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**State Government & Tribal  
Affairs Committee**

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**HB 1911**

**Brief Description:** Revising state employee whistleblower protection definitions.

**Sponsors:** Representatives McDermott, Hunt, Dunshee, Williams, Appleton, Green, Darneille, Hasegawa, Morrell, Wood and Ormsby.

**Brief Summary of Bill**

- Expands the definitions of "whistleblower" and "improper governmental action" for purposes of the State Employee Whistleblower Act (Act).
- Expands those protected against retaliatory action under the Act.

**Hearing Date:** 2/20/07

**Staff:** Alison Hellberg (786-7152).

**Background:**

The Whistleblower Act, enacted in 1982 and amended in 1999, allows state employees to report improper governmental action and provides protection to employees who report improper action. "Improper governmental action" is defined as an action undertaken in the performance of the employee's official duties which is:

- a gross waste of public funds or resources;
- in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature; or
- of substantial and specific danger to the public health or safety.

An "improper governmental action" does not include personnel action for which other remedies exist.

Reports of improper governmental action must be filed in writing with the State Auditor's Office. The identity of the whistleblower is kept confidential, unless the whistleblower consents to

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

disclosure. The State Auditor (Auditor) investigates complaints independently through interviews and by reviewing relevant documents.

A "whistleblower" is defined as an employee who:

- reports alleged improper government action to the Auditor;
- provides information to the Auditor in connection with an investigation of a complaint;
- is believed to have provided information to the Auditor;
- identifies rules warranting review;
- provides information to the Joint Legislative Rules Review Committee (JARRC);
- is believed to have identified rules warranting review; or
- is believed to have provided information to the JARRC.

Whistleblowers are protected from retaliatory actions and have remedies available under the Human Rights Commission statutes.

### **Summary of Bill:**

"Improper governmental action" is defined as an action undertaken in the performance of the employee's official duties which is:

- a gross waste of public funds or resources;
- in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature;
- of substantial and specific danger to the public health or safety;
- gross mismanagement;
- an abuse of authority; or
- impedes the communication of scientific opinion or alters technical findings without scientifically valid justification.

The definition of "gross mismanagement" is the arbitrary or capricious exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

An "abuse of authority" is:

- the use of power and authority in a manner that is intimidating, coercive, or demeaning;
- willful malfeasance; or
- willful omission to perform a duty that adversely affects the rights of another person and results in improper personal gain or advantage.

A "whistleblower" is defined as an employee who:

- reports alleged improper government action to the State Auditor (Auditor);
- provides information to the Auditor in connection with an investigation of a complaint;
- is believed to have provided information to the Auditor;
- identifies rules warranting review;
- provides information to the Joint Administrative Rules Review Committee (JARRC);
- is believed to have identified rules warranting review;
- is believed to have provided information to the JARRC; or
- refuses to obey an order that he or she believes in good faith would require him or her to violate the law.

Whistleblowers and those who have reported the alleged occurrence of improper governmental action to a public body are protected from retaliatory actions and have remedies available. A "public body" is defined as:

- employee's supervisor;
- law enforcement;
- Attorney General;
- legislative and executive branches of government;
- court of law; and
- other governmental authorities.

**Appropriation:** None.

**Fiscal Note:** Requested on February 8, 2007.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.