
SUBSTITUTE HOUSE BILL 3180

State of Washington

59th Legislature

2006 Regular Session

By House Committee on State Government Operations & Accountability
(originally sponsored by Representatives Haigh, Nixon, Hudgins,
Jarrett, Cody, Haler, Santos and Morrell)

READ FIRST TIME 02/02/06.

1 AN ACT Relating to contractors with the state; and amending RCW
2 42.40.020 and 49.60.210.

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 or an individual employed
12 by a contractor who holds a contract with the state.

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

17 (4) "Gross waste of funds" means to spend or use funds or to allow
18 funds to be used without valuable result in a manner grossly deviating

1 from the standard of care or competence that a reasonable person would
2 observe in the same situation.

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

6 (i) Which is (~~fa~~) a gross waste of public funds or resources as
7 defined in this section;

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

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

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

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

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

32 (8) "Whistleblower" means an employee who in good faith reports
33 alleged improper governmental action to the auditor, initiating an
34 investigation under RCW 42.40.040. For purposes of the provisions of
35 this chapter and chapter 49.60 RCW relating to reprisals and
36 retaliatory action, the term "whistleblower" also means: (a) An
37 employee who in good faith provides information to the auditor in
38 connection with an investigation under RCW 42.40.040 and an employee

1 who is believed to have reported asserted improper governmental action
2 to the auditor or to have provided information to the auditor in
3 connection with an investigation under RCW 42.40.040 but who, in fact,
4 has not reported such action or provided such information; or (b) an
5 employee who in good faith identifies rules warranting review or
6 provides information to the rules review committee, and an employee who
7 is believed to have identified rules warranting review or provided
8 information to the rules review committee but who, in fact, has not
9 done so.

10 **Sec. 2.** RCW 49.60.210 and 1992 c 118 s 4 are each amended to read
11 as follows:

12 (1) It is an unfair practice for any employer, employment agency,
13 labor union, or other person to discharge, expel, or otherwise
14 discriminate against any person because he or she has opposed any
15 practices forbidden by this chapter, or because he or she has filed a
16 charge, testified, or assisted in any proceeding under this chapter.

17 (2) It is an unfair practice for a government agency or government
18 manager or supervisor or a contractor who holds a contract with the
19 state, to retaliate against a whistleblower as defined in chapter 42.40
20 RCW.

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