

SENATE BILL REPORT

SB 5790

As Reported By Senate Committee On:
Government Operations, February 25, 1997

Title: An act relating to whistleblowers.

Brief Description: Modifying the state employee whistleblower protection act.

Sponsors: Senators McCaslin, Fraser, Haugen, Patterson, Stevens, Horn, Oke and Wojahn; by request of State Auditor.

Brief History:

Committee Activity: Government Operations: 2/18/97, 2/25/97 [DPS].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: That Substitute Senate Bill No. 5790 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn and Patterson.

Staff: Eugene Green (786-7405)

Background: The State Employee Whistleblower Act provides a means for state employees to report suspected improper governmental actions. These are actions by a state employee or officer that violate state laws and rules, are an abuse of authority, are of substantial and specific danger to the public and safety, or are a gross waste of public funds. Personnel actions are not considered improper governmental actions under the act. Upon receiving specific information that an employee has engaged in improper governmental action, the Office of the State Auditor must at least conduct a preliminary investigation of the matter. In most instances, the identity of the whistleblower must be kept confidential. Remedies exist for any person who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action.

Summary of Substitute Bill: The definition of improper governmental action— as well as what does not constitute an improper governmental action— are clarified. The following terms are defined: abuse,— acting in an arbitrary and capricious manner that adversely affects the accomplishment of an agency function; misuse,— an unauthorized waste; and waste,— an unnecessary or unreasonable expenditure or use.

An allegation of an improper governmental action must be provided to the auditor within one year of the alleged occurrence. The auditor's discretion to review allegations and determine the necessity of an investigation is clarified. The State Auditor is also given the discretion to determine whether an allegation should be investigated as part of an audit of public accounts.

The timelines for acknowledging and investigating whistleblower allegations are lengthened. The auditor has 15 rather than five working days to acknowledge receipt of an allegation of improper governmental action, and 60 rather than 30 days to conduct a preliminary investigation (the 60 days also applies to an agency to which the auditor may have forwarded allegations).

The extension of whistleblower confidentiality to cases referred to other agencies by the auditor is clarified. After completion of the preliminary investigation, if further investigation is to occur, the auditor must provide written notification of the nature of the assertions to the subject of the investigation.

Within 30 days after an agency receives a report of alleged improper governmental activity from the auditor, the agency must send its plan for corrective action to the auditor. The auditor may require periodic reports of corrective action, and the agency must complete all corrective action within six months after the date of the auditor's report.

The definition of reprisal or retaliatory action— is expanded to include the use or attempt to use an employee's official authority or influence for the purpose of interfering with the right of an individual to disclose improper governmental activities.

The State Auditor may contract for assistance to comply with the provisions of the State Employee Whistleblower Act. The cost of administering the act is placed in the auditing services revolving account. Alleged improper governmental action against the State Auditor or an employee of that office must be made to and investigated by the Attorney General.

Substitute Bill Compared to Original Bill: The auditing services revolving account was misnamed.

Appropriation: None.

Fiscal Note: Requested on February 11, 1997.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The program keeps growing and we need to make various changes to keep up with the workload without sacrificing the quality of programs. More and more employees are taking advantage of the act.

Testimony Against: None.

Testified: Linda Sheler, State Auditor's Office (pro); Stacie Haller, AG; Lynn McKinnon, WPEA (pro).