



General Assembly

January Session, 2019

Committee Bill No. 682

LCO No. 5373



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

**AN ACT CONCERNING STATE EMPLOYEE REPORTING OF
WASTEFUL PRACTICES.**

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 Section 4-61dd of the general statutes is repealed and the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 October 1, 2019*):

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, any
7 quasi-public agency, as defined in section 1-120, or any Probate Court
8 or any person having knowledge of any matter involving corruption,
9 violation of state or federal laws or regulations, gross waste of funds,
10 abuse of authority or danger to the public safety occurring in any large
11 state contract, may transmit all facts and information in such person's
12 possession concerning such matter to the Auditors of Public Accounts.
13 The Auditors of Public Accounts shall review such matter and report
14 their findings and any recommendations to the Attorney General.
15 Upon 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 (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 4-275
69 until such time as the Attorney General files a civil action pursuant to
70 section 4-276. Service of a subpoena ad testificandum, subpoena duces
71 tecum and a notice of deposition, may be made by: (1) Personal service
72 or service at the usual place of abode; or (2) registered or certified mail,
73 return receipt requested, a duly executed copy thereof addressed to the
74 person to be served at such person's principal place of business in this
75 state, or, if such person has no principal place of business in this state,
76 at such person's principal office or such person's residence. Upon the

77 conclusion of the investigation, the Attorney General shall where
78 necessary, report any findings to the Governor, or in matters involving
79 criminal activity, to the Chief State's Attorney. In addition to the
80 exempt records provision of section 1-210, the Auditors of Public
81 Accounts and the Attorney General shall not, after receipt of any
82 information from a person under the provisions of this section or
83 sections 4-276 to 4-280, inclusive, disclose the identity of such person
84 without such person's consent unless the Auditors of Public Accounts
85 or the Attorney General determines that such disclosure is
86 unavoidable, and may withhold records of such investigation, during
87 the pendency of the investigation. All documentary material or other
88 information furnished to the Attorney General, his or her deputy or
89 any assistant attorney general designated by the Attorney General,
90 pursuant to a demand issued under this subsection for the purpose of
91 investigating a suspected violation of subsection (a) of section 4-275,
92 shall be returned to the person furnishing such documentary material
93 or other information upon the termination of the Attorney General's
94 investigation or final determination of any action or proceeding
95 commenced thereunder.

96 (e) (1) No state officer or employee, as defined in section 4-141, no
97 quasi-public agency officer or employee, no officer or employee of a
98 large state contractor and no appointing authority shall take or
99 threaten to take any personnel action against any state or quasi-public
100 agency employee or any employee of a large state contractor in
101 retaliation for (A) such employee's or contractor's disclosure of
102 information to (i) an employee of the Auditors of Public Accounts or
103 the Attorney General under the provisions of subsection (a) of this
104 section; (ii) an employee of the state agency or quasi-public agency
105 where such state officer or employee is employed; (iii) an employee of
106 a state agency pursuant to a mandated reporter statute or pursuant to
107 subsection (b) of section 17a-28; (iv) an employee of the Probate Court
108 where such employee is employed; or (v) in the case of a large state
109 contractor, an employee of the contracting state agency concerning
110 information involving the large state contract; or (B) such employee's

111 testimony or assistance in any proceeding under this section.

112 (2) (A) Not later than ninety days after learning of the specific
113 incident giving rise to a claim that a personnel action has been
114 threatened or has occurred in violation of subdivision (1) of this
115 subsection, a state or quasi-public agency employee, an employee of a
116 large state contractor or the employee's attorney may file a complaint
117 against the state agency, quasi-public agency, Probate Court, large
118 state contractor or appointing authority concerning such personnel
119 action with the Chief Human Rights Referee designated under section
120 46a-57. Such complaint may be amended if an additional incident
121 giving rise to a claim under this subdivision occurs subsequent to the
122 filing of the original complaint. The Chief Human Rights Referee shall
123 assign the complaint to a human rights referee appointed under
124 section 46a-57, who shall conduct a hearing and issue a decision
125 concerning whether the officer or employee taking or threatening to
126 take the personnel action violated any provision of this section. The
127 human rights referee may order a state agency, quasi-public agency or
128 Probate Court to produce (i) an employee of such agency, quasi-public
129 agency or Probate Court to testify as a witness in any proceeding
130 under this subdivision, or (ii) books, papers or other documents
131 relevant to the complaint, without issuing a subpoena. If such agency,
132 quasi-public agency or Probate Court fails to produce such witness,
133 books, papers or documents, not later than thirty days after such order,
134 the human rights referee may consider such failure as supporting
135 evidence for the complainant. If, after the hearing, the human rights
136 referee finds a violation, the referee may award the aggrieved
137 employee reinstatement to the employee's former position, back pay
138 and reestablishment of any employee benefits for which the employee
139 would otherwise have been eligible if such violation had not occurred,
140 reasonable attorneys' fees, and any other damages. For the purposes of
141 this subsection, such human rights referee shall act as an independent
142 hearing officer. The decision of a human rights referee under this
143 subsection may be appealed by any person who was a party at such
144 hearing, in accordance with the provisions of section 4-183.

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

149 (3) As an alternative to the provisions of subdivision (2) of this
150 subsection: (A) A state or quasi-public agency employee who alleges
151 that a personnel action has been threatened or taken may file an appeal
152 not later than ninety days after learning of the specific incident giving
153 rise to such claim with the Employees' Review Board under section 5-
154 202, or, in the case of a state or quasi-public agency employee covered
155 by a collective bargaining contract, in accordance with the procedure
156 provided by such contract; or (B) an employee of a large state
157 contractor alleging that such action has been threatened or taken may,
158 after exhausting all available administrative remedies, bring a civil
159 action in accordance with the provisions of subsection (c) of section 31-
160 51m.

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

173 (5) If a state officer or employee, as defined in section 4-141, a quasi-
174 public agency officer or employee, an officer or employee of a large
175 state contractor or an appointing authority takes or threatens to take
176 any action to impede, fail to renew or cancel a contract between a state

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

185 (f) Any employee of a state agency, quasi-public agency, Probate
186 Court or large state contractor, who is found by the Auditors of Public
187 Accounts, the Attorney General, a human rights referee or the
188 Employees' Review Board to have knowingly and maliciously made
189 false charges under subsection (a) of this section, shall be subject to
190 disciplinary action by such employee's appointing authority up to and
191 including dismissal. In the case of a state or quasi-public agency
192 employee, such action shall be subject to appeal to the Employees'
193 Review Board in accordance with section 5-202, or in the case of state
194 or quasi-public agency employees included in collective bargaining
195 contracts, the procedure provided by such contracts.

196 (g) On or before September first, annually, the Auditors of Public
197 Accounts shall submit, in accordance with the provisions of section 11-
198 4a, to the clerk of each house of the General Assembly a report
199 indicating the number of matters (1) for which facts and information
200 were transmitted to the auditors pursuant to this section during the
201 preceding state fiscal year and the disposition of each such matter, and
202 (2) reported under subsection (k) of this section and whether any
203 payments were made under said subsection.

204 (h) Each contract between a state or quasi-public agency and a large
205 state contractor shall provide that, if an officer, employee or
206 appointing authority of a large state contractor takes or threatens to
207 take any personnel action against any employee of the contractor in
208 retaliation for such employee's disclosure of information to any

209 employee of the contracting state or quasi-public agency or the
210 Auditors of Public Accounts or the Attorney General under the
211 provisions of subsection (a) or subdivision (1) of subsection (e) of this
212 section, the contractor shall be liable for a civil penalty of not more
213 than five thousand dollars for each offense, up to a maximum of
214 twenty per cent of the value of the contract. Each violation shall be a
215 separate and distinct offense and in the case of a continuing violation
216 each calendar day's continuance of the violation shall be deemed to be
217 a separate and distinct offense. The executive head of the state or
218 quasi-public agency may request the Attorney General to bring a civil
219 action in the superior court for the judicial district of Hartford to seek
220 imposition and recovery of such civil penalty.

221 (i) Each state agency or quasi-public agency shall post a notice of the
222 provisions of this section relating to state employees and quasi-public
223 agency employees in a conspicuous place that is readily available for
224 viewing by employees of such agency or quasi-public agency. Each
225 Probate Court shall post a notice of the provisions of this section
226 relating to Probate Court employees in a conspicuous place that is
227 readily available for viewing by employees of such court. Each large
228 state contractor shall post a notice of the provisions of this section
229 relating to large state contractors in a conspicuous place which is
230 readily available for viewing by the employees of the contractor.

231 (j) No person who, in good faith, discloses information in
232 accordance with the provisions of this section shall be liable for any
233 civil damages resulting from such good faith disclosure.

234 [(k) As used in this section:

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

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

240 (k) Each employee of a state agency who discloses information
241 relating to a practice that is an alleged gross waste of funds in the state
242 agency where such employee is employed in accordance with this
243 section and which, upon investigation by the Attorney General,
244 Auditors of Public Accounts or another state agency designated
245 pursuant to subsection (b) of this section, is determined by the
246 investigating agency to be a gross waste of funds, shall be awarded
247 with an amount equal to ten per cent of the employing agency's
248 estimated cost savings for the first calendar year after remedying such
249 wasteful practice. The amount of such award shall be (1) determined
250 by the Auditors of Public Accounts, who shall give a written
251 notification to the employing agency of such amount, and (2) a lump-
252 sum payment paid by the employing state agency to the employee
253 after receiving the auditors' determination of the amount.

254 (1) (1) No officer or employee of a state shellfish grounds lessee shall
255 take or threaten to take any personnel action against any employee of a
256 state shellfish grounds lessee in retaliation for (A) such employee's
257 disclosure of information to an employee of the leasing agency
258 concerning information involving the state shellfish grounds lease, or
259 (B) such employee's testimony or assistance in any proceeding under
260 this section.

261 (2) (A) Not later than ninety days after learning of the specific
262 incident giving rise to a claim that a personnel action has been
263 threatened or has occurred in violation of subdivision (1) of this
264 subsection, an employee of a state shellfish grounds lessee or the
265 employee's attorney may file a complaint against the state shellfish
266 grounds lessee concerning such personnel action with the Chief
267 Human Rights Referee designated under section 46a-57. Such
268 complaint may be amended if an additional incident giving rise to a
269 claim under this subdivision occurs subsequent to the filing of the
270 original complaint. The Chief Human Rights Referee shall assign the
271 complaint to a human rights referee appointed under section 46a-57,
272 who shall conduct a hearing and issue a decision concerning whether

273 the officer or employee taking or threatening to take the personnel
274 action violated any provision of this subsection. The human rights
275 referee may order a state shellfish grounds lessee to produce (i) an
276 employee of such lessee to testify as a witness in any proceeding under
277 this subdivision, or (ii) books, papers or other documents relevant to
278 the complaint, without issuing a subpoena. If such state shellfish
279 grounds lessee fails to produce such witness, books, papers or
280 documents, not later than thirty days after such order, the human
281 rights referee may consider such failure as supporting evidence for the
282 complainant. If, after the hearing, the human rights referee finds a
283 violation, the referee may award the aggrieved employee
284 reinstatement to the employee's former position, back pay and
285 reestablishment of any employee benefits for which the employee
286 would otherwise have been eligible if such violation had not occurred,
287 reasonable attorneys' fees and any other damages. For the purposes of
288 this subsection, such human rights referee shall act as an independent
289 hearing officer. The decision of a human rights referee under this
290 subsection may be appealed by any person who was a party at such
291 hearing, in accordance with the provisions of section 4-183.

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

296 (3) As an alternative to the provisions of subdivision (2) of this
297 subsection, an employee of a state shellfish grounds lessee who alleges
298 that a personnel action has been threatened or taken may, after
299 exhausting all available administrative remedies, bring a civil action in
300 accordance with the provisions of subsection (c) of section 31-51m.

301 (4) In any proceeding under subdivision (2) or (3) of this subsection
302 concerning a personnel action taken or threatened against any
303 employee of a state shellfish grounds lessee, which personnel action
304 occurs not later than two years after the employee first transmits facts

305 and information to an employee of the leasing agency concerning the
306 state shellfish grounds lease, there shall be a rebuttable presumption
307 that the personnel action is in retaliation for the action taken by the
308 employee under subdivision (1) of this subsection.

309 (m) As used in this section:

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	4-61dd

Statement of Purpose:

To offer a financial incentive for state employees who report wasteful spending within the government.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. HASKELL, 26th Dist.

S.B. 682