

SENATE, No. 1583

STATE OF NEW JERSEY

INTRODUCED OCTOBER 3, 1996

By Senator MARTIN

1 AN ACT concerning certain punitive damages, amending P.L.1986,
2 c.105 and supplementing Title 59 of the New Jersey Statutes.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. Section 5 of P.L.1986, c.105 (C.34:19-5) is amended to read as
8 follows:

9 5. Upon a violation of any of the provisions of this act, an
10 aggrieved employee or former employee may, within one year,
11 institute a civil action in a court of competent jurisdiction. Upon the
12 application of any party, a jury trial shall be directed to try the validity
13 of any claim under this act specified in the suit. All remedies available
14 in common law tort actions shall be available to prevailing plaintiffs.
15 These remedies are in addition to any legal or equitable relief provided
16 by this act or any other statute. The court may also order:

17 a. An injunction to restrain continued violation of this act;

18 b. The reinstatement of the employee to the same position held
19 before the retaliatory action, or to an equivalent position;

20 c. The reinstatement of full fringe benefits and seniority rights;

21 d. The compensation for lost wages, benefits and other
22 remuneration;

23 e. The payment by the employer of reasonable costs, and attorney's
24 fees;

25 f. Punitive damages, except if the defendant is a public entity; or

26 g. An assessment of a civil fine of not more than \$1,000.00 for the
27 first violation of the act and not more than \$5,000.00 for each
28 subsequent violation, which shall be paid to the State Treasurer for
29 deposit in the General Fund.

30 (cf: P.L.1990, c.12, s.4)

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32 2. (New section) Notwithstanding the provisions of any other law,
33 no punitive damages shall be awarded against a public entity in any
34 action.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill would prohibit the award of punitive damages in all
7 lawsuits against public entities. It would also specifically prohibit
8 punitive damage awards against public entities in cases brought against
9 them pursuant to the "Conscientious Employee Protection Act."

10 In Abbamont v. Piscataway Board of Education, 138 N.J. 405
11 (1994), the New Jersey Supreme Court held that a board of education
12 was liable for punitive damages in a case filed by a teacher under the
13 "Conscientious Employee Protection Act" (N.J.S.A.34:19-1 et seq.).
14 This bill would prohibit the award of punitive damages against public
15 entities in all actions, including the Act.

16 It is the belief of the sponsor that punitive damage awards against
17 public entities serve no legitimate purpose. Unlike punitive damage
18 awards against individuals, which punish wrongdoers for outrageous
19 conduct and serve to deter others, punitive damage awards against
20 public entities have little deterrence value. Rather than punishing the
21 wrongdoer, punitive damage awards against public entities serve
22 mainly to punish the public, since such awards are paid with public
23 funds.

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28 Prohibits award of punitive damages against public entities.