TITLE 6
ACTIONS IN PARTICULAR CASES

CHAPTER 21
PROTECTION OF PUBLIC EMPLOYEES

6-2101. LEGISLATIVE INTENT. The legislature hereby finds, determines and declares that government constitutes a large proportion of the Idaho work force and that it is beneficial to the citizens of this state to protect the integrity of government by providing a legal cause of action for public employees who experience adverse action from their employer as a result of reporting waste and violations of a law, rule or regulation.

[6-2101, added 1994, ch. 100, sec. 1, p. 227.]

6-2102. SHORT TITLE. This act is known as the "Idaho Protection of Public Employees Act."

[6-2102, added 1994, ch. 100, sec. 1, p. 227.]

6-2103. DEFINITIONS. As used in this chapter:

(1) "Adverse action" means to discharge, threaten or otherwise discriminate against an employee in any manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions or privileges.

(2) "Communicate" means a verbal or written report.

(3) "Employee" means a person who performs a service for wages or other remuneration.

(4) (a) "Employer" means the state of Idaho, or any political subdivision or governmental entity eligible to participate in the public employees retirement system, chapter 13, title 59, Idaho Code;

(b) "Employer" includes an agent of an employer.

(5) "Public body" means any of the following:

(a) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution or any other body in the executive branch of state government;

(b) An agency, board, commission, council, institution member or employee of the legislative branch of state government;

(c) A county, city, town, regional governing body, council, school district, special district, municipal corporation, other political subdivision, board, department, commission, council, agency or any member or employee of them;

(d) Any other body that is created by state or local authority, or any member or employee of that body;

(e) A law enforcement agency or any member or employee of a law enforcement agency; and

(f) The judiciary and any member or employee of the judiciary.

[6-2103, added 1994, ch. 100, sec. 1, p. 227.]

6-2104. REPORTING OF GOVERNMENTAL WASTE OR VIOLATION OF LAW -- EMPLOYER ACTION.

(1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the em-

ployee, communicates in good faith the existence of any waste of public funds, property or manpower, or a violation or suspected violation of a law, rule or regulation adopted under the law of this state, a political subdivision of this state or the United States. Such communication shall be made at a time and in a manner that gives the employer reasonable opportunity to correct the waste or violation.

(b) For purposes of paragraph (a) of this subsection, an employee communicates in good faith if there is a reasonable basis in fact for the communication. Good faith is lacking where the employee knew or reasonably ought to have known that the report is malicious, false or frivolous.

(2) (a) An employer may not take adverse action against an employee because an employee in good faith participates or communicates information in good faith in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review concerning the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or the United States.

(b) For purposes of paragraph (a) of this subsection, an employee participates or gives information in good faith if there is a reasonable basis in fact for the participation or the provision of the information. Good faith is lacking where the employee knew or reasonably ought to have known that the employee's participation or the information provided by the employee is malicious, false or frivolous.

(3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law or a rule or regulation adopted under the authority of the laws of this state, political subdivision of this state or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document the existence of any waste of public funds, property or manpower, or a violation or suspected violation of any laws, rules or regulations.

[6-2104, added 1994, ch. 100, sec. 1, p. 227; am. 2017, ch. 272, sec. 1, p. 712; am. 2020, ch. 295, sec. 1, p. 848.]

6-2105. REMEDIES FOR EMPLOYEE BRINGING ACTION -- PROOF REQUIRED. (1) As used in this section, "damages" means damages for injury or loss caused by each violation of this chapter, and includes court costs and reasonable attorneys' fees.

(2) An employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief or actual damages, or both, within one hundred eighty (180) days after the occurrence of the alleged violation of this chapter.

(3) An action begun under this section may be brought in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(4) To prevail in an action brought under the authority of this section, the employee shall establish, by a preponderance of the evidence, that the employee has suffered an adverse action because the employee, or a person

acting on his behalf, engaged or intended to engage in an activity protected under section 6-2104, Idaho Code.

(5) (a) In no action brought pursuant to this chapter shall a judgment for noneconomic damages be entered for a claimant exceeding the limitation on damages contained in section 6-1603(1), Idaho Code.

(b) The limitation contained in this subsection shall apply to the sum of noneconomic damages sustained by a claimant.

(c) Governmental entities and their employees shall not be liable for punitive damages on any claim allowed under the provisions of this section.

[6-2105, added 1994, ch. 100, sec. 1, p. 228; am. 2020, ch. 295, sec. 2, p. 849.]

6-2106. COURT ORDERS FOR VIOLATION OF CHAPTER. A court, in rendering a judgment brought under this chapter, may order any or all of the following:

(1) An injunction to restrain continued violation of the provisions of this act;

(2) The reinstatement of the employee to the same position held before the adverse action, or to an equivalent position;

(3) The reinstatement of full fringe benefits and seniority rights;

(4) The compensation for lost wages, benefits and other remuneration;

(5) The payment by the employer of reasonable costs and attorneys' fees;

(6) An assessment of a civil fine of not more than five hundred dollars ($500), which shall be submitted to the state treasurer for deposit in the general fund.

[6-2106, added 1994, ch. 100, sec. 1, p. 228.]

6-2107. AWARD OF ATTORNEYS' FEES AND COSTS TO EMPLOYER -- ACTION WITHOUT BASIS IN LAW OR FACT. A court may also order that reasonable attorneys' fees and court costs be awarded to an employer if the court determines that an action brought by an employee under this chapter is without basis in law or in fact. However, an employee shall not be assessed attorneys' fees under this section if, after exercising reasonable and diligent efforts after filing a suit, the employee files a voluntary dismissal concerning the employer, within a reasonable time after determining that the employer would not be liable for damages.

[6-2107, added 1994, ch. 100, sec. 1, p. 229.]

6-2108. NO IMPAIRMENT OF EMPLOYEE RIGHTS UNDER COLLECTIVE BARGAINING AGREEMENT -- CONFIDENTIALITY PROTECTED. This chapter shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement, nor to permit disclosures which would diminish or impair the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection.

[6-2108, added 1994, ch. 100, sec. 1, p. 229.]

6-2109. NOTICE OF EMPLOYEE PROTECTION. An employer shall use appropriate means to notify its employees of their protection and obligation under this chapter.

[6-2109, added 1994, ch. 100, sec. 1, p. 229.]