



General Assembly

February Session, 2010

**Raised Bill No. 5348**

LCO No. 1654

\*01654\_\_\_\_\_PRI\*

Referred to Committee on Program Review and Investigations

Introduced by:  
(PRI)

**AN ACT IMPLEMENTING ADDITIONAL RECOMMENDATIONS OF THE  
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE  
CONCERNING RETALIATION FOR WHISTLEBLOWER COMPLAINTS.**

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

1 Section 1. Section 4-61dd of the 2010 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2010*):

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

16 receiving such a report, the Attorney General shall make such  
17 investigation as the Attorney General deems proper regarding such  
18 report and any other information that may be reasonably derived from  
19 such report. Prior to conducting an investigation of any information  
20 that may be reasonably derived from such report, the Attorney  
21 General shall consult with the Auditors of Public Accounts concerning  
22 the relationship of such additional information to the report that has  
23 been issued pursuant to this subsection. Any such subsequent  
24 investigation deemed appropriate by the Attorney General shall only  
25 be conducted with the concurrence and assistance of the Auditors of  
26 Public Accounts. At the request of the Attorney General or on their  
27 own initiative, the auditors shall assist in the investigation. The  
28 Attorney General [shall have power to] may summon witnesses,  
29 require the production of any necessary books, papers or other  
30 documents and administer oaths to witnesses, where necessary, for the  
31 purpose of an investigation pursuant to this section or for the purpose  
32 of investigating a suspected violation of subsection (a) of section 17b-  
33 301b until such time as the Attorney General files a civil action  
34 pursuant to section 17b-301c. Upon the conclusion of the investigation,  
35 the Attorney General shall where necessary, report any findings to the  
36 Governor, or in matters involving criminal activity, to the Chief State's  
37 Attorney. In addition to the exempt records provision of section 1-210,  
38 the Auditors of Public Accounts and the Attorney General shall not,  
39 after receipt of any information from a person under the provisions of  
40 this section or sections 17b-301c to 17b-301g, inclusive, disclose the  
41 identity of such person without such person's consent unless the  
42 Auditors of Public Accounts or the Attorney General determines that  
43 such disclosure is unavoidable, and may withhold records of such  
44 investigation, during the pendency of the investigation.

45 (2) The Auditors of Public Accounts and the Attorney General shall  
46 each post on their agency Internet web sites a summary of all matters  
47 investigated by their agencies. Such summary shall include, but not be  
48 limited to, a listing of the number of complaints for each state agency,  
49 quasi-public agency or large state contractor, a description of the type

50 of allegations made, the date each such matter was referred to the  
51 auditors or Attorney General and the status and disposition of each  
52 such matter, including whether the allegation has been substantiated  
53 in whole or in part and whether the agency or large state contractor  
54 has attempted to take any corrective action. Such summary shall be  
55 updated every six months.

56 (b) (1) No state officer or employee, as defined in section 4-141, no  
57 quasi-public agency officer or employee, no officer or employee of a  
58 large state contractor and no appointing authority shall take or  
59 threaten to take any personnel action against any state or quasi-public  
60 agency employee or any employee of a large state contractor in  
61 retaliation for such employee's or contractor's disclosure of  
62 information to (A) an employee of the Auditors of Public Accounts or  
63 the Attorney General under the provisions of subsection (a) of this  
64 section; (B) an employee of the state agency or quasi-public agency  
65 where such state officer or employee is employed; (C) an employee of  
66 a state agency pursuant to a mandated reporter statute or pursuant to  
67 subsection (b) of section 17a-28; or (D) in the case of a large state  
68 contractor, an employee of the contracting state agency concerning  
69 information involving the large state contract.

70 [(2) If a state or quasi-public agency employee or an employee of a  
71 large state contractor alleges that a personnel action has been  
72 threatened or taken in violation of subdivision (1) of this subsection,  
73 the employee may notify the Attorney General, who shall investigate  
74 pursuant to subsection (a) of this section.]

75 [(3)] (2) (A) Not later than [thirty] ninety days after learning of the  
76 specific incident giving rise to a claim that a personnel action has been  
77 threatened or has occurred in violation of subdivision (1) of this  
78 subsection, a state or quasi-public agency employee, an employee of a  
79 large state contractor or the employee's attorney may file a complaint  
80 concerning such personnel action with the Chief Human Rights  
81 Referee designated under section 46a-57. Such complaint may be

82 amended if an additional incident giving rise to a claim under this  
83 subdivision occurs subsequent to the filing of the original complaint.  
84 The Chief Human Rights Referee shall assign the complaint to a  
85 human rights referee appointed under section 46a-57, who shall  
86 conduct a hearing and issue a decision concerning whether the officer  
87 or employee taking or threatening to take the personnel action violated  
88 any provision of this section. If, during the pendency of the hearing,  
89 the human rights referee has reasonable cause to believe that any  
90 officer or employee has taken personnel action in violation of  
91 subdivision (1) of this subsection, such referee may order temporary  
92 equitable relief, including, but not limited to, an order reinstating the  
93 person filing the complaint to the same position held before such  
94 personnel action was taken. If, after the hearing, the human rights  
95 referee finds [such] a violation, the referee may award the aggrieved  
96 employee reinstatement to the employee's former position, back pay  
97 and reestablishment of any employee benefits for which the employee  
98 would otherwise have been eligible if such violation had not occurred,  
99 reasonable attorneys' fees, and any other damages. For the purposes of  
100 this subsection, such human rights referee shall act as an independent  
101 hearing officer. The decision of a human rights referee under this  
102 subsection may be appealed by any person who was a party at such  
103 hearing, in accordance with the provisions of section 4-183.

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

108 [(4)] (3) As an alternative to the provisions of [subdivisions]  
109 subdivision (2) [and (3)] of this subsection: (A) A state or quasi-public  
110 agency employee who alleges that a personnel action has been  
111 threatened or taken may file an appeal not later than thirty days after  
112 learning of the specific incident giving rise to such claim with the  
113 Employees' Review Board under section 5-202, or, in the case of a state  
114 or quasi-public agency employee covered by a collective bargaining

115 contract, in accordance with the procedure provided by such contract;  
116 or (B) an employee of a large state contractor alleging that such action  
117 has been threatened or taken may, after exhausting all available  
118 administrative remedies, bring a civil action in accordance with the  
119 provisions of subsection (c) of section 31-51m.

120 ~~[(5)]~~ (4) In any proceeding under subdivision (2) ~~[,]~~ or (3) ~~[or (4)]~~ of  
121 this subsection concerning a personnel action taken or threatened  
122 against any state or quasi-public agency employee or any employee of  
123 a large state contractor, which personnel action occurs not later than  
124 ~~[one year]~~ two years after the employee first transmits facts and  
125 information concerning a matter under subsection (a) of this section to  
126 the Auditors of Public Accounts or the Attorney General, there shall be  
127 a rebuttable presumption that the personnel action is in retaliation for  
128 the action taken by the employee under subsection (a) of this section.

129 ~~[(6)]~~ (5) If a state officer or employee, as defined in section 4-141, a  
130 quasi-public agency officer or employee, an officer or employee of a  
131 large state contractor or an appointing authority takes or threatens to  
132 take any action to impede, fail to renew or cancel a contract between a  
133 state agency and a large state contractor, or between a large state  
134 contractor and its subcontractor, in retaliation for the disclosure of  
135 information pursuant to subsection (a) of this section to any agency  
136 listed in subdivision (1) of this subsection, such affected agency,  
137 contractor or subcontractor may, not later than ninety days after  
138 learning of such action, threat or failure to renew, bring a civil action in  
139 the superior court for the judicial district of Hartford to recover  
140 damages, attorney's fees and costs.

141 (c) Any employee of a state or quasi-public agency or large state  
142 contractor, who is found to have knowingly and maliciously made  
143 false charges under subsection (a) of this section, shall be subject to  
144 disciplinary action by such employee's appointing authority up to and  
145 including dismissal. In the case of a state or quasi-public agency  
146 employee, such action shall be subject to appeal to the Employees'

147 Review Board in accordance with section 5-202, or in the case of state  
148 or quasi-public agency employees included in collective bargaining  
149 contracts, the procedure provided by such contracts.

150 (d) On or before September first, annually, the Auditors of Public  
151 Accounts and the Attorney General shall submit, in accordance with  
152 the provisions of section 11-4a, to the clerk of each house of the  
153 General Assembly a joint report indicating the number of matters for  
154 each agency or large state contractor for which facts and information  
155 were transmitted to the auditors pursuant to this section during the  
156 preceding state fiscal year, [and the] a description of the type of  
157 allegations made, the date each such matter was referred to the  
158 auditors and the status and disposition of each such matter, including  
159 whether the allegation has been substantiated in whole or in part and  
160 whether the agency or large state contractor has attempted to take any  
161 corrective action.

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

179 (f) Each state agency or quasi-public agency shall post a notice of the  
180 provisions of this section relating to state employees and quasi-public  
181 agency employees in a conspicuous place that is readily available for  
182 viewing by employees of such agency or quasi-public agency. Each  
183 large state contractor shall post a notice of the provisions of this section  
184 relating to large state contractors in a conspicuous place which is  
185 readily available for viewing by the employees of the contractor.

186 (g) No person who, in good faith, discloses information to the  
187 Auditors of Public Accounts or the Attorney General in accordance  
188 with this section shall be liable for any civil damages resulting from  
189 such good faith disclosure.

190 (h) As used in this section:

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

194 (2) "Large state contractor" means an entity that has entered into a  
195 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	<i>October 1, 2010</i>	4-61dd

**Statement of Purpose:**

To implement the recommendations of the Legislative Program Review and Investigations Committee concerning whistleblowers: To require the Attorney General and the Auditors of Public Accounts to post a summary of all complaints on their web site every six months, to require a more detailed report be submitted to the General Assembly, to extend the filing requirement for complaints to ninety days, to extend the rebuttable presumption period for retaliation complaints to two years, to allow human rights referees to grant temporary relief and to permit amendments to complaints, and to repeal the provision setting forth a process for requesting the Attorney General to investigate retaliation complaints.

*[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.]*