



General Assembly

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**Amendment**

LCO No. 5348

\*SB0033505348SRO\*

Offered by:  
SEN. MCKINNEY, 28<sup>th</sup> Dist.

To: Subst. Senate Bill No. 335      File No. 420      Cal. No. 257

**"AN ACT CONCERNING THE PROTECTION OF WHISTLEBLOWERS."**

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 to the Governor, the joint standing committees of the General  
94 Assembly having cognizance of matters relating to appropriations and  
95 government administration and to the Legislative Program Review  
96 and Investigations Committee. The Inspector General may make such  
97 other reports as the Inspector General deems appropriate.

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

116 agency.

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118 repealed and the following is substituted in lieu thereof (*Effective*  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

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

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

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

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

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

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

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

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

214 (B) The Chief Human Rights Referee shall adopt regulations, in

215 accordance with the provisions of chapter 54, establishing the  
216 procedure for filing complaints and noticing and conducting hearings  
217 under subparagraph (A) of this subdivision.

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

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

239 (6) If a state officer or employee, as defined in section 4-141, a quasi-  
240 public agency officer or employee, an officer or employee of a large  
241 state contractor or an appointing authority takes or threatens to take  
242 any action to impede, fail to renew or cancel a contract between a state  
243 agency and a large state contractor, or between a large state contractor  
244 and its subcontractor, in retaliation for the disclosure of information  
245 pursuant to subsection (a) of this section to any agency listed in  
246 subdivision (1) of this subsection, such affected agency, contractor or  
247 subcontractor may, not later than ninety days after learning of such

248 action, threat or failure to renew, bring a civil action in the superior  
249 court for the judicial district of Hartford to recover damages, attorney's  
250 fees and costs.

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

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

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

281 court for the judicial district of Hartford to seek imposition and  
282 recovery of such civil penalty.

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

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

291 (h) As used in this section:

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

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