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**SUBSTITUTE SENATE BILL 5672**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on State & Local Government (originally sponsored by Senators Kline, Costa, Prentice, Fraser, Fairley, Shin, Kohl-Welles, Haugen, Hargrove and McAuliffe)

Read first time 02/18/1999.

1 AN ACT Relating to retaliatory action against a whistleblower; and  
2 amending RCW 42.40.050.

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

4 **Sec. 1.** RCW 42.40.050 and 1992 c 118 s 3 are each amended to read  
5 as follows:

6 (1) Any person who is a whistleblower, as defined in RCW 42.40.020,  
7 and who ~~((as a result of being a whistleblower))~~ has been subjected to  
8 workplace reprisal or retaliatory action ~~((has))~~ is presumed to have  
9 established a cause of action for the remedies provided under chapter  
10 49.60 RCW. For the purpose of this section "reprisal or retaliatory  
11 action" means but is not limited to any of the following:

12 ~~((+1))~~ (a) Denial of adequate staff to perform duties;

13 ~~((+2))~~ (b) Frequent staff changes;

14 ~~((+3))~~ (c) Frequent and undesirable office changes;

15 ~~((+4))~~ (d) Refusal to assign meaningful work;

16 ~~((+5))~~ (e) Unwarranted and unsubstantiated letters of reprimand or  
17 unsatisfactory performance evaluations;

18 ~~((+6))~~ (f) Demotion;

19 ~~((+7))~~ (g) Reduction in pay;

1       (~~(8)~~) (h) Denial of promotion;  
2       (~~(9)~~) (i) Suspension;  
3       (~~(10)~~) (j) Dismissal;  
4       (~~(11)~~) (k) Denial of employment; (~~and~~)  
5       (~~(12)~~) (l) A supervisor or superior encouraging coworkers to  
6 behave in a hostile manner toward the whistleblower; and  
7       (m) A change in the physical location of the employee or a change  
8 in the basic nature of the employee's job, if either are in opposition  
9 to the employee's expressed wish.  
10       (2) The agency presumed to have taken retaliatory action under  
11 subsection (1) of this section may rebut that presumption by proving by  
12 a preponderance of the evidence that the agency action or actions were  
13 justified by reasons unrelated to the employee's status as a  
14 whistleblower.  
15       (3) Nothing in this section prohibits an agency from making any  
16 decision exercising its authority to terminate, suspend, or discipline  
17 an employee who engages in workplace reprisal or retaliatory action  
18 against a whistleblower. However, the agency also shall implement any  
19 order under chapter 49.60 RCW (other than an order of suspension if the  
20 agency has terminated the retaliator).

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