



General Assembly

January Session, 2009

Raised Bill No. 768

LCO No. 2574

02574_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING THE PROTECTION OF WHISTLEBLOWERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-61dd of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) Any person having knowledge of any matter involving
4 corruption, unethical practices, violation of state laws or regulations,
5 mismanagement, gross waste of funds, abuse of authority or danger to
6 the public safety occurring in any state department or agency or any
7 quasi-public agency, as defined in section 1-120, or any person having
8 knowledge of any matter involving corruption, violation of state or
9 federal laws or regulations, gross waste of funds, abuse of authority or
10 danger to the public safety occurring in any large state contract, may
11 transmit all facts and information in such person's possession
12 concerning such matter to the Auditors of Public Accounts. The
13 Auditors of Public Accounts shall review such matter and report their
14 findings and any recommendations to the Attorney General. Upon
15 receiving such a report, the Attorney General shall make such
16 investigation as the Attorney General deems proper regarding such

17 report and any other information that may be reasonably derived from
18 such report. Prior to conducting an investigation of any information
19 that may be reasonably derived from such report, the Attorney
20 General shall consult with the Auditors of Public Accounts concerning
21 the relationship of such additional information to the report that has
22 been issued pursuant to this subsection. Any such subsequent
23 investigation deemed appropriate by the Attorney General shall only
24 be conducted with the concurrence and assistance of the Auditors of
25 Public Accounts. At the request of the Attorney General or on their
26 own initiative, the auditors shall assist in the investigation. The
27 Attorney General shall have power to summon witnesses, require the
28 production of any necessary books, papers or other documents and
29 administer oaths to witnesses, where necessary, for the purpose of an
30 investigation pursuant to this section. Upon the conclusion of the
31 investigation, the Attorney General shall where necessary, report any
32 findings to the Governor, or in matters involving criminal activity, to
33 the Chief State's Attorney. In addition to the exempt records provision
34 of section 1-210, the Auditors of Public Accounts and the Attorney
35 General shall not, after receipt of any information from a person under
36 the provisions of this section, disclose the identity of such person
37 without such person's consent unless the Auditors of Public Accounts
38 or the Attorney General determines that such disclosure is
39 unavoidable, and may withhold records of such investigation, during
40 the pendency of the investigation.

41 (b) (1) No state officer or employee, as defined in section 4-141, no
42 quasi-public agency officer or employee, no officer or employee of a
43 large state contractor and no appointing authority shall take or
44 threaten to take any personnel action against any state or quasi-public
45 agency employee or any employee of a large state contractor in
46 retaliation for such employee's or contractor's disclosure of
47 information to (A) an employee of the Auditors of Public Accounts or
48 the Attorney General under the provisions of subsection (a) of this
49 section; (B) an employee of the state agency or quasi-public agency
50 where such state officer or employee is employed; (C) an employee of

51 a state agency pursuant to a mandated reporter statute; or (D) in the
52 case of a large state contractor, an employee of the large state
53 contractor or the contracting state agency concerning information
54 involving the large state contract.

55 (2) If a state or quasi-public agency employee or an employee of a
56 large state contractor alleges that a personnel action has been
57 threatened or taken in violation of subdivision (1) of this subsection,
58 the employee may notify the Attorney General or Auditors of Public
59 Accounts, who shall investigate pursuant to subsection (a) of this
60 section. If the Attorney General determines that such personnel action
61 was in retaliation for such employee's or contractor's disclosure of
62 information pursuant to this section, the Attorney General may
63 intervene in any proceeding pursuant to subdivision (3) of this
64 subsection.

65 (3) (A) Not later than [thirty] ninety days after learning of the
66 specific incident giving rise to a claim that a personnel action has been
67 threatened or has occurred in violation of subdivision (1) of this
68 subsection, a state or quasi-public agency employee, an employee of a
69 large state contractor or the employee's attorney may file a complaint
70 against the state agency, the quasi-public agency, or the large state
71 contractor concerning such personnel action with the Chief Human
72 Rights Referee designated under section 46a-57. Such complaint may
73 be amended if an additional incident giving rise to a claim under this
74 subdivision occurs subsequent to the filing of the original complaint.
75 The Chief Human Rights Referee shall assign the complaint to a
76 human rights referee appointed under section 46a-57, who shall
77 conduct a hearing and issue a decision concerning whether the officer
78 or employee taking or threatening to take the personnel action violated
79 any provision of this section. If, during the pendency of the hearing,
80 the human rights referee has reasonable cause to believe that any
81 officer or employee has taken personnel action in violation of
82 subdivision (1) of this subsection, such referee may order temporary
83 equitable relief, including, but not limited to, an order reinstating the

84 person filing the complaint to the same position held before such
85 personnel action was taken. If, after the hearing, the human rights
86 referee finds [such] a violation, the referee may award the aggrieved
87 employee reinstatement to the employee's former position, back pay
88 and reestablishment of any employee benefits for which the employee
89 would otherwise have been eligible if such violation had not occurred,
90 reasonable attorneys' fees, and any other damages. The human rights
91 referee shall forward the decision finding such violation and award to
92 the head of the agency and the supervisor of the employee or officer
93 who violated subdivision (1) of this subsection who shall take
94 appropriate personnel action. For the purposes of this subsection, such
95 human rights referee shall act as an independent hearing officer. The
96 decision of a human rights referee under this subsection may be
97 appealed by any person who was a party at such hearing, in
98 accordance with the provisions of section 4-183.

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

103 (4) As an alternative to the provisions of subdivisions (2) and (3) of
104 this subsection: (A) A state or quasi-public agency employee who
105 alleges that a personnel action has been threatened or taken may file an
106 appeal not later than [thirty] ninety days after learning of the specific
107 incident giving rise to such claim with the Employees' Review Board
108 under section 5-202, or, in the case of a state or quasi-public agency
109 employee covered by a collective bargaining contract, in accordance
110 with the procedure provided by such contract; or (B) an employee of a
111 large state contractor alleging that such action has been threatened or
112 taken may, after exhausting all available administrative remedies,
113 bring a civil action in accordance with the provisions of subsection (c)
114 of section 31-51m.

115 (5) In any proceeding under subdivision (2), (3) or (4) of this

116 subsection concerning a personnel action taken or threatened against
117 any state or quasi-public agency employee or any employee of a large
118 state contractor, which personnel action occurs not later than [one
119 year] three years after the employee first transmits or discloses facts
120 and information concerning a matter under subsection (a) of this
121 section or subdivision (1) of this subsection to the Auditors of Public
122 Accounts, [or] the Attorney General or an employee of the state
123 agency, quasi-public agency or large state contractor, as applicable,
124 there shall be a rebuttable presumption that the personnel action is in
125 retaliation for the action taken by the employee under subsection (a) of
126 this section or subdivision (1) of this subsection.

127 (6) If a state officer or employee, as defined in section 4-141, a quasi-
128 public agency officer or employee, an officer or employee of a large
129 state contractor or an appointing authority takes or threatens to take
130 any action to impede, fail to renew or cancel a contract between a state
131 agency and a large state contractor, or between a large state contractor
132 and its subcontractor, in retaliation for the disclosure of information
133 pursuant to subsection (a) of this section or subdivision (1) of this
134 subsection to any agency listed in subdivision (1) of this subsection,
135 such affected agency, contractor or subcontractor may, not later than
136 ninety days after learning of such action, threat or failure to renew,
137 bring a civil action in the superior court for the judicial district of
138 Hartford to recover damages, attorney's fees and costs.

139 (c) Any employee of a state or quasi-public agency or large state
140 contractor, who is found to have knowingly and maliciously made
141 false charges under subsection (a) of this section, shall be subject to
142 disciplinary action by such employee's appointing authority up to and
143 including dismissal. In the case of a state or quasi-public agency
144 employee, such action shall be subject to appeal to the Employees'
145 Review Board in accordance with section 5-202, or in the case of state
146 or quasi-public agency employees included in collective bargaining
147 contracts, the procedure provided by such contracts.

148 (d) On or before September first, annually, the Auditors of Public
149 Accounts shall submit to the clerk of each house of the General
150 Assembly a report indicating the number of matters for which facts
151 and information were transmitted to the auditors pursuant to this
152 section during the preceding state fiscal year and the disposition of
153 each such matter.

154 (e) Each contract between a state or quasi-public agency and a large
155 state contractor shall provide that, if an officer, employee or
156 appointing authority of a large state contractor takes or threatens to
157 take any personnel action against any employee of the contractor in
158 retaliation for such employee's disclosure of information [to any
159 employee of the contracting state or quasi-public agency or the
160 Auditors of Public Accounts or the Attorney General under the
161 provisions of] pursuant to subdivision (1) of subsection (b) of this
162 section or subsection (a) of this section, the contractor shall be liable for
163 a civil penalty of not more than five thousand dollars for each offense,
164 up to a maximum of twenty per cent of the value of the contract. Each
165 violation shall be a separate and distinct offense and in the case of a
166 continuing violation each calendar day's continuance of the violation
167 shall be deemed to be a separate and distinct offense. The executive
168 head of the state or quasi-public agency may request the Attorney
169 General to bring a civil action in the superior court for the judicial
170 district of Hartford to seek imposition and recovery of such civil
171 penalty.

172 (f) Each large state contractor shall post a notice of the provisions of
173 this section relating to large state contractors in a conspicuous place
174 which is readily available for viewing by the employees of the
175 contractor.

176 (g) No person who, in good faith, discloses information [to the
177 Auditors of Public Accounts or the Attorney General] in accordance
178 with the provisions of this section shall be liable for any civil damages
179 resulting from such good faith disclosure.

180 (h) As used in this section:

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2009	4-61dd

Statement of Purpose:

To provide additional protection to whistleblowers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]