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**SUBSTITUTE SENATE BILL 5789**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on State & Local Government (originally sponsored by Senators Kline, Swecker, Patterson, Oke, Shin, Kohl-Welles, Sheahan, Prentice, Rasmussen, Kastama, Benton, Costa, McCaslin, Finkbeiner, Deccio, Fraser and Winsley)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to whistleblowers; adding a new section to chapter  
2 42.40 RCW; adding a new section to chapter 41.06 RCW; adding a new  
3 section to chapter 49.60 RCW; and making appropriations.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.40 RCW  
6 to read as follows:

7 (1) The director of the department of personnel shall establish a  
8 rotational registry system to appoint and monitor advocates for those  
9 whistleblowers who allege retaliation under RCW 42.40.050.

10 (2) Advocates shall be limited to representation of the  
11 whistleblower under RCW 49.60.230 and 49.60.240, including the  
12 conference and conciliation stage under RCW 49.60.240. If the parties  
13 proceed under RCW 49.60.250 the human rights commission shall provide  
14 representation.

15 (3) The advocate's appointment by the department of personnel shall  
16 be pursuant to a contract of employment awarded and administered by the  
17 department of personnel.

18 (4) To be eligible for placement in the registry, a person must:

19 (a) Be admitted to the practice of law in the state of Washington;

1 (b) Be engaged in private practice;

2 (c) Not have provided legal representation for the alleged  
3 retaliating agency for the five years previous to the date on which his  
4 or her appointment to the case would occur; and

5 (d) Be able to demonstrate that he or she has completed training in  
6 arbitration or mediation.

7 The director may establish additional criteria.

8 (5) Eligibility for a whistleblower to receive appointment of an  
9 advocate on his or her behalf shall be determined by the department of  
10 personnel and shall be limited to those whistleblowers whose income is  
11 less than two hundred percent of the federal poverty level for a person  
12 whose family size is the same as the whistleblower.

13 Whistleblowers who are unemployed at the time they request  
14 appointment of an advocate under this chapter are eligible to receive  
15 appointment of an advocate until such time as they obtain employment at  
16 a level of compensation that would disqualify them from eligibility  
17 under this section.

18 (6) The rotational registry system shall list advocates in the  
19 order in which they are established as being qualified by the  
20 department of personnel for listing on the registry. A whistleblower  
21 who wishes to be represented by an advocate shall apply to the  
22 department. The first three names on the list shall be given to the  
23 whistleblower and the whistleblower shall select his or her  
24 representative from among those three. If none of the first three  
25 choices is acceptable to the whistleblower then the next three names  
26 shall be given to the whistleblower from which to make his or her  
27 choice. If the whistleblower rejects the names from the second list,  
28 he or she shall accept the next name on the list or seek alternative  
29 representation at his or her own expense. The name of any advocate who  
30 either serves or is rejected is placed, in order, on the bottom of the  
31 list.

32 (7) The amount of compensation for the advocate shall be calculated  
33 at the rate of one hundred dollars per hour up to five thousand dollars  
34 which may include reasonable litigation expenses. This shall  
35 constitute the sole and entire public compensation of the advocate.  
36 Costs for all office, clerical, and other support services required by  
37 the advocate shall be borne by the advocate.

38 The department of personnel shall monitor compliance with the terms  
39 and conditions of the contract. The department of personnel shall

1 terminate any contract when the department determines that the advocate  
2 has failed substantially to comply with the terms and conditions of the  
3 contract. The whistleblower may terminate the services of the advocate  
4 at any time for any cause. The secretary shall review all terminations  
5 at the end of each year to determine whether an advocate has failed  
6 substantially to comply with terms of his or her contracts. Any  
7 advocate who is found to have failed substantially to comply may be  
8 removed from the registry by the director.

9 (8) The registry is established January 1, 2002, and may be used  
10 for any case open at the time of its creation. The director of  
11 personnel shall adopt rules as necessary to implement this section.

12 (9) The department of personnel shall report to the governor, the  
13 legislature, and the human rights commission in January of every odd-  
14 numbered year. This report shall include but not be limited to  
15 statistics on the use of the registry, costs to the state, results of  
16 cases that received appointment of an advocate, time expended between  
17 the filing of a complaint with the human rights commission and the  
18 conclusion of the complaint, and any other matter of interest or use to  
19 the governor or legislature.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.06 RCW  
21 to read as follows:

22 A whistleblower who alleges retaliation under RCW 42.40.050 may be  
23 eligible for an advocate appointed pursuant to section 1 of this act.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.60 RCW  
25 to read as follows:

26 A whistleblower who alleges retaliation under RCW 42.40.050 may be  
27 eligible for an advocate appointed pursuant to section 1 of this act.

28 NEW SECTION. **Sec. 4.** (1) The sum of . . . . dollars, or as much  
29 thereof as may be necessary, is appropriated for the fiscal year ending  
30 June 30, 2002, from the general fund to the department of personnel for  
31 the purposes of section 1 of this act.

32 (2) The sum of . . . . dollars, or as much thereof as may be  
33 necessary, is appropriated for the fiscal year ending June 30, 2003,

1 from the general fund to the department of personnel for the purposes  
2 of section 1 of this act.

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