

Senate, April 2, 1998. The Committee on Government Administration and Elections reported through SEN. LEBEAU, 3rd DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING OVERSIGHT OF THE EFFICIENCY AND EFFECTIVENESS OF LARGE STATE CONTRACTORS.

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

1 Section 1. Section 4-61dd of the general
2 statutes, as amended by public act 97-55, is
3 repealed and the following is substituted in lieu
4 thereof:

5 (a) Any person having knowledge of any matter
6 involving corruption, unethical practices,
7 violation of state laws or regulations,
8 mismanagement, gross waste of funds, abuse of
9 authority or danger to the public safety occurring
10 in any state department or agency or any
11 quasi-public agency, as defined in section 1-120,
12 OR ANY PERSON HAVING KNOWLEDGE OF ANY MATTER
13 INVOLVING CORRUPTION, VIOLATION OF STATE OR
14 FEDERAL LAWS OR REGULATIONS, GROSS WASTE OF FUNDS,
15 ABUSE OF AUTHORITY OR DANGER TO THE PUBLIC SAFETY
16 OCCURRING IN ANY LARGE STATE CONTRACT, may
17 transmit all facts and information in his
18 possession concerning such matter to the Auditors
19 of Public Accounts. The Auditors of Public
20 Accounts shall review such matter and report their
21 findings and any recommendations to the Attorney
22 General. Upon receiving such a report, the

23 Attorney General shall make such investigation as
24 he deems proper. At the request of the Attorney
25 General or on their own initiative, the auditors
26 shall assist in the investigation. The Attorney
27 General shall have power to summon witnesses,
28 require the production of any necessary books,
29 papers or other documents and administer oaths to
30 witnesses, where necessary, for the purpose of
31 investigation. Upon the conclusion of his
32 investigation, the Attorney General shall where
33 necessary, report his findings to the Governor, or
34 in matters involving criminal activity, to the
35 Chief State's Attorney. The Auditors of Public
36 Accounts and the Attorney General shall not, after
37 receipt of any information from a person under the
38 provisions of this section, disclose the identity
39 of such person without his consent unless the
40 Auditors of Public Accounts or the Attorney
41 General determine that such disclosure is
42 unavoidable during the course of the
43 investigation.

44 (b) No state officer or employee, as defined
45 in section 4-141, no quasi-public agency officer
46 or employee, NO OFFICER OR EMPLOYEE OF A LARGE
47 STATE CONTRACTOR and no appointing authority shall
48 take or threaten to take any personnel action
49 against any state or quasi-public agency employee
50 OR ANY EMPLOYEE OF A LARGE STATE CONTRACTOR in
51 retaliation for such employee's disclosure of
52 information to the Auditors of Public Accounts or
53 the Attorney General under the provisions of this
54 section. [An] A STATE OR QUASI-PUBLIC AGENCY
55 employee alleging that such action has been
56 threatened or taken may file an appeal within
57 thirty days of knowledge of the specific incident
58 giving rise to such claim with the Employees'
59 Review Board under section 5-202, or, in the case
60 of [an] A STATE OR QUASI-PUBLIC AGENCY employee
61 covered by a collective bargaining contract, in
62 accordance with the procedure provided by such
63 contract. AN EMPLOYEE OF A LARGE STATE CONTRACTOR
64 ALLEGING THAT SUCH ACTION HAS BEEN THREATENED OR
65 TAKEN MAY, AFTER EXHAUSTING ALL AVAILABLE
66 ADMINISTRATIVE REMEDIES, BRING A CIVIL ACTION IN
67 ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (c)
68 OF SECTION 31-51m.

69 (c) Any employee OF A STATE OR QUASI-PUBLIC
70 AGENCY OR LARGE STATE CONTRACTOR, WHO IS found to

71 have knowingly and maliciously made false charges
72 under subsection (a) of this section shall be
73 subject to disciplinary action by his appointing
74 authority up to and including dismissal. [Such] IN
75 THE CASE OF A STATE OR QUASI-PUBLIC AGENCY
76 EMPLOYEE, SUCH action shall be subject to appeal
77 to the Employees' Review Board in accordance with
78 section 5-202, or in the case of STATE OR
79 QUASI-PUBLIC AGENCY employees included in
80 collective bargaining contracts, the procedure
81 provided by such contracts.

82 (d) On or before September first, annually,
83 the Auditors of Public Accounts shall submit to
84 the clerk of each house of the General Assembly a
85 report indicating the number of matters for which
86 facts and information were transmitted to the
87 auditors pursuant to this section during the
88 preceding state fiscal year and the disposition of
89 each such matter.

90 (e) EACH CONTRACT BETWEEN A STATE OR
91 QUASI-PUBLIC AGENCY AND A LARGE STATE CONTRACTOR
92 SHALL PROVIDE THAT, IF AN OFFICER, EMPLOYEE OR
93 APPOINTING AUTHORITY OF A LARGE STATE CONTRACTOR
94 TAKES OR THREATENS TO TAKE ANY PERSONNEL ACTION
95 AGAINST ANY EMPLOYEE OF THE CONTRACTOR IN
96 RETALIATION FOR SUCH EMPLOYEE'S DISCLOSURE OF
97 INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS OR
98 THE ATTORNEY GENERAL UNDER THE PROVISIONS OF THIS
99 SECTION, THE CONTRACTOR SHALL BE LIABLE FOR A
100 CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND
101 DOLLARS FOR EACH OFFENSE, UP TO A MAXIMUM OF
102 TWENTY PER CENT OF THE VALUE OF THE CONTRACT. EACH
103 VIOLATION SHALL BE A SEPARATE AND DISTINCT OFFENSE
104 AND IN THE CASE OF A CONTINUING VIOLATION EACH
105 CALENDAR DAY'S CONTINUANCE OF THE VIOLATION SHALL
106 BE DEEMED TO BE A SEPARATE AND DISTINCT OFFENSE.
107 THE EXECUTIVE HEAD OF THE STATE OR QUASI-PUBLIC
108 AGENCY MAY REQUEST THE ATTORNEY GENERAL TO BRING A
109 CIVIL ACTION IN THE SUPERIOR COURT FOR THE
110 JUDICIAL DISTRICT OF HARTFORD-NEW BRITAIN TO SEEK
111 IMPOSITION AND RECOVERY OF SUCH CIVIL PENALTY.

112 (f) EACH LARGE STATE CONTRACTOR SHALL POST A
113 NOTICE OF THE PROVISIONS OF THIS SECTION RELATING
114 TO LARGE STATE CONTRACTORS IN A CONSPICUOUS PLACE
115 WHICH IS READILY AVAILABLE FOR VIEWING BY THE
116 EMPLOYEES OF THE CONTRACTOR.

117 (g) AS USED IN THIS SECTION:

118 (1) "LARGE STATE CONTRACT" MEANS A CONTRACT
119 BETWEEN AN ENTITY AND A STATE OR QUASI-PUBLIC
120 AGENCY, HAVING A VALUE OF FIVE MILLION DOLLARS OR
121 MORE; AND

122 (2) "LARGE STATE CONTRACTOR" MEANS AN ENTITY
123 THAT HAS ENTERED INTO A LARGE STATE CONTRACT WITH
124 A STATE OR QUASI-PUBLIC AGENCY.

125 Sec. 2. This act shall take effect July 1,
126 1998.

127 GAE COMMITTEE VOTE: YEA 15 NAY 2 JFS

this effort at a cumulative cost of \$7.8 million at the end of three years.

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OLR BILL ANALYSIS

sSB 457

AN ACT CONCERNING OVERSIGHT OF THE EFFICIENCY AND EFFECTIVENESS OF LARGE STATE CONTRACTORS

SUMMARY: This bill extends the whistleblower law that applies to state and quasi-public agencies to entities that enter contracts valued at \$5 million or more with such agencies. Specifically, it authorizes (1) anyone with knowledge of corruption, state or federal law or regulation violations, gross waste of funds, abuse of authority, or public endangerment by a large state contractor to contact the state auditors and (2) whistleblowers who are threatened with personnel action in retaliation for disclosing such information to bring a civil action in Superior Court after exhausting administrative remedies. As with reported cases of wrongdoing by a state or quasi-public agency, the bill requires the auditors to review the matter and report their findings and recommendations to the attorney general who may then investigate.

The bill (1) establishes a penalty for large state contractors who retaliate against whistleblowers, (2) requires the contracts to include the penalty, and (3) requires contractors to post a notice of the bill's provisions in a conspicuous place that is readily available for employee viewing.

EFFECTIVE DATE: July 1, 1998

FURTHER EXPLANATION

Whistleblowing

As with privately employed whistleblowers who are penalized, the bill allows those who are threatened with retaliatory personnel actions, after exhausting all available administrative remedies, to bring a civil action within 90 days of the violation or final

administrative decision in the Superior Court for the judicial district where the violation occurred or the employer has its principal office. By law, the court may (1) order the employer to reinstate the employee, pay him back wages, or reestablish his benefits and (2) award the prevailing party his costs and reasonable attorney's fees.

The bill requires employers, before disciplining employees for making false complaints, to show that the employee did so knowingly and maliciously. Under current law, an employer has to show only that the employee knew the complaint allegations were false.

Contract Provisions

The bill requires each contract over \$5 million to include a provision informing the contractor that he faces a civil penalty of up to \$5,000 for each offense, up to a maximum of 20% of the contract's value, for each threatened or actual retaliatory action by an officer, employee, or appointing authority within his company against a whistleblower.

Calculating and Enforcing Violations

The bill makes each violation a separate and distinct offense and, in the case of a continuing violation, makes each calendar day that the violation continues a separate and distinct offense. It authorizes state and quasi-public agency heads to request the attorney general to bring a civil action for imposition and recovery of the penalty in the Hartford-New Britain Superior Court.

BACKGROUND

Whistleblowing Laws

Connecticut has two whistleblower statutes of general application and two other whistleblowing statutes protect public service company and Nuclear Regulatory Commission employees and contractors). The first of the two general statutes, is the one the bill amends. It establishes a procedure for reporting wrongdoing by, and seeks to protect employees of, state and quasi-public agencies. The second one establishes a procedure for reporting wrongdoing by, and seeks to

protect employees of, private companies.

Related Bill

sSB 459, favorably reported by the Government Administration and Election Committee, requires foundations to develop and implement a written policy on whistleblowing.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 15 Nay 2