

HOUSE BILL REPORT

SSB 5672

As Reported By House Committee On:
State Government

Title: An act relating to retaliatory action against a whistleblower.

Brief Description: Retaliating against a whistleblower.

Sponsors: Senate Committee on State & Local Government (originally sponsored by Senators Kline, Costa, Prentice, Fraser, Fairley, Shin, Kohl-Welles, Haugen, Hargrove and McAuliffe).

Brief History:

Committee Activity:

State Government: 3/23/99, 4/2/99 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Changes the burden of proof under the state Whistleblower Act so that a state agency must demonstrate that a retaliatory action did not occur and adds examples of what constitutes retaliatory action.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass as amended. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Campbell, Republican Vice Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh; Lambert and D. Schmidt.

Staff: Steve Lundin (786-7127).

Background:

Legislation was enacted in 1982 establishing a whistleblower protection program for state employees, to encourage state employees to report improper governmental actions and to protect the rights of state employees who make such disclosures.

Employees who provide information about improper governmental action in good faith are protected from retaliatory action and have remedies available under the Human Rights Commission laws. A retaliatory action could include a number of actions, such as frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, demotion, reduction in pay, denial of a promotion, suspension, dismissal, and a supervisor or superior encouraging co-workers to behave in a hostile manner toward the whistleblower.

An agency is allowed to exercise its supervisory authority over a whistleblower, including terminating, suspending, or disciplining such an employee. However, the agency is required to implement any order made by the Human Rights Commission, other than an order of suspension if the agency has terminated the retaliator.

Summary of Amended Bill:

Changes are made to the retaliatory action provisions of the state whistleblower law.

A presumption is established for a cause of action if a retaliatory action occurs, including any of the listed types of retaliatory actions. The agency presumed to have taken retaliatory action may rebut that presumption by providing a preponderance of the evidence that the agency actions were justified by reasons unrelated to the employee's status as a whistleblower.

The list of retaliatory actions is expanded to include a change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish.

Amended Bill Compared to Substitute Bill: Clarifies that a change in the location of an employee's workplace is an example of retaliation against the employee's expressed wish, rather than a change in the location of the employee against the employee's expressed wish.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is part of a package of bills relating to the Whistleblower Act. This reverses the legal burden of proof. The Human Rights Commission only found retaliation in only one out of 64 cases.

Testimony Against: None.

Testified: Senator Klein, prime sponsor; and Lynn McKinnon, Washington Public Employees Association.