



Office of The Attorney General
State of Connecticut

*TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
FEBRUARY 17, 2009*

I appreciate the opportunity to support Senate Bill 805, An Act Concerning Whistleblower Protection.

This proposal:

- (1) creates a Retaliation Adjudication Board to hear retaliation complaints by whistleblowers;
- (2) authorizes the Office of Labor Relations to represent the state agency before the Retaliation Adjudication Board;
- (3) authorizes the Attorney General to join a retaliation proceeding before a hearing officer, seeking restitution and other injunctive relief for a whistleblower who has been determined to be a victim of retaliation;
- (4) extends the time period for the rebuttable presumption that adverse personnel action is retaliation to three years from the date the whistleblower filed a complaint pursuant to the whistleblower statute. The presumption is rebuttable by facts that the adverse personnel action is justified;
- (5) authorizes the hearing officer to award double damages in cases involving malice or egregious behavior;
- (6) authorizes the hearing officer to grant temporary relief to prevent a retaliatory action during the pendency of the hearing and to grant motions to amend the complaint if additional incidents of retaliation occur during the hearing;
- (7) requires the hearing officer to send any finding of retaliation to the supervisor of the person found to have committed retaliation as well as the head of the agency. Such individuals shall take appropriate personnel action; and
- (8) extends the time period for a victim of retaliation to file a complaint from 30 days to 90 days.

Whistleblowers at risk of retaliation should have the Attorney General as a proactive advocate -- fighting for immediate protective orders that stop vindictive corrupt officials from silencing or intimidating them. Recent reports of retaliation show the urgency of stronger protection because whistleblowers are now vulnerable to revenge from officials whose wrongdoing they reveal. Whistleblowers who speak truth to power -- and expose misconduct by powerful superiors -- may be exposed to detrimental demotions or even discharge.

Time after time, courageous whistleblowers have aided my office to start and sustain significant investigations into public corruption -- at great risk to themselves. They are messengers with bad news and evidence of wrongdoing who should be shielded from adverse action. Whistleblowers are often the key link or lead that sparks effective investigation and prosecution. They clearly need interim protection from vengeful actions, subtle or direct. Anyone determined to fight public corruption should support stronger protection for citizens who step forward to expose wrongdoing. We have a moral obligation to do so.

A Retaliation Adjudication Board -- staffed by the Human Rights Referees -- will allow state employees to file retaliation complaints in a specific separate state office. Instead of my office, the Office of Labor Relations (OLR) should represent the state agency accused of retaliation. Many of these cases involve personnel matters typically handled by OLR. These measures should help remedy retaliation complaints through a distinct independent proceeding -- more promptly and fairly.

Senate Bill 805 allows the Attorney General to enter a retaliation hearing in support of the whistleblower. The bill also empowers a hearing officer to issue temporary relief such as reinstating employees to positions during the pendency of the retaliation hearing process and grant double damages in situations involving egregious behavior or malice on the part of the retaliating party.

The presumption of retaliation needs to be expanded from one to three years from the date of submission of whistleblower information. Often, whistleblower investigations and proceedings take longer than one year and the retaliation may occur after that time period. Broadening the presumption to three years will assure stronger protection for whistleblowers while allowing for timely, adverse employment decisions, when well-founded.

I urge the committee's favorable consideration of Senate Bill 805.