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SENATE BILL 281

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Lisa Curtis

AN ACT

RELATING TO CIVIL ACTIONS; CLARIFYING THAT THE REMEDIES PROVIDED IN THE WHISTLEBLOWER PROTECTION ACT SHALL ALWAYS BE AVAILABLE NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-16C-4 NMSA 1978 (being Laws 2010, Chapter 12, Section 4) is amended to read:

"10-16C-4. RIGHT TO CIVIL ACTION FOR DAMAGES--AFFIRMATIVE DEFENSES--REMEDY NOT EXCLUSIVE.--

A. A public employer that violates the provisions of the Whistleblower Protection Act shall be liable to the public employee for actual damages, reinstatement with the same seniority status that the employee would have had but for the violation, two times the amount of back pay with interest on the back pay and compensation for any special damage sustained

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1 as a result of the violation. In addition, an employer shall
2 be required to pay the litigation costs and reasonable attorney
3 fees of the employee. An employee may bring an action pursuant
4 to this section in any court of competent jurisdiction.

5 B. It shall be an affirmative defense to a civil
6 action brought pursuant to this section that the action taken
7 by a public employer against a public employee was due to the
8 employee's misconduct, the employee's poor job performance, a
9 reduction in work force or other legitimate business purpose
10 unrelated to conduct prohibited pursuant to the Whistleblower
11 Protection Act and that retaliatory action was not a motivating
12 factor.

13 C. Notwithstanding the provisions of any other law,
14 the remedies provided for in the Whistleblower Protection Act
15 are not exclusive and shall be in addition to any other
16 remedies provided for in any other law or available under
17 common law.

18 D. Nothing in the Whistleblower Protection Act
19 precludes civil actions or criminal sanctions for libel,
20 slander or other civil or criminal claims against a person who
21 files a false claim under that act."