



House of Representatives

File No. 734

General Assembly

February Session, 2014

(Reprint of File No. 504)

Substitute House Bill No. 5546
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 1, 2014

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

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

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 Section 4-61dd of the general statutes is repealed and the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

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

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

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

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

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

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

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

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

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

42 (2) If the Auditors of Public Accounts reject a complaint pursuant to
43 subdivision (1) of this subsection, the Auditors of Public Accounts
44 shall provide a report to the Attorney General setting out the basis for

45 the rejection.

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

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

78 Auditors of Public Accounts or the Attorney General determines that
79 such disclosure is unavoidable, and may withhold records of such
80 investigation, during the pendency of the investigation.

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

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

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

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

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

144 (4) In any proceeding under subdivision (2) or (3) of this subsection

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

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

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

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

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

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

211 [(i)] (j) No person who, in good faith, discloses information in

212 accordance with the provisions of this section shall be liable for any
213 civil damages resulting from such good faith disclosure.

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

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

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

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

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

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

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

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

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes procedural changes which do not result in any fiscal impact to the state or municipalities.

House "A" eliminates provisions requiring the withholding of income tax refunds for UConn Health Center patients with delinquent accounts, and the associated fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5546 (as amended by House "A")******AN ACT IMPLEMENTING CERTAIN RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS.*****SUMMARY:**

This bill authorizes the Department of Revenue Services (DRS) commissioner to disclose certain tax information to the Auditors of Public Accounts for purposes of reviewing whistleblower complaints. It also requires the state auditors to conduct biennial compliance audits, rather than annual financial audits, of the Capital Region Development Authority (CRDA) and Stadium Enterprise Fund.

***House Amendment "A":**

1. eliminates provisions (a) requiring the state to withhold the state income tax refund of any taxpayer who has a delinquent patient account at the UConn Health Center and (b) authorizing the DRS commissioner to disclose tax information to the auditors for purposes of performing their auditing duties and
2. makes the provision concerning disclosures of tax information effective upon passage, rather than October 1, 2014.

EFFECTIVE DATE: Upon passage, except for the provisions concerning the CRDA and Stadium Enterprise Fund audits, which are effective October 1, 2014.

DISCLOSURE OF CERTAIN TAX INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS

The bill authorizes the DRS commissioner to disclose tax returns and return information (see BACKGROUND) to the state auditors,

upon a written request for the information, for purposes of reviewing whistleblower complaints. Under the bill, the auditors may not publish the tax information in any report they prepare on the whistleblower complaint or subsequently disclose the information, unless the disclosure is to the attorney general for purposes of investigating the complaint. Violators are subject to existing law's penalties for unauthorized disclosures of tax information (a fine of up to \$1,000, up to one year in prison, or both (CGS § 12-15(g))).

CRDA AND STADIUM FUND AUDIT REQUIREMENT

The bill requires the state auditors to conduct biennial compliance audits, rather than annual financial audits, of CRDA and the Stadium Facility Enterprise Fund. It also eliminates a requirement that the auditors pay for the stadium audit.

Existing law requires CRDA to contract with an independent auditing firm to conduct an annual financial audit in accordance with generally accepted auditing standards.

BACKGROUND

Tax Returns and Return Information

By law, a "return" is any of the following filed with the DRS commissioner by, on behalf of, or with respect to, anyone: (1) a tax or information return; (2) an estimated tax declaration; (3) a refund claim; or (4) any license, permit, registration, or other application. The term also covers amendments or supplements, including supporting schedules, attachments, or lists that supplement or are part of a filed return.

"Return information" includes:

1. a taxpayer's identity;
2. the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, tax under- or over-reportings, or tax payments; and

3. any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner regarding a return or regarding any determination of liability for a tax, penalty, interest, fine, forfeiture, or other imposition or offense (CGS § 12-15(h)(1) & (2)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 49 Nay 1 (03/25/2014)