

SB15-275

SENATE FLOOR AMENDMENT

Second Reading

BY SENATORS Lambert and Carroll

1 Strike the Local Government Committee Report, dated April 28, 2015,
2 and substitute:

3 "Amend printed bill, strike everything below the enacting clause and
4 substitute:

5 "SECTION 1. In Colorado Revised Statutes, **add** 2-2-315.5 as
6 follows:

7 **2-2-315.5. Receipt of confidential information by members of**
8 **the general assembly - legislative declaration.** (1) THE GENERAL
9 ASSEMBLY FINDS AND DETERMINES THAT, IN THE COURSE OF THE
10 LEGISLATIVE PROCESS AND THE MEMBERS' OFFICIAL DUTIES, IT MAY BE
11 NECESSARY FOR MEMBERS OF THE GENERAL ASSEMBLY TO ACCESS
12 INFORMATION THAT IS CONFIDENTIAL OR SENSITIVE. THIS INFORMATION
13 MAY BE ESSENTIAL TO MEMBERS OF THE GENERAL ASSEMBLY IN MAKING
14 LEGISLATIVE DECISIONS, EXERCISING OVERSIGHT RESPONSIBILITIES, OR
15 VOTING ON LEGISLATION WITH RESPECT TO ALL AREAS OF STATE
16 GOVERNMENT.

17 (2) IF A MEMBER OF THE GENERAL ASSEMBLY RECEIVES ACCESS TO
18 ANY CONFIDENTIAL OR SENSITIVE INFORMATION INCLUDING INDIVIDUALLY
19 IDENTIFIABLE HEALTH INFORMATION UNDER THE FEDERAL "HEALTH
20 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L.
21 104-191, 42 U.S.C. SECS. 1320 (d) TO 1320 (d) (8), IN THE COURSE OF HIS
22 OR HER OFFICIAL DUTIES, THE MEMBER SHALL PROTECT THAT
23 INFORMATION IN ACCORDANCE WITH LAW AND AGREE TO AND SIGN ANY
24 APPROPRIATE NONDISCLOSURE AGREEMENTS.

25 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-50.5-101
26 as follows:

27 **24-50.5-101. Legislative declaration.** (1) The general assembly
28 hereby declares that the people of Colorado are entitled to information
29 about the workings of state government in order to reduce the waste and
30 mismanagement of public funds, to reduce abuses in government
31 authority, and to prevent illegal and unethical practices. The general
32 assembly further declares that employees of the state of Colorado are
33 citizens first and have a right and a responsibility to behave as good
34 citizens in our common efforts to provide sound management of
35 governmental affairs. To help achieve these objectives, the general
36 assembly declares that state employees should be encouraged to disclose



1 information on actions of state agencies that are not in the public interest
2 and that legislation is needed to ensure that any employee making such
3 disclosures ~~shall not be~~ IS NOT subject to disciplinary measures or
4 harassment. ~~by any public official.~~

5 (2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT STATE
6 EMPLOYEES' CONSTITUTIONALLY PROTECTED RIGHTS OF FREE SPEECH AND
7 PETITION FOR REDRESS OF GRIEVANCES THROUGH ELECTED STATE
8 LEGISLATORS MUST NOT BE INFRINGED, SUBJECT TO PENALTY, OR
9 RETALIATION.

10 (3) IF A MEMBER OF THE GENERAL ASSEMBLY RECEIVES ANY
11 CONFIDENTIAL OR SENSITIVE, PROPRIETARY, TRADE SECRET,
12 CONFIDENTIAL COMMERCIAL, FINANCIAL, LEGAL, OR HEALTH
13 INFORMATION FOR OVERSIGHT PURPOSES UNDER THIS ARTICLE, THE
14 MEMBER SHALL KEEP THAT INFORMATION CONFIDENTIAL AND USE IT ONLY
15 FOR OFFICIAL LEGISLATIVE PURPOSES CONNECTED TO THE CONSIDERATION
16 OF OFFICIAL ACTIONS OF THE GENERAL ASSEMBLY.

17 **SECTION 3.** In Colorado Revised Statutes, 24-50.5-102, **amend**
18 (2) as follows:

19 **24-50.5-102. Definitions.** As used in this article, unless the
20 context otherwise requires:

21 (2) "Disclosure of information", EXCEPT AS AUTHORIZED UNDER
22 SECTION 24-50.5-103 (3), means the ~~written~~ provision of ~~evidence~~
23 INFORMATION to any person, or the testimony before any committee of the
24 general assembly, regarding any action, policy, regulation, practice, or
25 procedure, including ~~but not limited to~~, the waste of public funds, abuse
26 of authority, or mismanagement of any state agency. "DISCLOSURE OF
27 INFORMATION" DOES NOT INCLUDE GIVING INFORMATION TO A MEMBER OF
28 THE GENERAL ASSEMBLY AS AUTHORIZED UNDER SECTION 24-50.5-103.

29 **SECTION 4.** In Colorado Revised Statutes, **amend** 24-50.5-103
30 as follows:

31 **24-50.5-103. Retaliation prohibited.** (1) Except as provided in
32 subsection (2) of this section, no appointing authority or supervisor shall
33 initiate or administer any disciplinary action against an employee on
34 account of the employee's disclosure of information. This ~~section~~
35 SUBSECTION (1) shall not apply to:

36 (a) An employee who discloses information that he OR SHE knows
37 to be false or who discloses information with disregard for the truth or
38 falsity thereof;

39 (b) An employee who discloses information from public records
40 ~~which~~ THAT are closed to public inspection pursuant to section
41 24-72-204;

1 (c) An employee who discloses information ~~which~~ THAT is
2 confidential under any other provision of law.

3 (2) ~~It shall be the obligation of~~ An employee who wishes to
4 disclose information under the protection of this article IS OBLIGATED to
5 make a good-faith effort to provide to his OR HER supervisor or appointing
6 authority or member of the general assembly the information to be
7 disclosed prior to the time of its disclosure.

8 (3) SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO
9 A SITUATION WHERE AN EMPLOYEE GIVES ANY INFORMATION TO A
10 MEMBER OF THE GENERAL ASSEMBLY. IF AN EMPLOYEE GIVES ANY
11 INFORMATION TO A MEMBER OF THE GENERAL ASSEMBLY THAT IS
12 CONFIDENTIAL OR SENSITIVE AND NOT SUBJECT TO INSPECTION UNDER THE
13 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE,
14 THE MEMBER OF THE GENERAL ASSEMBLY, IF REQUESTED TO PERMIT
15 PUBLIC INSPECTION, SHALL DENY PUBLIC INSPECTION OF THAT
16 INFORMATION. IF AN EMPLOYEE GIVES INFORMATION TO A MEMBER OF THE
17 GENERAL ASSEMBLY, NO APPOINTING AUTHORITY OR SUPERVISOR SHALL
18 INITIATE OR ADMINISTER ANY DISCIPLINARY ACTION AGAINST THE
19 EMPLOYEE ON ACCOUNT OF THE EMPLOYEE'S GIVING THAT INFORMATION
20 TO A MEMBER OF THE GENERAL ASSEMBLY. AN EMPLOYEE'S GIVING
21 INFORMATION TO A MEMBER OF THE GENERAL ASSEMBLY DOES NOT
22 CONSTITUTE DISCLOSURE OF INFORMATION, AS DEFINED IN SECTION
23 24-50.5-102. ANY DISCLOSURE OR RETRANSMISSION OF INFORMATION BY
24 A MEMBER OF THE GENERAL ASSEMBLY SHALL COMPLY WITH THE
25 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE,
26 AND ANY OTHER RESTRICTIONS OF LAW.

27 **SECTION 5. Effective date - applicability.** This act takes effect
28 upon passage and applies to any information given and to any state
29 employee that has given or gives information to a member of the general
30 assembly before, on, or after said date.

31 **SECTION 6. Safety clause.** The general assembly hereby finds,
32 determines, and declares that this act is necessary for the immediate
33 preservation of the public peace, health, and safety."."

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