

SENATE BILL REPORT

SB 6321

**AS REPORTED BY COMMITTEE ON GOVERNMENTAL OPERATIONS,
FEBRUARY 6, 1992**

Brief Description: Regulating local government whistleblower programs.

SPONSORS: Senators Skratek, Metcalf, Gaspard and von Reichbauer

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: That Substitute Senate Bill No. 6321 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chairman; Roach, Vice Chairman; Madsen, and Sutherland.

Staff: Rod McAulay (786-7754)

Hearing Dates: February 6, 1992

BACKGROUND:

Local government employees do not have any established procedure for reporting wrongdoing within their agencies. When employees do attempt to report wrongdoing within their agencies, there is no specific protection from retaliatory actions by their superiors nor are there any specific procedures for adjudicating claims of retaliatory action.

SUMMARY:

Each city, county, port district, public utility district and school district and its employees are subject to the provisions of the state whistleblower act. The State Auditor may decline to investigate a report of improper governmental action from a local government if the local government has a whistleblower program which has been approved by the State Auditor. The State Auditor shall establish a committee to develop model whistleblower programs. The committee shall make recommendations to the Legislature by December 1, 1992 on amendments regarding larger cities and counties and by December 1, 1993 regarding other local governments covered by the act.

EFFECT OF PROPOSED SUBSTITUTE:

The terms "improper governmental action," "local government," "retaliatory action," and "emergency" are defined.

Every local government employee has the right to report information concerning improper governmental actions. Local governments must adopt and publish policies for reporting such information indicating persons within and without the

governmental unit to whom employees may report. The local government may require that, except in the case of an emergency, the employee make a written report to the employer before reporting to another public body. An employee must make a good faith attempt to comply with any whistleblower policies published by the employer to receive the protection of this act.

Retaliation against employees reporting improper governmental actions is prohibited. To seek relief from retaliation within 30 days of the occurrence of the action, an employee shall provide a written notice to the governing body of the local government specifying the alleged retaliatory action and the relief requested. If the matter is not resolved within 30 days, the employee may request a hearing which shall be conducted by an administrative law judge assigned by the State Office of Administrative Hearings. The judge must conduct a hearing and render a final decision within 45 days of assignment unless the time is extended at the request of a party or on the judge's own motion.

The judge may order reinstatement of the employee, payment of back pay, and such injunctive relief as may be necessary to return the employee to his or her position before retaliation occurred and to prevent any recurrence of retaliatory action. Costs and attorneys fees may be awarded to the prevailing party. A person found to have retaliated against an employee may be fined up to \$3,000.

Fines against retaliators together with a five cents surcharge on audit charges collected by the State Auditor from local governments are placed in a separate account in the office of the State Treasurer from which charges for the first 24 hours of services by the Office of Administrative Hearings on any one matter are paid. The costs of hearings which exceed 24 hours shall be allocated among the parties by the administrative law judge. The additional costs are paid to the Office of Administrative Hearings by the local government with any portion allocated to the complaining employee to be collected from the employee by the local government.

Local governments that have established their own internal whistleblower procedures that meet the intent of this act are exempt from the provisions of this act.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This bill provides a much needed procedure for local government employees. It will increase efficiency and check unlawful activity by government officials. The process set forth in the substitute has been negotiated and agreed to by local government representatives.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Senator Sylvia Skratek, prime sponsor; Gary Lowe, WSAC; Kathleen Collins, AWC; Dave Roger, PORTS; David Westberg, Stationary Engineers; Ron Murray, King County Democrats; Cheryl Lupkes, King County Democrats