



General Assembly

**Amendment**

January Session, 2011

LCO No. 7857

**\*HB0665107857SR0\***

Offered by:

SEN. MCKINNEY, 28<sup>th</sup> Dist.

SEN. FASANO, 34<sup>th</sup> 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 "Section 17. Section 4-61dd of the general statutes is repealed and  
4 the 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 the Auditors of Public Accounts reject a complaint pursuant to  
47 subdivision (1) of this subsection, the Auditors of Public Accounts  
48 shall provide a report to the Attorney General setting out the basis for  
49 the rejection.

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

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

74 [(b)] (d) (1) No state officer or employee, as defined in section 4-141,  
75 no quasi-public agency officer or employee, no officer or employee of a  
76 large state contractor and no appointing authority shall take or

77 threaten to take any personnel action against any state or quasi-public  
78 agency employee or any employee of a large state contractor in  
79 retaliation for such employee's or contractor's disclosure of  
80 information to (A) an employee of the Auditors of Public Accounts [or  
81 the Attorney General] under the provisions of subsection (a) of this  
82 section; (B) an employee of the state agency or quasi-public agency  
83 where such state officer or employee is employed; (C) an employee of  
84 a state agency pursuant to a mandated reporter statute or pursuant to  
85 subsection (b) of section 17a-28; or (D) in the case of a large state  
86 contractor, an employee of the large state contractor or the contracting  
87 state agency concerning information involving the large state contract.

88 (2) If a state or quasi-public agency employee or an employee of a  
89 large state contractor alleges that a personnel action has been  
90 threatened or taken in violation of subdivision (1) of this subsection,  
91 the employee may notify the [Attorney General] Auditors of Public  
92 Accounts, who shall investigate pursuant to subsection (a) of this  
93 section. If the Auditors of Public Accounts determine that such  
94 personnel action was in retaliation for such employee's or contractor's  
95 disclosure of information pursuant to this section, the Auditors of  
96 Public Accounts may inform the Chief Human Rights Referee of such  
97 determination, and the Attorney General shall discontinue any  
98 representation of any state officer, employee or appointing authority,  
99 as applicable, that the Auditors of Public Accounts determined  
100 undertook such retaliatory action.

101 (3) (A) Not later than [thirty] ninety days after learning of the  
102 specific incident giving rise to a claim that a personnel action has been  
103 threatened or has occurred in violation of subdivision (1) of this  
104 subsection, a state or quasi-public agency employee, an employee of a  
105 large state contractor or the employee's attorney may file a complaint  
106 against the state agency, the quasi-public agency or the large state  
107 contractor concerning such personnel action with the Chief Human  
108 Rights Referee designated under section 46a-57. Such complaint may  
109 be amended if an additional incident giving rise to a claim under this  
110 subdivision occurs subsequent to the filing of the original complaint.

111 The Chief Human Rights Referee shall assign the complaint to a  
112 human rights referee appointed under section 46a-57, who shall  
113 conduct a hearing and issue a decision concerning whether the officer  
114 or employee taking or threatening to take the personnel action violated  
115 any provision of this section. [If] The human rights referee may order a  
116 state agency or quasi-public agency to produce (i) an employee of such  
117 agency or quasi-public agency to testify as a witness in any proceeding  
118 under this subdivision, or (ii) books, papers or other documents  
119 relevant to the complaint, without issuing a subpoena. If such agency  
120 or quasi-public agency fails to produce such witness, books, papers or  
121 documents, not later than thirty days after such order, the human  
122 rights referee may consider such failure as supporting evidence for the  
123 complainant. If, during the pendency of the hearing, the human rights  
124 referee has reasonable cause to believe that any officer or employee has  
125 taken personnel action in violation of subdivision (1) of this subsection,  
126 such referee may order temporary equitable relief, including, but not  
127 limited to, an order reinstating the person filing the complaint to the  
128 same position before such personnel action was taken. If, after the  
129 hearing, the human rights referee finds [such] a violation, the referee  
130 may award the aggrieved employee reinstatement to the employee's  
131 former position, back pay and reestablishment of any employee  
132 benefits for which the employee would otherwise have been eligible if  
133 such violation had not occurred, reasonable attorneys' fees, and any  
134 other damages. The human rights referee shall forward the decision  
135 finding such violation and award to the head of the agency and the  
136 supervisor of the employee or officer who violated subdivision (1) of  
137 this subsection and such supervisor shall take appropriate personnel  
138 action. For the purposes of this subsection, such human rights referee  
139 shall act as an independent hearing officer. The decision of a human  
140 rights referee under this subsection may be appealed by any person  
141 who was a party at such hearing, in accordance with the provisions of  
142 section 4-183.

143 (B) The Chief Human Rights Referee shall adopt regulations, in  
144 accordance with the provisions of chapter 54, establishing the

145 procedure for filing complaints and noticing and conducting hearings  
146 under subparagraph (A) of this subdivision.

147 (4) As an alternative to the provisions of subdivisions (2) and (3) of  
148 this subsection: (A) A state or quasi-public agency employee who  
149 alleges that a personnel action has been threatened or taken may file an  
150 appeal not later than [thirty] ninety days after learning of the specific  
151 incident giving rise to such claim with the Employees' Review Board  
152 under section 5-202, or, in the case of a state or quasi-public agency  
153 employee covered by a collective bargaining contract, in accordance  
154 with the procedure provided by such contract; or (B) an employee of a  
155 large state contractor alleging that such action has been threatened or  
156 taken may, after exhausting all available administrative remedies,  
157 bring a civil action in accordance with the provisions of subsection (c)  
158 of section 31-51m.

159 (5) In any proceeding under subdivision (2), (3) or (4) of this  
160 subsection concerning a personnel action taken or threatened against  
161 any state or quasi-public agency employee or any employee of a large  
162 state contractor, which personnel action occurs not later than [one  
163 year] three years after the employee first transmits or discloses facts  
164 and information concerning a matter under subsection (a) of this  
165 section or subdivision (1) of this subsection to the Auditors of Public  
166 Accounts [or the Attorney General] or an employee of the state agency,  
167 quasi-public agency or large state contractor, as applicable, there shall  
168 be a rebuttable presumption that the personnel action is in retaliation  
169 for the action taken by the employee under subsection (a) of this  
170 section or subdivision (1) of this subsection.

171 (6) If a state officer or employee, as defined in section 4-141, a quasi-  
172 public agency officer or employee, an officer or employee of a large  
173 state contractor or an appointing authority takes or threatens to take  
174 any action to impede, fail to renew or cancel a contract between a state  
175 agency and a large state contractor, or between a large state contractor  
176 and its subcontractor, in retaliation for the disclosure of information  
177 pursuant to subsection (a) of this section or subdivision (1) of this

178 subsection to any agency listed in subdivision (1) of this subsection,  
179 such affected agency, contractor or subcontractor may, not later than  
180 ninety days after learning of such action, threat or failure to renew,  
181 bring a civil action in the superior court for the judicial district of  
182 Hartford to recover damages, attorney's fees and costs.

183 [(c)] (e) Any employee of a state or quasi-public agency or large  
184 state contractor, who is found to have knowingly and maliciously  
185 made false charges under subsection (a) of this section, shall be subject  
186 to disciplinary action by such employee's appointing authority up to  
187 and including dismissal. In the case of a state or quasi-public agency  
188 employee, such action shall be subject to appeal to the Employees'  
189 Review Board in accordance with section 5-202, or in the case of state  
190 or quasi-public agency employees included in collective bargaining  
191 contracts, the procedure provided by such contracts.

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

198 [(e)] (g) Each contract between a state or quasi-public agency and a  
199 large state contractor shall provide that, if an officer, employee or  
200 appointing authority of a large state contractor takes or threatens to  
201 take any personnel action against any employee of the contractor in  
202 retaliation for such employee's disclosure of information [to any  
203 employee of the contracting state or quasi-public agency or the  
204 Auditors of Public Accounts or the Attorney General under the  
205 provisions of] pursuant to subsection (a) of this section or subdivision  
206 (1) of subsection (d) of this section, the contractor shall be liable for a  
207 civil penalty of not more than five thousand dollars for each offense,  
208 up to a maximum of twenty per cent of the value of the contract. Each  
209 violation shall be a separate and distinct offense and in the case of a  
210 continuing violation each calendar day's continuance of the violation

211 shall be deemed to be a separate and distinct offense. The executive  
212 head of the state or quasi-public agency may request the Attorney  
213 General to bring a civil action in the superior court for the judicial  
214 district of Hartford to seek imposition and recovery of such civil  
215 penalty.

216 [(f)] (h) Each large state contractor shall post a notice of the  
217 provisions of this section relating to large state contractors in a  
218 conspicuous place which is readily available for viewing by the  
219 employees of the contractor.

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

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

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

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

230 After the last section, add the following and renumber sections and  
231 internal references accordingly:

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