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HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 504

AN ACT TO AMEND CHAPTER 51, TITLE 29 OF THE DELAWARE CODE RELATING TO STATE EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 5115, Chapter 51, Title 29 of the Delaware Code by striking said Section in its entirety, and
2 substituting in lieu thereof the following:

3 "§ 5115. Certain retaliatory acts prohibited.

4 (a) Except as set forth in this Section, no State agency, officer or appointing authority shall take any
5 retaliatory action against an employee of this State. Where an employee believes that an individual
6 or agency has threatened retaliation, has attempted or is attempting retaliation, has knowingly
7 joined or assisted in a retaliatory action, or has retaliated against such employee, the employee may
8 file a written complaint directly to the State Personnel Office pursuant to Section 20.8 of the State
9 Merit Grievance Procedure. The employee and the Director or designee may agree to meet and
10 attempt an informal resolution of the complaint, and/or the Director or designee shall hear the
11 complaint and issue a written decision within 45 days of the complaint's receipt. Such decision
12 shall be final and binding upon agency management. Where such decision finds that an individual
13 engaged in conduct prohibited by this Subsection, the agency shall initiate appropriate disciplinary
14 action consistent with that decision.

15 (b) If the complainant employee is not satisfied with the Director or designee's decision, the employee
16 may submit a written appeal to the MERB pursuant to Section 20.9 of the State Merit Grievance
17 Procedure, and such appeal shall be handled and processed in the same manner as other appeals
18 heard by the Board."

SYNOPSIS

Since its beginning, the Legislative Committee on Personnel Practices has received a large number of complaints in which retaliation against a State employer was involved, either as part of the original complaint or as "punishment" against an employee for doing what the employee had a right to do. Because such complaints to the Committee appear to have grown in number and severity, this Act sets forth a procedure for the processing of a retaliation complaint.