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SENATE BILL 5871

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State of Washington

52nd Legislature

1991 Regular Session

By Senators Talmadge and Rasmussen.

Read first time February 27, 1991. Referred to Committee on Governmental Operations.

1 AN ACT Relating to retaliations for good faith communication by  
2 citizens to government agencies of apparent improper actions; amending  
3 RCW 4.24.500 and 4.24.520; adding new sections to chapter 4.24 RCW; and  
4 prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 4.24.500 and 1989 c 234 s 1 are each amended to read  
7 as follows:

8 Information provided by citizens concerning potential wrongdoing is  
9 vital to effective law enforcement ((and)), the efficient operation of  
10 government, and an economically productive society. The legislature  
11 finds that the threat of a civil action for damages or retaliation by  
12 government employees or the employees of government contractors or  
13 subcontractors can act as a deterrent to citizens who wish to report  
14 information to federal, state, or local agencies. The costs of  
15 defending against such suits or suffering such retaliation can be

1 severely burdensome. The purpose of RCW 4.24.500 through 4.24.520 and  
2 sections 3 through 6 of this act is to protect individuals who make  
3 good-faith reports to appropriate governmental bodies and to provide  
4 remedies for such individuals who are subjected to retaliation for  
5 having made such reports.

6 **Sec. 2.** RCW 4.24.520 and 1989 c 234 s 4 are each amended to read  
7 as follows:

8 In order to protect the free flow of information from citizens to  
9 their government, an agency receiving a complaint or information under  
10 RCW 4.24.510 may intervene in and defend against any suit precipitated  
11 by the communication to the agency. In the event that a local  
12 governmental agency does not intervene in and defend against a suit  
13 arising from any communication protected under this act, the office of  
14 the attorney general (~~may~~) shall intervene in and defend against the  
15 suit. An agency prevailing upon the defense provided for in RCW  
16 4.24.510 shall be entitled to recover costs and reasonable attorneys'  
17 fees incurred in establishing the defense. (~~If the agency fails to~~  
18 ~~establish the defense provided for in RCW 4.24.510, the party bringing~~  
19 ~~the action shall be entitled to recover from the agency costs and~~  
20 ~~reasonable attorney's fees incurred in proving the defense inapplicable~~  
21 ~~or invalid.))~~

22 NEW SECTION. **Sec. 3.** A person under RCW 4.24.510 who  
23 communicates a complaint or information about or concerning that  
24 person's employer and who subsequently suffers retaliation from that  
25 employer for making such communication may report the conduct of said  
26 employer to the Washington state human rights commission which, upon a  
27 demonstration that the person reporting the alleged retaliation had  
28 made a good faith communication under RCW 4.24.500 and that the

1 protected communication was a contributing factor to the retaliation,  
2 shall proceed with such report in the same manner as a complaint filed  
3 with the commission under RCW 49.60.230 through 49.60.310.

4 NEW SECTION. **Sec. 4.** The Washington state human rights  
5 commission or the attorney general, in the execution of their  
6 respective responsibilities pursuant to RCW 4.24.500 through 4.24.520  
7 and sections 3 through 6 of this act, may seek to enjoin any  
8 retaliatory actions by an employer against an employee and seek civil  
9 penalties against the employer in the same manner and to the same  
10 extent as provided for a violation of RCW 19.86.140.

11 NEW SECTION. **Sec. 5.** A person under RCW 4.24.510 who  
12 communicates a complaint or information about or concerning that  
13 person's employer and who subsequently suffers retaliation from that  
14 employer for making the communication, upon the same showing as  
15 required by section 4 of this act, shall have a civil cause of action  
16 under RCW 19.86.020 against said employer. For the purposes of RCW  
17 4.24.500 through 4.24.520 and sections 3 through 6 of this act such  
18 retaliatory conduct by an employer is deemed to constitute an unfair  
19 practice within the meaning of RCW 19.86.020 and 19.86.030 and subject  
20 to the provisions of chapter 19.86 RCW.

21 NEW SECTION. **Sec. 6.** For the purposes of RCW 4.24.500 through  
22 4.24.520 and sections 3 through 5 of this act "retaliation" means but  
23 is not limited to:

- 24 (1) Denial of adequate staff to perform duties;
- 25 (2) Frequent staff changes;
- 26 (3) Frequent and undesirable office changes;
- 27 (4) Refusal to assign meaningful work;

- 1 (5) Unwarranted and unsubstantiated letters of reprimand or  
2 unsatisfactory performance evaluations;
- 3 (6) Demotion;
- 4 (7) Reduction in pay;
- 5 (8) Denial of promotion;
- 6 (9) Suspension;
- 7 (10) Dismissal;
- 8 (11) Denial of employment;
- 9 (12) Supervisor or superior encouraging colleagues to behave in a  
10 hostile manner toward the employer;
- 11 (13) Action which would constitute harassment under RCW 9A.46.020  
12 through 9A.46.060 and 9.61.230;
- 13 (14) Requiring psychiatric or psychological examination or  
14 treatment as a condition of continued employment; and
- 15 (15) Instigation or maintenance of surveillance.

16 NEW SECTION. **Sec. 7.** Sections 3 through 6 of this act are  
17 each added to chapter 4.24 RCW.