
OLR Bill Analysis

SB 359

AN ACT EXTENDING WHISTLEBLOWER PROTECTIONS TO EMPLOYEES OF BUSINESSES RECEIVING FINANCIAL ASSISTANCE FROM THE STATE.

SUMMARY

This bill expands the state's whistleblower protection law to cover entities that receive state financial assistance under the commerce and economic and community development laws ("financial aid recipients"). It does so by making them "large state contractors" under the law.

In general, the whistleblower law allows anyone to report specific kinds of misconduct by state agencies or large state contractors to the state auditors of public accounts for investigation. Whistleblowers who believe they are being retaliated against may, among other actions, file a complaint with the chief human rights referee at the Commission of Human Rights and Opportunities (CHRO).

By making state financial aid recipients large state contractors under the law, the bill, among other things:

1. allows people to report to the state auditors about corruption occurring in a recipient's contract for assistance and requires the auditors to subsequently review the matter and make recommendations to the attorney general;
2. prohibits the recipients from taking or threatening to take any personnel action against an employee (i.e., whistleblower) for disclosing information to the state auditors or assisting in a subsequent proceeding;
3. allows a whistleblower who feels that he or she was retaliated against to file a complaint with CHRO's chief human rights

referee; and

4. requires the recipient's contract for state financial assistance to include a provision that makes the recipient liable for a civil penalty of up to \$5,000 per offense, for a retaliatory personnel action taken against a whistleblower employee.

EFFECTIVE DATE: October 1, 2019

WHISTLEBLOWER LAW

Whistleblower Reports to State Auditors

The bill allows anyone to inform the state auditors about (1) any corruption, violation of state or federal laws, gross waste of funds, or public safety danger occurring in the state financial aid recipient's contract for such aid or (2) corruption by a recipient that failed to meet its contractual obligations or satisfy any condition for its financial aid. As under the current law for other large state contractors, the auditors must review the matter and report their findings and recommendations to the attorney general, who must investigate as he deems proper. After the investigation, the attorney general must, when necessary, report his findings to the governor, or if the matter involves a crime, to the chief state's attorney.

Retaliation

As the current law provides for other large state contractors, the bill prohibits a state financial aid recipient's officers or employees from taking, or threatening to take, any personnel action against an employee (i.e., whistleblower) for disclosing information to (1) the state auditors or (2) a state employee of the contracting state agency about information involving the contract for state aid. In addition, the recipient's officers or employees cannot take or threaten a personnel action against an employee for testifying or providing assistance in a proceeding allowed under the whistleblower law.

As under current law, a whistleblower who learns of a prohibited retaliatory personnel action may file a complaint with CHRO's chief human rights referee or, after exhausting all available administrative

remedies, bring a civil suit. In addition, if the personnel action occurred within two years after the whistleblower informed the state auditors, the law creates a rebuttable presumption that the action was taken in retaliation.

As with other large state contractors, if an officer or employee of the financial aid recipient takes or threatens to take any action to impede, fail to renew, or cancel a contract between it and the state or one of the recipient's subcontractors, in retaliation for the disclosure of information to the state auditors, the affected state agency or subcontractor may bring a civil action in Hartford Superior Court for damages, attorney's fees, and costs.

Contract Provision on Retaliation

As under the current law for other large state contractors, the bill requires each contract between a state or quasi-public agency and a state financial aid recipient to include a provision that makes the recipient liable for a civil penalty of up to \$5,000 per offense, up to 20% of the contract's value, for any personnel action taken by the recipient's officers or employees in retaliation against a whistleblower.

It also requires each recipient to post a notice of the whistleblower law's provisions that relate to state financial aid recipients in a conspicuous place that is readily available for viewing by its employees.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 13 Nay 0 (03/21/2019)