (1) year, or removal from office depending on the gravity of the offense, after due notice and hearing by the appropriate body or agency in a proper administrative proceeding. If the violation is punished by a heavier penalty under another law, he shall be protected, against under the latter statute.

Section 10 Promulgation of rules and Regulations, Administration and enforcement of this act. – The Civil Service Commission shall have the primary responsibility for the administrative and enforcement of this act. It is hereby mandated to carry out the provisions of this Act. The Ombudsman shall likewise take steps to protect citizens who denounce

acts or omissions of public officials and employees. The Civil Service Commission and the Ombudsman shall take this Act into account in implementing Section 6 of Act No. 6173 on framing a system of rewards and incentives for exemplary conduct.

Section 11. *Repealing Clause.* - All the laws, decrees, executive orders, letters of instruction, directives, rules or regulations contrary to or inconsistent with this Act are hereby repealed.

Section 12. *Separability Clause.* - If for any reason, any part or provisions of this Act is held unconstitutional, the same shall not affect the rest of the provisions of this Act.

Section 13. *Effectivity.* - This Act shall take effect after fifteen (15) days following its complete publication in the *Official Gazette* or at least two (2) national newspapers of general circulation.

Approved,