



General Assembly

February Session, 2008

Amendment

LCO No. 5472

SB0044005472SR0

Offered by:
SEN. MCKINNEY, 28th Dist.

To: Subst. Senate Bill No. 440 File No. 423 Cal. No. 261

"AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2008*) (a) There is established an
4 Office of the Inspector General which shall act to detect and prevent
5 fraud, waste and abuse in the management of state personnel, in the
6 use and disposition of public property, and in the collection,
7 disbursement and expenditure of state and federal funds administered
8 by state or local governmental agencies. The Office of the Inspector
9 General shall also evaluate the economy, efficiency and effectiveness of
10 state agencies in the performance of their delegated duties and
11 functions.

12 (b) The Inspector General shall be appointed by the Auditors of
13 Public Accounts in accordance with this subsection. A committee
14 consisting of the president pro tempore of the Senate, the speaker of
15 the House of Representatives, the minority leaders of the Senate and

16 the House of Representatives, the cochairpersons and ranking
17 members of the joint standing committee of the General Assembly
18 having cognizance of matters relating to government administration
19 and to the cochairpersons of the Legislative Program Review and
20 Investigations Committee shall submit to the Auditors of Public
21 Accounts the names of three candidates for appointment to the
22 position of Inspector General. The Auditors of Public Accounts shall
23 appoint one of such candidates to be Inspector General with the advice
24 and consent of the General Assembly. The auditors, not later than
25 ninety days after the submission to them by the committee of the
26 candidates for appointment, shall make such appointment, provided if
27 the auditors fail to make such appointment within said period the
28 committee by majority vote shall make such appointment. The
29 Inspector General shall be appointed on the basis of integrity and
30 competence demonstrated in appropriate fields. The Inspector General
31 shall hold office for a term of five years and until the appointment of a
32 successor, unless sooner removed for just cause by the Auditors of
33 Public Accounts. Such cause may include, but not be limited to,
34 material neglect of duty, gross misconduct or conviction of a felony.

35 Sec. 502. (NEW) (*Effective October 1, 2008*) (a) The Office of the
36 Inspector General shall be an independent office within the Joint
37 Committee on Legislative Management for administrative purposes
38 only.

39 (b) There is established, within available appropriations, a system
40 for the coordination of efforts between the Office of the Inspector
41 General and officials performing similar duties and internal auditing
42 functions within the various state and local agencies. Such system may
43 include continuing training programs for professional development,
44 the adoption of standard guidelines and procedures and the
45 organization of a communications network within the system. The
46 internal auditors and support staff within the agencies shall remain
47 assigned to such agencies but shall have their annual internal audit
48 program approved by the Inspector General.

49 (c) The Inspector General may adopt regulations, in accordance with
50 chapter 54 of the general statutes, to implement the provisions of
51 sections 501 to 504, inclusive, of this act. The Inspector General may
52 employ necessary staff, within available appropriations.

53 Sec. 503. (NEW) (*Effective October 1, 2008*) (a) The Inspector General
54 shall: (1) Conduct preemptive inspections, inquiries and investigations
55 relating to programs and operations involving the collection,
56 administration or expenditure of public funds, the use or disposition of
57 state owned or leased property or the management practices and
58 regulatory or statutory compliance of state agencies; (2) have access to
59 all records, data and material maintained by or available to any
60 governmental agency; and (3) have access to all records, data and
61 material maintained by or available to any person or organization
62 involved in the collection, expenditure or administration of public
63 funds, control of state owned or leased property or management of
64 state employees.

65 (b) The Inspector General may make application to a panel of three
66 superior court judges, appointed by the Chief Court Administrator, for
67 the issuance of a subpoena whenever such subpoena is necessary in
68 order to obtain information which is not otherwise available and
69 which is needed in the performance of the Inspector General's duties.
70 Any person aggrieved by the issuance of a subpoena by the Inspector
71 General may petition the Superior Court for relief.

72 Sec. 504. (NEW) (*Effective October 1, 2008*) (a) The Inspector General
73 may make recommendations to the Governor, the General Assembly
74 and to the Legislative Program Review and Investigations Committee
75 concerning the prevention and detection of fraud, waste and abuse,
76 including recommendations concerning legislation and regulations or
77 the coordination of preventative measures by governmental and
78 nongovernmental entities. The Inspector General may assist or request
79 assistance from any governmental agency, state employee or person or
80 organization collecting or expending public funds or controlling state
81 owned or leased property.

82 (b) The Inspector General shall report findings of fact along with
83 any recommendations: (1) To the Chief State's Attorney or the State
84 Ethics Commission, when there is a reasonable belief that a state law
85 has been or is being violated; (2) to the Attorney General, when there is
86 a reasonable belief that civil recovery proceedings are appropriate; (3)
87 to the United States Attorney, when there is a reasonable belief that a
88 federal law has been or is being violated or when civil recovery is
89 appropriate; and (4) to the appropriate municipal authority when there
90 is a reasonable belief that civil recovery proceedings are appropriate.

91 (c) On or before October 31, 2009, and annually thereafter, the
92 Inspector General shall submit a report concerning the activities of the
93 Office of the Inspector General to the Governor, the joint standing
94 committees of the General Assembly having cognizance of matters
95 relating to appropriations and government administration and to the
96 Legislative Program Review and Investigations Committee. The
97 Inspector General may make such other reports as the Inspector
98 General deems appropriate.

99 (d) All records of the Office of the Inspector General relating to
100 actual or potential inspections, or inquiries or investigations shall be
101 confidential and shall not be public records under the Freedom of
102 Information Act, as defined in section 1-200 of the general statutes,
103 until such time as all such audits or investigations have been
104 concluded and all criminal and civil actions arising from the records
105 have been finally adjudicated or otherwise settled or to such extent as
106 may be deemed appropriate by the Inspector General in the
107 performance of the Inspector General's duties, whichever is earlier.
108 Records which are otherwise public documents shall not be deemed
109 confidential solely because they have been transferred to the custody
110 of the Inspector General. Where there are statutory requirements of
111 confidentiality with regard to such records, books, data, files and other
112 material printed or otherwise, maintained by a state agency, such
113 requirements of confidentiality and penalties for the violation of such
114 requirements shall apply to the Inspector General and to the Inspector
115 General's agents in the same manner and to the same extent as such

116 requirements of confidentiality and penalties apply to such state
117 agency.

118 Sec. 505. Subsection (e) of section 2-90 of the general statutes is
119 repealed and the following is substituted in lieu thereof (*Effective*
120 *October 1, 2008*):

121 (e) If the Auditors of Public Accounts discover, or if it should come
122 to their knowledge, that any unauthorized, illegal, irregular or unsafe
123 handling or expenditure of state funds or any breakdown in the
124 safekeeping of any resources of the state has occurred or is
125 contemplated, they shall forthwith present the facts to the Governor,
126 the State Comptroller, the clerk of each house of the General Assembly,
127 the Inspector General, the Legislative Program Review and
128 Investigations Committee and the Attorney General. Any Auditor of
129 Public Accounts neglecting to make such a report, or any agent of the
130 auditors neglecting to report to the Auditors of Public Accounts any
131 such matter discovered by [him] the auditor or coming to [his] the
132 auditor's knowledge shall be fined not more than one hundred dollars
133 or imprisoned not more than six months, or both.

134 Sec. 506. Section 4-61dd of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective October 1, 2008*):

136 (a) Any person having knowledge of any matter involving
137 corruption, unethical practices, violation of state laws or regulations,
138 mismanagement, gross waste of funds, abuse of authority or danger to
139 the public safety occurring in any state department or agency or any
140 quasi-public agency, as defined in section 1-120, or any person having
141 knowledge of any matter involving corruption, violation of state or
142 federal laws or regulations, gross waste of funds, abuse of authority or
143 danger to the public safety occurring in any large state contract, may
144 transmit all facts and information in such person's possession
145 concerning such matter to the [Auditors of Public Accounts. The
146 Auditors of Public Accounts] Inspector General. The Inspector General
147 shall review such matter and report [their] any findings and any

148 recommendations to the Attorney General. Upon receiving such a
149 report, the Attorney General shall make such investigation as the
150 Attorney General deems proper regarding such report and any other
151 information that may be reasonably derived from such report. Prior to
152 conducting an investigation of any information that may be reasonably
153 derived from such report, the Attorney General shall consult with the
154 [Auditors of Public Accounts] Inspector General concerning the
155 relationship of such additional information to the report that has been
156 issued pursuant to this subsection. Any such subsequent investigation
157 deemed appropriate by the Attorney General shall only be conducted
158 with the concurrence and assistance of the [Auditors of Public
159 Accounts] Inspector General. At the request of the Attorney General or
160 on their own initiative, the auditors shall assist in the investigation.
161 The Attorney General shall have power to summon witnesses, require
162 the production of any necessary books, papers or other documents and
163 administer oaths to witnesses, where necessary, for the purpose of an
164 investigation pursuant to this section. Upon the conclusion of the
165 investigation, the Attorney General shall where necessary, report any
166 findings to the Governor, or in matters involving criminal activity, to
167 the Chief State's Attorney. In addition to the exempt records provision
168 of section 1-210, the [Auditors of Public Accounts] Inspector General
169 and the Attorney General shall not, after receipt of any information
170 from a person under the provisions of this section, disclose the identity
171 of such person without such person's consent unless the [Auditors of
172 Public Accounts] Inspector General or the Attorney General
173 determines that such disclosure is unavoidable, and may withhold
174 records of such investigation, during the pendency of the
175 investigation.

176 (b) (1) No state officer or employee, as defined in section 4-141, no
177 quasi-public agency officer or employee, no officer or employee of a
178 large state contractor and no appointing authority shall take or
179 threaten to take any personnel action against any state or quasi-public
180 agency employee or any employee of a large state contractor in
181 retaliation for such employee's or contractor's disclosure of

182 information to (A) an employee of the [Auditors of Public Accounts]
183 Inspector General or the Attorney General under the provisions of
184 subsection (a) of this section; (B) an employee of the state agency or
185 quasi-public agency where such state officer or employee is employed;
186 (C) an employee of a state agency pursuant to a mandated reporter
187 statute; or (D) in the case of a large state contractor, an employee of the
188 contracting state agency concerning information involving the large
189 state contract.

190 (2) If a state or quasi-public agency employee or an employee of a
191 large state contractor alleges that a personnel action has been
192 threatened or taken in violation of subdivision (1) of this subsection,
193 the employee may notify the Attorney General, who shall investigate
194 pursuant to subsection (a) of this section.

195 (3) (A) Not later than thirty days after learning of the specific
196 incident giving rise to a claim that a personnel action has been
197 threatened or has occurred in violation of subdivision (1) of this
198 subsection, a state or quasi-public agency employee, an employee of a
199 large state contractor or the employee's attorney may file a complaint
200 concerning such personnel action with the Chief Human Rights
201 Referee designated under section 46a-57. The Chief Human Rights
202 Referee shall assign the complaint to a human rights referee appointed
203 under section 46a-57, who shall conduct a hearing and issue a decision
204 concerning whether the officer or employee taking or threatening to
205 take the personnel action violated any provision of this section. If the
206 human rights referee finds such a violation, the referee may award the
207 aggrieved employee reinstatement to the employee's former position,
208 back pay and reestablishment of any employee benefits for which the
209 employee would otherwise have been eligible if such violation had not
210 occurred, reasonable attorneys' fees, and any other damages. For the
211 purposes of this subsection, such human rights referee shall act as an
212 independent hearing officer. The decision of a human rights referee
213 under this subsection may be appealed by any person who was a party
214 at such hearing, in accordance with the provisions of section 4-183.

215 (B) The Chief Human Rights Referee shall adopt regulations, in
216 accordance with the provisions of chapter 54, establishing the
217 procedure for filing complaints and noticing and conducting hearings
218 under subparagraph (A) of this subdivision.

219 (4) As an alternative to the provisions of subdivisions (2) and (3) of
220 this subsection: (A) A state or quasi-public agency employee who
221 alleges that a personnel action has been threatened or taken may file an
222 appeal not later than thirty days after learning of the specific incident
223 giving rise to such claim with the Employees' Review Board under
224 section 5-202, or, in the case of a state or quasi-public agency employee
225 covered by a collective bargaining contract, in accordance with the
226 procedure provided by such contract; or (B) an employee of a large
227 state contractor alleging that such action has been threatened or taken
228 may, after exhausting all available administrative remedies, bring a
229 civil action in accordance with the provisions of subsection (c) of
230 section 31-51m.

231 (5) In any proceeding under subdivision (2), (3) or (4) of this
232 subsection concerning a personnel action taken or threatened against
233 any state or quasi-public agency employee or any employee of a large
234 state contractor, which personnel action occurs not later than one year
235 after the employee first transmits facts and information concerning a
236 matter under subsection (a) of this section to the [Auditors of Public
237 Accounts] Inspector General or the Attorney General, there shall be a
238 rebuttable presumption that the personnel action is in retaliation for
239 the action taken by the employee under subsection (a) of this section.

240 (6) If a state officer or employee, as defined in section 4-141, a quasi-
241 public agency officer or employee, an officer or employee of a large
242 state contractor or an appointing authority takes or threatens to take
243 any action to impede, fail to renew or cancel a contract between a state
244 agency and a large state contractor, or between a large state contractor
245 and its subcontractor, in retaliation for the disclosure of information
246 pursuant to subsection (a) of this section to any agency listed in
247 subdivision (1) of this subsection, such affected agency, contractor or

248 subcontractor may, not later than ninety days after learning of such
249 action, threat or failure to renew, bring a civil action in the superior
250 court for the judicial district of Hartford to recover damages, attorney's
251 fees and costs.

252 (c) Any employee of a state or quasi-public agency or large state
253 contractor, who is found to have knowingly and maliciously made
254 false charges under subsection (a) of this section, shall be subject to
255 disciplinary action by such employee's appointing authority up to and
256 including dismissal. In the case of a state or quasi-public agency
257 employee, such action shall be subject to appeal to the Employees'
258 Review Board in accordance with section 5-202, or in the case of state
259 or quasi-public agency employees included in collective bargaining
260 contracts, the procedure provided by such contracts.

261 (d) On or before September first, annually, the [Auditors of Public
262 Accounts] Inspector General shall submit to the clerk of each house of
263 the General Assembly a report indicating the number of matters for
264 which facts and information were transmitted to the auditors pursuant
265 to this section during the preceding state fiscal year and the disposition
266 of each such matter.

267 (e) Each contract between a state or quasi-public agency and a large
268 state contractor shall provide that, if an officer, employee or
269 appointing authority of a large state contractor takes or threatens to
270 take any personnel action against any employee of the contractor in
271 retaliation for such employee's disclosure of information to any
272 employee of the contracting state or quasi-public agency or the
273 [Auditors of Public Accounts] Inspector General or the Attorney
274 General under the provisions of subsection (a) of this section, the
275 contractor shall be liable for a civil penalty of not more than five
276 thousand dollars for each offense, up to a maximum of twenty per cent
277 of the value of the contract. Each violation shall be a separate and
278 distinct offense and in the case of a continuing violation each calendar
279 day's continuance of the violation shall be deemed to be a separate and
280 distinct offense. The executive head of the state or quasi-public agency

281 may request the Attorney General to bring a civil action in the superior
282 court for the judicial district of Hartford to seek imposition and
283 recovery of such civil penalty.

284 (f) Each large state contractor shall post a notice of the provisions of
285 this section relating to large state contractors in a conspicuous place
286 which is readily available for viewing by the employees of the
287 contractor.

288 (g) No person who, in good faith, discloses information to the
289 [Auditors of Public Accounts] Inspector General or the Attorney
290 General in accordance with this section shall be liable for any civil
291 damages resulting from such good faith disclosure.

292 (h) As used in this section:

293 (1) "Large state contract" means a contract between an entity and a
294 state or quasi-public agency, having a value of five million dollars or
295 more; and

296 (2) "Large state contractor" means an entity that has entered into a
297 large state contract with a state or quasi-public agency."