

SENATE BILL REPORT

SB 5918

As Reported By Senate Committee On:
State & Local Government, March 3, 1999

Title: An act relating to whistleblowers.

Brief Description: Creating a registry of advocates to assist whistleblowers.

Sponsors: Senators Kline, Winsley and Rasmussen.

Brief History:

Committee Activity: State & Local Government: 2/25/99, 3/3/99 [DPS-WM].

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5918 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Staff: Diane Smith (786-7410)

Background: The State Whistleblower Program, operated by the State Auditor's Office, provides protection to the whistleblower who believes his employer has retaliated against him or her. These cases of alleged retaliation are referred to the Human Rights Commission (HRC). HRC acts in the position of a neutral fact finder. If HRC finds that the facts support a claim of retaliation, then HRC brings the case in the name of HRC to an administrative hearing. A conference and conciliation process is part of the overall process conducted by HRC and occurs prior to the administrative hearing.

Unless the whistleblower hires his or her own attorney, no officer is designated to advocate for the whistleblower's position that the employer retaliated against the whistleblower. The conference often is attended by the head of the alleged retaliating agency, the agency's Attorney General, the alleged perpetrator of the retaliation and his or her attorney. Given that the whistleblower often appears with only the HRC attorney, who is not the whistleblower's advocate, an appearance of one-sidedness has been noted by whistleblowers.

Summary of Substitute Bill: On January 1, 2000, a rotational registry is established in the Department of Personnel (DOP) to provide advocates for whistleblowers who allege their state employer has retaliated against them. The advocate must be a lawyer in private practice without conflict of interest with the alleged retaliating agency and trained in mediation or arbitration. The advocate represents the whistleblower at the HRC up to the point that the case is brought to an administrative hearing in the name of the HRC. The advocate may not accept private employment from the whistleblower for representation at the administrative hearing.

The advocates are available to whistleblowers who meet income eligibility requirements. The advocates are paid \$100 per hour not to exceed \$5,000 per case and must supply their own office, office supplies and support staff. The whistleblower must pay 20 percent of the compensation.

The Department of Personnel monitors compliance with the contracts under which the advocates are employed and reports each biennium about the program to the Legislature, HRC and the Governor.

Substitute Bill Compared to Original Bill: The substitute bill includes a mandatory 20 percent contribution towards the compensation advocate by the whistleblower.

Appropriation: An unspecified amount is appropriated from the general fund for the fiscal year ending June 30, 2000.

Fiscal Note: Requested on February 22, 1999.

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

Testimony For: This bill makes life a little bit easier for the whistleblower and is the least expensive option.

Testimony Against: The attorneys should be required to be employment law specialists and the \$5,000 limit is inadequate.

Testified: Senator Kline, prime sponsor (pro); Helen Stanwell, Whistleblowers Who Received Retaliation (con).