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SENATE BILL 5788

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State of Washington

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By Senators Kline, Swecker, Patterson, Oke, Shin, Rasmussen, Costa, Prentice, Sheahan, McAuliffe, McCaslin, Benton, Fraser, Deccio, Finkbeiner, Johnson and Winsley

Read first time 02/02/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to the definition of "whistleblower"; and amending  
2 RCW 42.40.020.

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

4 **Sec. 1.** RCW 42.40.020 and 1999 c 361 s 1 are each amended to read  
5 as follows:

6 As used in this chapter, the terms defined in this section shall  
7 have the meanings indicated unless the context clearly requires  
8 otherwise.

9 (1) "Auditor" means the office of the state auditor.

10 (2) "Employee" means any individual employed or holding office in  
11 any department or agency of state government.

12 (3) "Good faith" means a reasonable basis in fact for the  
13 communication. "Good faith" is lacking when the employee knows or  
14 reasonably ought to know that the report is malicious, false, or  
15 frivolous.

16 (4) "Gross waste of funds" means to spend or use funds or to allow  
17 funds to be used without valuable result in a manner grossly deviating  
18 from the standard of care or competence that a reasonable person would  
19 observe in the same situation.

1 (5)(a) "Improper governmental action" means any action by an  
2 employee undertaken in the performance of the employee's official  
3 duties:

4 (i) Which is ~~((to the auditor))~~ a gross waste of public funds or resources as  
5 defined in this section;

6 (ii) Which is in violation of federal or state law or rule, if the  
7 violation is not merely technical or of a minimum nature; or

8 (iii) Which is of substantial and specific danger to the public  
9 health or safety.

10 (b) "Improper governmental action" does not include personnel  
11 actions, for which other remedies exist, including but not limited to  
12 employee grievances, complaints, appointments, promotions, transfers,  
13 assignments, reassignments, reinstatements, restorations,  
14 reemployments, performance evaluations, reductions in pay, dismissals,  
15 suspensions, demotions, violations of the state civil service law,  
16 alleged labor agreement violations, reprimands, claims of  
17 discriminatory treatment, or any action which may be taken under  
18 chapter 41.06 RCW, or other disciplinary action except as provided in  
19 RCW 42.40.030.

20 (6) "Substantial and specific danger" means a risk of serious  
21 injury, illness, peril, or loss, to which the exposure of the public is  
22 a gross deviation from the standard of care or competence which a  
23 reasonable person would observe in the same situation.

24 (7) "Use of official authority or influence" includes taking,  
25 directing others to take, recommending, processing, or approving any  
26 personnel action such as an appointment, promotion, transfer,  
27 assignment, reassignment, reinstatement, restoration, reemployment,  
28 performance evaluation, or any adverse action under chapter 41.06 RCW,  
29 or other disciplinary action.

30 (8) "Whistleblower" means an employee who in good faith reports  
31 alleged improper governmental action ~~((to the auditor, initiating an  
32 investigation under RCW 42.40.040. For purposes of the provisions of  
33 this chapter and chapter 49.60 RCW relating to reprisals and  
34 retaliatory action,))~~. The term "whistleblower" also means: (a) An  
35 employee who in good faith provides information to the auditor in  
36 connection with an investigation under RCW 42.40.040 and an employee  
37 who is believed to have reported asserted improper governmental action  
38 ~~((to the auditor))~~ or to have provided information to the auditor in  
39 connection with an investigation under RCW 42.40.040 but who, in fact,

1 has not reported such action or provided such information; ((~~or~~)) (b)  
2 an employee who in good faith identifies rules warranting review or  
3 provides information to the rules review committee, and an employee who  
4 is believed to have identified rules warranting review or provided  
5 information to the rules review committee but who, in fact, has not  
6 done so; or (c) an employee who refuses to obey an order that would  
7 require him or her to violate a law.

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