

# HOUSE BILL REPORT

## HB 1692

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### As Reported by House Committee On:

Local Government

**Title:** An act relating to local government whistleblower protection.

**Brief Description:** Changing provisions relating to protection of local government whistleblowers.

**Sponsors:** Representatives Sullivan and O'Brien.

### Brief History:

#### Committee Activity:

Local Government: 2/12/03, 2/24/03 [DP].

#### Brief Summary of Bill

- Requires the county prosecuting attorney or the State Auditor (Auditor) to investigate allegations of improper governmental action reported directly to them.
- Allows a local government employee to request the Auditor to investigate alleged improper governmental action if the local government or the county prosecuting attorney fail to respond to an allegation within 60 days, or if the employee believes that the allegation was not investigated with due diligence. Costs incurred by the Auditor must be paid by the local government through the Municipal Revolving Account.
- Requires a local government employee to make a reasonable attempt to ascertain the correctness of the information before reporting an allegation.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 10 members: Representatives Romero, Chair; Upthegrove, Vice Chair; Schindler, Ranking Minority Member; Jarrett, Assistant Ranking Minority Member; Ahern, Berkey, Clibborn, Ericksen, Mielke and Moeller.

**Staff:** Amy Wood (786-7127).

### Background:

The Legislature enacted a local government "whistleblower" program in 1992 to provide protection to local government employees who report improper governmental action to the proper authorities. The protections provided to local government employees are similar to those provided to state government employees under the state whistleblower program.

Both the state and local government whistleblower programs prohibit retaliatory action from being taken against the employee who disclosed information concerning the improper governmental action. "Improper governmental action" is defined as an action undertaken in the performance of the officer's or employee's duties that is a violation of law, is an abuse of authority, endangers the public health or safety, or is a gross waste of public funds.

Each local government was required to adopt policies and procedures for handling whistleblower complaints by January 1, 1993. The policies must identify to whom the reports must be made. The prosecuting attorney must be listed as one of the people to whom a report may be made. A person who reports improper governmental action must follow the procedures adopted by the local government in order to receive the protection provided by law.

If a local government has failed to adopt procedures for reporting improper governmental action, an employee may report alleged improper governmental action directly to the county prosecuting attorney.

If the prosecuting attorney or an employee of the prosecuting attorney participated in the alleged improper governmental action, a local government employee may report the action directly to the Auditor. The local government must pay the costs incurred by the Auditor in conducting these investigations through the Municipal Revolving Account.

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### **Summary of Bill:**

The Auditor must be listed as one of the people to whom a report may be made.

If an employee reports improper governmental action directly to the county prosecuting attorney, the county prosecuting attorney must investigate the allegation. If the employee reports the improper governmental action directly to the Auditor, the Auditor must investigate the allegation.

If an employee follows the procedures adopted by the local government, or reports the alleged improper conduct to the county prosecuting attorney, and receives no response within 60 days, or believes that the allegation was not investigated with due diligence, the employee may request that the Auditor investigate the allegation. The Auditor has discretion to decide whether to investigate the allegation. Dissatisfaction with the

outcome or results of the investigation is not sufficient reason for the Auditor to investigate the allegation.

A local government employee must make a reasonable attempt to ascertain the correctness of the information, and may face disciplinary actions for knowingly furnishing false information.

If the Auditor does investigate the allegation, any costs incurred by the Auditor must be paid by the local government through the Municipal Revolving Account.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** Flaws in the local government whistleblower act do not allow the necessary process to take place. If the whistleblower act is invoked, the board drops the complaint, and the county prosecutor fails to investigate, a local government employee has no recourse. This bill will provide recourse to pursue an end to complaints and provide protections under the act. The bill strengthens current law that complaints be investigated.

**Testimony Against:** None.

**Testified:** Rep. Sullivan, prime sponsor; Linda Long, Office of the State Auditor; Robert D. Olson, III; and Jim Sauter.