



General Assembly

**Amendment**

February Session, 2014

LCO No. 4565

**\*HB0554604565HDO\***

Offered by:

REP. WIDLITZ, 98<sup>th</sup> Dist.

SEN. FONFARA, 1<sup>st</sup> Dist.

To: Subst. House Bill No. 5546

File No. 504

Cal. No. 297

**"AN ACT IMPLEMENTING CERTAIN RECOMMENDATIONS OF  
THE AUDITORS OF PUBLIC ACCOUNTS."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 4-61dd of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective from passage*):

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 proper regarding such  
19 report and any other information that may be reasonably derived from  
20 such report. Prior to conducting an investigation of any information  
21 that may be reasonably derived from such report, the Attorney  
22 General shall consult with the Auditors of Public Accounts concerning  
23 the relationship of such additional information to the report that has  
24 been issued pursuant to this subsection. Any such subsequent  
25 investigation deemed appropriate by the Attorney General shall only  
26 be conducted with the concurrence and assistance of the Auditors of  
27 Public Accounts. At the request of the Attorney General or on their  
28 own initiative, the auditors shall assist in the investigation.

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

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

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

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

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

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

42 (F) The complaint could be handled more appropriately as part of  
43 an ongoing or scheduled regular audit.

44 (2) If the Auditors of Public Accounts reject a complaint pursuant to

45 subdivision (1) of this subsection, the Auditors of Public Accounts  
46 shall provide a report to the Attorney General setting out the basis for  
47 the rejection.

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

54 (c) Notwithstanding the provisions of section 12-15, the  
55 Commissioner of Revenue Services may, upon written request by the  
56 Auditors of Public Accounts, disclose return or return information, as  
57 defined in section 12-15, to the Auditors of Public Accounts for  
58 purposes of preparing a report under subsection (a) or (b) of this  
59 section. Such return or return information shall not be published in  
60 any report prepared in accordance with subsection (a) or (b) of this  
61 section, and shall not otherwise be redisclosed, except that such  
62 information may be redisclosed to the Attorney General for purposes  
63 of an investigation authorized by subsection (a) of this section. Any  
64 person who violates the provisions of this subsection shall be subject to  
65 the provisions of subsection (g) of section 12-15.

66 [(c)] (d) The Attorney General may summon witnesses, require the  
67 production of any necessary books, papers or other documents and  
68 administer oaths to witnesses, where necessary, for the purpose of an  
69 investigation pursuant to this section or for the purpose of  
70 investigating a suspected violation of subsection (a) of section 17b-301b  
71 until such time as the Attorney General files a civil action pursuant to  
72 section 17b-301c. Upon the conclusion of the investigation, the  
73 Attorney General shall where necessary, report any findings to the  
74 Governor, or in matters involving criminal activity, to the Chief State's  
75 Attorney. In addition to the exempt records provision of section 1-210,  
76 the Auditors of Public Accounts and the Attorney General shall not,  
77 after receipt of any information from a person under the provisions of

78 this section or sections 17b-301c to 17b-301g, inclusive, disclose the  
79 identity of such person without such person's consent unless the  
80 Auditors of Public Accounts or the Attorney General determines that  
81 such disclosure is unavoidable, and may withhold records of such  
82 investigation, during the pendency of the investigation.

83 [(d)] (e) (1) No state officer or employee, as defined in section 4-141,  
84 no quasi-public agency officer or employee, no officer or employee of a  
85 large state contractor and no appointing authority shall take or  
86 threaten to take any personnel action against any state or quasi-public  
87 agency employee or any employee of a large state contractor in  
88 retaliation for (A) such employee's or contractor's disclosure of  
89 information to (i) an employee of the Auditors of Public Accounts or  
90 the Attorney General under the provisions of subsection (a) of this  
91 section; (ii) an employee of the state agency or quasi-public agency  
92 where such state officer or employee is employed; (iii) an employee of  
93 a state agency pursuant to a mandated reporter statute or pursuant to  
94 subsection (b) of section 17a-28; or (iv) in the case of a large state  
95 contractor, an employee of the contracting state agency concerning  
96 information involving the large state contract; or (B) such employee's  
97 testimony or assistance in any proceeding under this section.

98 (2) (A) Not later than ninety days after learning of the specific  
99 incident giving rise to a claim that a personnel action has been  
100 threatened or has occurred in violation of subdivision (1) of this  
101 subsection, a state or quasi-public agency employee, an employee of a  
102 large state contractor or the employee's attorney may file a complaint  
103 against the state agency, quasi-public agency, large state contractor or  
104 appointing authority concerning such personnel action with the Chief  
105 Human Rights Referee designated under section 46a-57. Such  
106 complaint may be amended if an additional incident giving rise to a  
107 claim under this subdivision occurs subsequent to the filing of the  
108 original complaint. The Chief Human Rights Referee shall assign the  
109 complaint to a human rights referee appointed under section 46a-57,  
110 who shall conduct a hearing and issue a decision concerning whether  
111 the officer or employee taking or threatening to take the personnel

112 action violated any provision of this section. The human rights referee  
113 may order a state agency or quasi-public agency to produce (i) an  
114 employee of such agency or quasi-public agency to testify as a witness  
115 in any proceeding under this subdivision, or (ii) books, papers or other  
116 documents relevant to the complaint, without issuing a subpoena. If  
117 such agency or quasi-public agency fails to produce such witness,  
118 books, papers or documents, not later than thirty days after such order,  
119 the human rights referee may consider such failure as supporting  
120 evidence for the complainant. If, after the hearing, the human rights  
121 referee finds a violation, the referee may award the aggrieved  
122 employee reinstatement to the employee's former position, back pay  
123 and reestablishment of any employee benefits for which the employee  
124 would otherwise have been eligible if such violation had not occurred,  
125 reasonable attorneys' fees, and any other damages. For the purposes of  
126 this subsection, such human rights referee shall act as an independent  
127 hearing officer. The decision of a human rights referee under this  
128 subsection may be appealed by any person who was a party at such  
129 hearing, in accordance with the provisions of section 4-183.

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

134 (3) As an alternative to the provisions of subdivision (2) of this  
135 subsection: (A) A state or quasi-public agency employee who alleges  
136 that a personnel action has been threatened or taken may file an appeal  
137 not later than ninety days after learning of the specific incident giving  
138 rise to such claim with the Employees' Review Board under section 5-  
139 202, or, in the case of a state or quasi-public agency employee covered  
140 by a collective bargaining contract, in accordance with the procedure  
141 provided by such contract; or (B) an employee of a large state  
142 contractor alleging that such action has been threatened or taken may,  
143 after exhausting all available administrative remedies, bring a civil  
144 action in accordance with the provisions of subsection (c) of section 31-  
145 51m.

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

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

170 [(e)] (f) Any employee of a state or quasi-public agency or large state  
171 contractor, who is found by the Auditors of Public Accounts, the  
172 Attorney General, a human rights referee or the Employees' Review  
173 Board to have knowingly and maliciously made false charges under  
174 subsection (a) of this section, shall be subject to disciplinary action by  
175 such employee's appointing authority up to and including dismissal.  
176 In the case of a state or quasi-public agency employee, such action  
177 shall be subject to appeal to the Employees' Review Board in  
178 accordance with section 5-202, or in the case of state or quasi-public  
179 agency employees included in collective bargaining contracts, the

180 procedure provided by such contracts.

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

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

205       [(h)] (i) Each state agency or quasi-public agency shall post a notice  
206 of the provisions of this section relating to state employees and quasi-  
207 public agency employees in a conspicuous place that is readily  
208 available for viewing by employees of such agency or quasi-public  
209 agency. Each large state contractor shall post a notice of the provisions  
210 of this section relating to large state contractors in a conspicuous place  
211 which is readily available for viewing by the employees of the  
212 contractor.

213        [(i)] (j) No person who, in good faith, discloses information in  
214 accordance with the provisions of this section shall be liable for any  
215 civil damages resulting from such good faith disclosure.

216        [(j)] (k) As used in this section:

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

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

222        Sec. 2. Subsections (b) and (c) of section 32-605 of the general  
223 statutes are repealed and the following is substituted in lieu thereof  
224 (*Effective October 1, 2014*):

225        (b) [In lieu of the audit required under section 1-122, the] The board  
226 of directors of the authority shall annually contract with a person, firm  
227 or corporation for a compliance audit of the authority's activities  
228 during the preceding authority fiscal year. The audit shall determine  
229 whether the authority has complied with its regulations concerning  
230 affirmative action, personnel practices, the purchase of goods and  
231 services and the use of surplus funds. The board shall submit the audit  
232 report to the Governor, the Auditors of Public Accounts and the joint  
233 standing committee of the General Assembly having cognizance of  
234 matters relating to finance, revenue and bonding.

235        (c) The board of directors of the authority shall annually contract  
236 with a firm of certified public accountants to undertake an  
237 independent financial audit of the authority in accordance with  
238 generally accepted auditing standards. The board shall submit the  
239 audit report to the Governor, the Auditors of Public Accounts and the  
240 joint standing committee of the General Assembly having cognizance  
241 of matters relating to finance, revenue and bonding. [The books and  
242 accounts of the authority shall be subject to annual audits by the state  
243 Auditors of Public Accounts.]

244 Sec. 3. Subsection (g) of section 32-657 of the general statutes is  
 245 repealed and the following is substituted in lieu thereof (*Effective*  
 246 *October 1, 2014*):

247 (g) The Stadium Facility Enterprise Fund, the revenue account, the  
 248 operating expense account and any other account holding state  
 249 moneys associated with the stadium facility shall be subject to the  
 250 provisions of sections 3-112, 3-114, 4-32 and 4-33, except to the extent  
 251 inconsistent with express provisions of this section, and shall be  
 252 audited [on a comprehensive annual basis] as provided in section 1-  
 253 122 by the Auditors of Public Accounts. [Such audits shall be  
 254 conducted at the sole expense of the Auditors of Public Accounts and  
 255 with advance notice to the secretary.]"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4-61dd
Sec. 2	<i>October 1, 2014</i>	32-605(b) and (c)
Sec. 3	<i>October 1, 2014</i>	32-657(g)