

SENATE BILL REPORT

SB 5200

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, MARCH 3, 1993

Brief Description: Adopting the private whistleblowers' protection act.

SPONSORS: Senators Skratek, Owen, Gaspard, Prentice, Moore and Winsley

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5200 be substituted therefor, and the substitute bill do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Fraser, McAuliffe, Pelz, Prince, Sutherland, Vognild, and Wojahn.

Staff: Dave Cheal (786-7576)

Hearing Dates: February 23, 1993; March 3, 1993

SENATE COMMITTEE ON WAYS & MEANS

Staff: Martin Chaw (786-7715)

Hearing Dates: March 8, 1993

BACKGROUND:

Employees who become aware of environmental, safety or health violations in their work environment must sometimes risk their employment or even their careers if they call public or governmental attention to these problems.

Protection for whistleblowers varies considerably depending on the type of employment and whether federal law applies. Federal law applies to certain specific industries. Some states have general broad protection for employee whistleblowers. Washington has protection from civil action for damages for any citizen who reports information to federal, state or local agencies which is of reasonable concern to that agency.

SUMMARY:

Private employers are prohibited from taking retaliatory action against employees for certain protected reporting. The employee must act in good faith and in order to obtain the protection of the act must first bring the alleged violation, condition, or practice to the attention of the employer and allow the employer a reasonable opportunity to correct the problem, unless the condition is an emergency, a crime, or committed by someone other than the employer.

Protected activities include: (a) reporting a violation of law; (b) reporting to the employer or a public body, a workplace health or safety hazard; (c) participating in an inquiry into illegal activity of the employer; or (d) refusing to carry out orders from the employer which pose a serious threat to the employee's safety, or safety of another.

Other persons are prohibited from encouraging a private employer to take retaliatory action.

A victim of retaliation has a choice of remedies. They may bring a civil action for injunctive relief and damages including possible reinstatement, back pay and benefits or a combination of remedies. A violator is also liable for a civil fine of up to \$3,000 which is paid to the general fund.

The other remedy is a complaint to the State Human Rights Commission under the Unfair Practices Act. Violators are required to pay administrative costs of the action and are also liable for a civil penalty of up to \$3,000.

EFFECT OF PROPOSED SUBSTITUTE:

A reference to media is removed from the definition of "public body." The definition of retaliation is changed to apply equally to employees and individuals working as independent contractors.

The reasons for not notifying an employer prior to "blowing the whistle" are narrowed.

The requirement of electing between a civil action and a complaint to the Human Rights Commission is removed.

The standard of judicial review of Human Rights Commission decisions in whistleblower cases is made identical to the standard in other types of cases.

Appropriation: none

Revenue: yes

Fiscal Note: requested

TESTIMONY FOR (Labor & Commerce):

Some public employees have this protection but private sector whistleblowers have virtually no protection. The public interest and health and safety of workers is furthered by protecting those who refuse to ignore their employers' dangerous and illegal practices.

TESTIMONY AGAINST (Labor & Commerce):

This bill is so broad that many legitimate adverse personnel actions would subject an employer to lawsuits and penalties. Many protections already exist to protect workers from retaliation.

TESTIFIED (Labor & Commerce): Mark Blume (pro); Tom Carpenter (pro); Bob Dilger (pro); Richard Father (pro); Dennis Martin (pro); Clif Finch (con); Gary Smith (con); Carolyn Logue (con); Larry Stevens (con)

TESTIMONY FOR (Ways & Means): None

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): No one