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HOUSE BILL 2068

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State of Washington

52nd Legislature

1991 Regular Session

By Representatives Phillips, Miller, Prentice, Brumsickle, Appelwick, Cole, Winsley, Cooper, Tate, Fraser, Mielke, Franklin, Brekke, Sprenkle, Horn, R. King, Pruitt, Beck, Padden, Ferguson, Holland, Riley, Mitchell, Valle, D. Sommers, Vance, Forner, Basich, Wineberry, Betrozoff, Silver, Wynne and Paris.

Read first time February 20, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to good faith communications by citizens to  
2 government agencies; amending RCW 4.24.500 and 4.24.520; adding new  
3 sections to chapter 4.24 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 4.24.500 and 1989 c 234 s 1 are each amended to read  
6 as follows:

7 Information provided by citizens concerning potential wrongdoing is  
8 vital to effective law enforcement ((and)), the efficient operation of  
9 government, and an economically productive society. The legislature  
10 finds that the threat of a civil action for damages or retaliation by  
11 government employees or the employees of government contractors or  
12 subcontractors can act as a deterrent to citizens who wish to report  
13 information to federal, state, or local agencies. The costs of  
14 defending against such suits or suffering such retaliation can be  
15 severely burdensome. The purpose of RCW 4.24.500 through 4.24.520 and

1 sections 2 and 4 through 6 of this act is to protect individuals who  
2 make good-faith reports to appropriate governmental bodies and to  
3 provide remedies for such individuals who are subjected to retaliation  
4 for having made such reports.

5 NEW SECTION. **Sec. 2.** For the purposes of RCW 4.24.500 through  
6 4.24.520 and sections 2 and 4 through 6 of this act, "retaliation"  
7 includes without limitation:

8 (1) Denial of adequate staff to perform duties;

9 (2) Frequent staff changes;

10 (3) Frequent and undesirable office changes;

11 (4) Refusal to assign meaningful work;

12 (5) Unwarranted and unsubstantiated letters of reprimand or  
13 unsatisfactory performance evaluations;

14 (6) Demotion;

15 (7) Reduction in pay;

16 (8) Denial of promotion;

17 (9) Suspension;

18 (10) Dismissal;

19 (11) Denial of employment;

20 (12) Supervisor or superior encouragement of colleagues to behave  
21 in a hostile manner toward the employee;

22 (13) Action that would constitute harassment under RCW 9A.46.020  
23 through 9A.46.060 and 9.61.230;

24 (14) Requiring psychiatric or psychological examination or  
25 treatment as a condition of continued employment; and

26 (15) Instigation or maintenance of surveillance.

27 **Sec. 3.** RCW 4.24.520 and 1989 c 234 s 4 are each amended to read  
28 as follows:

1 In order to protect the free flow of information from citizens to  
2 their government, an agency receiving a complaint or information under  
3 RCW 4.24.510 may intervene in and defend against any suit precipitated  
4 by the communication to the agency. In the event that a local  
5 governmental agency does not intervene in and defend against a suit  
6 arising from any communication protected under RCW 4.24.500 through  
7 4.24.520 and sections 2 and 4 through 6 of this act, the office of the  
8 attorney general ((may)) shall intervene in and defend against the  
9 suit. An agency prevailing upon the defense provided for in RCW  
10 4.24.510 shall be entitled to recover costs and reasonable attorneys'  
11 fees incurred in establishing the defense. ((If the agency fails to  
12 establish the defense provided for in RCW 4.24.510, the party bringing  
13 the action shall be entitled to recover from the agency costs and  
14 reasonable attorney's fees incurred in proving the defense inapplicable  
15 or invalid.))

16 NEW SECTION. Sec. 4. A person described in RCW 4.24.510 who  
17 communicates a complaint or information about or concerning that  
18 person's employer and who subsequently suffers retaliation from that  
19 employer for making such communication may report the conduct of the  
20 employer to the Washington state human rights commission which, upon a  
21 demonstration that the person reporting the alleged retaliation had  
22 made a good faith communication as described in RCW 4.24.510 and that  
23 the protected communication was a contributing factor to the  
24 retaliation, shall proceed with such report in the same manner as a  
25 complaint filed with the commission pursuant to RCW 49.60.230 through  
26 49.60.310.

27 NEW SECTION. Sec. 5. The human rights commission or the  
28 attorney general, in the execution of their respective responsibilities

1 pursuant to RCW 4.24.500 through 4.24.520 and sections 2 and 4 through  
2 6 of this act, may seek to enjoin any retaliatory actions by an  
3 employer against an employee and seek civil penalties against the  
4 employer in the same manner and to the same extent as provided for a  
5 violation of RCW 19.86.140.

6 NEW SECTION. **Sec. 6.** A person described in RCW 4.24.510 who  
7 communicates a complaint or information about or concerning that  
8 person's employer and who subsequently suffers retaliation from that  
9 employer for making such communication, upon the same showing as  
10 required by section 4 of this act, has a civil cause of action under  
11 RCW 19.86.020 against the employer. Such retaliatory conduct by an  
12 employer is a matter affecting the public interest and constitutes an  
13 unfair practice within the meaning of RCW 19.86.020 and 19.86.030 and  
14 is subject to all the provisions of chapter 19.86 RCW.

15 NEW SECTION. **Sec. 7.** Sections 2 and 4 through 6 of this act  
16 are each added to chapter 4.24 RCW.