



General Assembly

Amendment

January Session, 2011

LCO No. 7939

HB0665107939SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

SEN. FASANO, 34th Dist.

To: House Bill No. 6651

File No.

Cal. No.

**"AN ACT IMPLEMENTING PROVISIONS OF THE BUDGET
CONCERNING GENERAL GOVERNMENT."**

1 Strike section 17 in its entirety and substitute the following in lieu
2 thereof:

3 "Sec. 17. Section 4-61dd of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2011*):

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

15 Auditors of Public Accounts shall review such matter and [report their
16 findings and any recommendations to the Attorney General. Upon
17 receiving such a report, the Attorney General shall] make such
18 investigation as the [Attorney General deems] Auditors of Public
19 Accounts deem proper regarding such [report] matter and any other
20 information that may be reasonably derived from such [report] matter.
21 [Prior to conducting an investigation of any information that may be
22 reasonably derived from such report, the Attorney General shall
23 consult with the Auditors of Public Accounts concerning the
24 relationship of such additional information to the report that has been
25 issued pursuant to this subsection. Any such subsequent investigation
26 deemed appropriate by the Attorney General shall only be conducted
27 with the concurrence and assistance of the Auditors of Public
28 Accounts. At the request of the Attorney General or on their own
29 initiative, the auditors shall assist in the investigation. The Attorney
30 General shall have power to]

31 (b) (1) The Auditors of Public Accounts may reject any complaint
32 received pursuant to subsection (a) of this section if the Auditors of
33 Public Accounts determine one or more of the following:

34 (A) There are other available remedies that the complainant can
35 reasonably be expected to pursue;

36 (B) The complaint is better suited for investigation or enforcement
37 by another state agency;

38 (C) The complaint is trivial, frivolous, vexatious or not made in
39 good faith;

40 (D) Other complaints have greater priority in terms of serving the
41 public good;

42 (E) The complaint is not timely or is too long delayed to justify
43 further investigation; or

44 (F) The complaint could be handled more appropriately as part of

45 an ongoing or scheduled regular audit.

46 (2) If at any time the Auditors of Public Accounts determine that a
47 complaint is more appropriately investigated by another state agency,
48 the Auditors of Public Accounts shall refer the complaint to such
49 agency. The investigating agency shall provide a status report
50 regarding the referred complaint to the Auditors of Public Accounts
51 upon request.

52 (c) The Auditors of Public Accounts may summon witnesses,
53 require the production of any necessary books, papers or other
54 documents and administer oaths to witnesses, where necessary, for the
55 purpose of an investigation pursuant to this section or for the purpose
56 of investigating a suspected violation of subsection (a) of section 17b-
57 301b until such time as the Attorney General files a civil action
58 pursuant to section 17b-301c. Upon the conclusion of the investigation,
59 the [Attorney General] Auditors of Public Accounts shall, where
60 necessary, report any findings to the Governor, or in matters involving
61 criminal activity, to the Chief State's Attorney. In addition to the
62 exempt records provision of section 1-210, the Auditors of Public
63 Accounts [and the Attorney General] shall not, after receipt of any
64 information from a person under the provisions of this section or
65 sections 17b-301c to 17b-301g, inclusive, disclose the identity of such
66 person without such person's consent unless the Auditors of Public
67 Accounts [or the Attorney General determines] determine that such
68 disclosure is unavoidable, and may withhold records of such
69 investigation, during the pendency of the investigation.

70 ~~[(b)]~~ (d) (1) No state officer or employee, as defined in section 4-141,
71 no quasi-public agency officer or employee, no officer or employee of a
72 large state contractor and no appointing authority shall take or
73 threaten to take any personnel action against any state or quasi-public
74 agency employee or any employee of a large state contractor in
75 retaliation for (A) such employee's or contractor's disclosure of
76 information to ~~[(A)]~~ (i) an employee of the Auditors of Public Accounts
77 ~~[or the Attorney General]~~ under the provisions of subsection (a) of this

78 section; [(B)] (ii) an employee of the state agency or quasi-public
79 agency where such state officer or employee is employed; [(C)] (iii) an
80 employee of a state agency pursuant to a mandated reporter statute or
81 pursuant to subsection (b) of section 17a-28; or [(D)] (iv) in the case of a
82 large state contractor, an employee of the contracting state agency
83 concerning information involving the large state contract, or (B) such
84 employee's testimony or assistance in any proceeding under this
85 section.

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

91 [(3)] (2) (A) Not later than [thirty] ninety days after learning of the
92 specific incident giving rise to a claim that a personnel action has been
93 threatened or has occurred in violation of subdivision (1) of this
94 subsection, a state or quasi-public agency employee, an employee of a
95 large state contractor or the employee's attorney may file a complaint
96 against the state agency, the quasi-public agency, the large state
97 contractor or appointing authority concerning such personnel action
98 with the Chief Human Rights Referee designated under section 46a-57.
99 Such complaint may be amended if an additional incident giving rise
100 to a claim under this subdivision occurs subsequent to the filing of the
101 original complaint. The Chief Human Rights Referee shall assign the
102 complaint to a human rights referee appointed under section 46a-57,
103 who shall conduct a hearing and issue a decision concerning whether
104 the officer or employee taking or threatening to take the personnel
105 action violated any provision of this section. [If] The human rights
106 referee may order a state agency or quasi-public agency to produce (i)
107 an employee of such agency or quasi-public agency to testify as a
108 witness in any proceeding under this subdivision, or (ii) books, papers
109 or other documents relevant to the complaint, without issuing a
110 subpoena. If such agency or quasi-public agency fails to produce such
111 witness, books, papers or documents, not later than thirty days after

112 such order, the human rights referee may consider such failure as
113 supporting evidence for the complainant. If, during the pendency of
114 the hearing, the human rights referee has reasonable cause to believe
115 that any officer or employee has taken personnel action in violation of
116 subdivision (1) of this subsection, such referee may order temporary
117 equitable relief, including, but not limited to, an order reinstating the
118 person filing the complaint to the same position before such personnel
119 action was taken. If, after the hearing, the human rights referee finds
120 [such] a violation, the referee may award the aggrieved employee
121 reinstatement to the employee's former position, back pay and
122 reestablishment of any employee benefits for which the employee
123 would otherwise have been eligible if such violation had not occurred,
124 reasonable attorneys' fees, and any other damages. The human rights
125 referee shall forward the decision finding such violation and award to
126 the head of the agency and the supervisor of the employee or officer
127 who violated subdivision (1) of this subsection and such supervisor
128 shall take appropriate personnel action. For the purposes of this
129 subsection, such human rights referee shall act as an independent
130 hearing officer. The decision of a human rights referee under this
131 subsection may be appealed by any person who was a party at such
132 hearing, in accordance with the provisions of section 4-183.

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

137 [(4)] (3) As an alternative to the provisions of [subdivisions (2) and
138 (3)] subdivision (2) of this subsection: (A) A state or quasi-public
139 agency employee who alleges that a personnel action has been
140 threatened or taken may file an appeal not later than [thirty] ninety
141 days after learning of the specific incident giving rise to such claim
142 with the Employees' Review Board under section 5-202, or, in the case
143 of a state or quasi-public agency employee covered by a collective
144 bargaining contract, in accordance with the procedure provided by
145 such contract; or (B) an employee of a large state contractor alleging

146 that such action has been threatened or taken may, after exhausting all
147 available administrative remedies, bring a civil action in accordance
148 with the provisions of subsection (c) of section 31-51m.

149 [(5)] (4) In any proceeding under subdivision (2) [.] or (3) [or (4)] of
150 this subsection concerning a personnel action taken or threatened
151 against any state or quasi-public agency employee or any employee of
152 a large state contractor, which personnel action occurs not later than
153 [one year] two years after the employee first transmits or discloses
154 facts and information concerning a matter under subsection (a) of this
155 section or subdivision (1) of this subsection to the Auditors of Public
156 Accounts [or the Attorney General] or an employee of the state agency,
157 quasi-public agency or large state contractor, as applicable, there shall
158 be a rebuttable presumption that the personnel action is in retaliation
159 for the action taken by the employee under subsection (a) of this
160 section or subdivision (1) of this subsection.

161 [(6)] (5) If a state officer or employee, as defined in section 4-141, a
162 quasi-public agency officer or employee, an officer or employee of a
163 large state contractor or an appointing authority takes or threatens to
164 take any action to impede, fail to renew or cancel a contract between a
165 state agency and a large state contractor, or between a large state
166 contractor and its subcontractor, in retaliation for the disclosure of
167 information pursuant to subsection (a) of this section or subdivision (1)
168 of this subsection to any agency listed in subdivision (1) of this
169 subsection, such affected agency, contractor or subcontractor may, not
170 later than ninety days after learning of such action, threat or failure to
171 renew, bring a civil action in the superior court for the judicial district
172 of Hartford to recover damages, attorney's fees and costs.

173 [(c)] (e) Any employee of a state or quasi-public agency or large
174 state contractor, who is found by the Auditors of Public Accounts, a
175 human rights referee or the Employees' Review Board to have
176 knowingly and maliciously made false charges under subsection (a) of
177 this section, shall be subject to disciplinary action by such employee's
178 appointing authority up to and including dismissal. In the case of a

179 state or quasi-public agency employee, such action shall be subject to
180 appeal to the Employees' Review Board in accordance with section 5-
181 202, or in the case of state or quasi-public agency employees included
182 in collective bargaining contracts, the procedure provided by such
183 contracts.

184 [(d)] (f) On or before September first, annually, the Auditors of
185 Public Accounts shall submit to the clerk of each house of the General
186 Assembly a report, in accordance with the provisions of section 11-4a,
187 indicating the number of matters for which facts and information were
188 transmitted to the auditors pursuant to this section during the
189 preceding state fiscal year and the disposition of each such matter.

190 [(e)] (g) Each contract between a state or quasi-public agency and a
191 large state contractor shall provide that, if an officer, employee or
192 appointing authority of a large state contractor takes or threatens to
193 take any personnel action against any employee of the contractor in
194 retaliation for such employee's disclosure of information [to any
195 employee of the contracting state or quasi-public agency or the
196 Auditors of Public Accounts or the Attorney General under the
197 provisions of] pursuant to subsection (a) of this section or subdivision
198 (1) of subsection (d) of this section, the contractor shall be liable for a
199 civil penalty of not more than five thousand dollars for each offense,
200 up to a maximum of twenty per cent of the value of the contract. Each
201 violation shall be a separate and distinct offense and in the case of a
202 continuing violation each calendar day's continuance of the violation
203 shall be deemed to be a separate and distinct offense. The executive
204 head of the state or quasi-public agency may request the Attorney
205 General to bring a civil action in the superior court for the judicial
206 district of Hartford to seek imposition and recovery of such civil
207 penalty.

208 [(f)] (h) Each state agency or quasi-public agency shall post a notice
209 of the provisions of this section relating to state employees and quasi-
210 public agency employees in a conspicuous place that is readily
211 available for viewing by employees of such agency or quasi-public

212 agency. Each large state contractor shall post a notice of the provisions
213 of this section relating to large state contractors in a conspicuous place
214 which is readily available for viewing by the employees of the
215 contractor.

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

220 ~~[(h)]~~ (j) As used in this section:

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

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

226 After the last section, add the following and renumber sections and
227 internal references accordingly:

228 "Sec. 501. (*Effective July 1, 2011*) In accordance with the provisions of
229 section 4-38d of the general statutes, two employees of the office of the
230 Attorney General shall be transferred to the office of the Auditors of
231 Public Accounts not later than July 1, 2011."