

HOUSE BILL NO. 450

INTRODUCED BY J. FRENCH

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING RETALIATION AGAINST ANY EMPLOYEE IN RELATION TO GRIEVANCES, HEARINGS, OR INQUIRIES RELATED TO CERTAIN WAGE AND HUMAN RIGHTS ISSUES; EXTENDING THE PERIOD FOR FILING GRIEVANCES IN CERTAIN CIRCUMSTANCES; EXTENDING THE JURISDICTION OF THE BOARD OF PERSONNEL APPEALS TO CERTAIN PRIVATE CLAIMS; AMENDING SECTIONS 2-18-1001, 2-18-1012, AND 87-1-403, MCA; AND REPEALING SECTIONS 2-18-1002 AND 87-1-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Nonretaliation -- grievance procedures. (1) The state, a county, a

municipal entity, a school district, a public corporation, a private corporation, a person, or a firm may not retaliate against an employee, as defined in 39-71-118, for:

- (a) filing a complaint under 39-3-104;
- (b) testifying in a proceeding in relation to a complaint filed under 39-3-104; or
- (c) inquiring about, discussing, or disclosing the wages of an employee.

(2) The provisions of subsection (1) are in addition to the retaliation prohibition in 49-2-301 and the grievance procedures allowed for state employees under Title 2, chapter 18, part 10, and for employees covered by collective bargaining agreements under Title 39, chapters 31, 32, and 34.

(3) For complaints under this section that are not filed under Title 49, chapter 2, an employee may file a grievance under this section with the board of personnel appeals, established in 2-15-1705, within 180 days after the employee determines that there was retaliatory action prohibited by subsection (1).

(4) The board of personnel appeals shall hear grievances under the provisions of a grievance procedure to be prescribed by the board. The procedures provided in 2-18-1012 and 2-18-1013 apply for state employees and for an employee of a county, a municipal entity, a school district, a public corporation, a private corporation, a person, or a firm who has exhausted administrative procedures provided by the employee's employer and who is not subject to collective bargaining agreements.

1 **Section 2.** Section 2-18-1001, MCA, is amended to read:

2 **"2-18-1001. Department of transportation Agency personnel grievances -- hearing.** (1) ~~An~~ Any
3 agency ~~employee of the department of transportation~~ who is aggrieved by a serious matter of employment based
4 upon work conditions, supervision, or the result of an administrative action and who has exhausted all other
5 administrative remedies is entitled to a hearing before the board of personnel appeals, under the provisions of
6 a grievance procedure to be prescribed by the board, for resolution of the grievance.

7 (2) Direct or indirect interference, restraint, coercion, or retaliation against an aggrieved employee by
8 an employee's supervisor or ~~the department of transportation against an aggrieved employee~~ an agency against
9 which a complaint has been brought because the employee has filed or attempted to file a grievance with the
10 board is also a basis for a grievance and entitles the employee to a hearing before the board for resolution.

11 (3) A grievance under this part must be filed with the board ~~of personnel appeals~~ within 180 days after
12 the alleged incident or action occurred or within 180 days after an aggrieved employee learns of the alleged
13 incident or action on which the grievance is based. Failure to file the grievance within this period is a bar to
14 proceeding with the grievance."
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16 **Section 3.** Section 2-18-1012, MCA, is amended to read:

17 **"2-18-1012. Grievance procedure.** If, upon the preponderance of the evidence taken at the hearing,
18 the board is of the opinion that the employee is aggrieved, it may issue an order to the appropriate agency ~~or~~
19 ~~agencies of state government~~ or to an employer pursuant to [section 1] to require an action to resolve the
20 employee's grievance. In a hearing, the board is not bound by statutory or common-law rules of evidence. The
21 hearing may be conducted by telephone or by videoconference."
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23 **Section 4.** Section 87-1-403, MCA, is amended to read:

24 **"87-1-403. Regulation of employees by director.** (1) The director may suspend without pay, reduce
25 in rank, or remove any employee at any time for cause, providing that any person who has been continuously
26 employed for 1 year or more immediately preceding any suspension or discharge may demand and receive a
27 hearing before the department on the charges filed. The action of the department resulting from such a hearing
28 constitutes final administrative action for purposes of filing a grievance with the board of personnel appeals as
29 provided in ~~87-1-205~~ 2-18-1001.

30 (2) The director shall rate all employees on the basis of merit and efficiency in accordance with rules

1 adopted by the department to secure a proper rating of each person employed. The department shall fix salaries
2 of employees and shall be fixed by the department, and allow travel expenses, as provided for in 2-18-501
3 through 2-18-503, ~~as amended, shall be allowed~~ for employees ~~while upon~~ who are on official business away
4 from designated headquarters."

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6 **NEW SECTION. Section 5. Repealer.** Sections 2-18-1002 and 87-1-205, MCA, are repealed.

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8 **NEW SECTION. Section 6. Codification instruction.** [Section 1] is intended to be codified as an
9 integral part of Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [section 1].

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