

JAN 24 2007

A BILL FOR AN ACT

RELATING TO WHISTLEBLOWERS' PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that public employees may
2 possess information about improper activities such as waste,
3 fraud, and misconduct occurring in state government, but may not
4 report the information because of fear of retaliation by their
5 supervisors. Greater protection for public employees is
6 necessary to encourage them to come forward with information
7 that will help ensure the efficiency and integrity of state and
8 local government.

9 The purpose of this Act is to provide additional protection
10 to public employees who report violations of the law, waste, and
11 gross misconduct, incompetence, or inefficiency.

12 SECTION 2. Part V of chapter 378, Hawaii Revised Statutes,
13 is amended by designating sections 378-61 to 378-69, Hawaii
14 Revised Statutes, as subpart A and adding a title before section
15 378-61, Hawaii Revised Statutes, to read as follows:

16 "A. General Provisions"



1 SECTION 3. Chapter 378, Hawaii Revised Statutes, is
2 amended by adding a new subpart to part V to be appropriately
3 designated and to read as follows:

4 "B. Public Employees

5 §378- Protected disclosure by a public employee. (a)

6 In addition to any other protections under this chapter, a
7 public employer shall not discharge, threaten, or otherwise
8 discriminate against a public employee regarding the public
9 employee's compensation, terms, conditions, location, or
10 privileges of employment because the public employee, or a
11 person acting on behalf of the public employee, reports or is
12 about to report to the public employer or a public body,
13 verbally or in writing, any:

14 (1) Violation of a federal, state, or local law, rule,
15 ordinance, or regulation;

16 (2) Action by a public employer or a public employee that:

17 (A) Is undertaken in the performance of official
18 duties, regardless of whether the action is
19 within the normal scope of employment; and

20 (B) Is economically wasteful; or

21 (C) Involved gross misconduct, incompetence, or
22 inefficiency; or



1 (3) Condition that may significantly threaten the health
2 or safety of the public or the public employee;
3 provided that the disclosure is made for the purpose
4 of remedying the condition.

5 (b) In addition to the relief and damages provided under
6 section 378-63(c), a public employee who alleges a violation of
7 this section may bring a civil action for punitive damages.

8 (c) Every public employer shall post and keep posted
9 notices pertaining to the application of the law as shall be
10 prescribed by the state ombudsman in conspicuous places in every
11 establishment where any public employee is employed to permit
12 the public employee to readily observe a copy on the way to or
13 from the public employee's place of employment.

14 (d) For purposes of this section:

15 "Public employee" means any employee of the State or any
16 county, or the political subdivision and agencies of the State
17 or any county, any employee under contract with the State or any
18 county, any civil service employee, and any probationary or
19 provisional employee of the State or county.

20 "Public employer" means the State and any county, and the
21 political subdivisions and agencies of the State and any county,
22 and includes any agent thereof."



1 SECTION 4. Chapter 78, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§78- Whistleblowers. (a) Upon receipt of any
5 complaint made pursuant to section 378- , the ombudsman shall
6 inform the complainant of the complainant's rights under the
7 law.

8 (b) The ombudsman shall prescribe notices pertaining to
9 the application of part V of chapter 378."

10 SECTION 5. Section 96-8, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§96-8 Appropriate subjects for investigation. (a) An**
13 **appropriate subject for investigation is an administrative act**
14 **of an agency which might be:**

- 15 (1) Contrary to law;
16 (2) Unreasonable, unfair, oppressive, or unnecessarily
17 discriminatory, even though in accordance with law;
18 (3) Based on a mistake of fact;
19 (4) Based on improper or irrelevant grounds;
20 (5) Unaccompanied by an adequate statement of reasons;
21 (6) Performed in an inefficient manner; [e~~x~~]
22 (7) Otherwise erroneous[-]; or



1 (8) In violation of section 378- .

2 (b) The ombudsman may investigate to find an appropriate
3 remedy."

4 SECTION 6. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$, or so
6 much thereof as may be necessary for fiscal year 2007-2008, and
7 the same sum, or so much thereof as may be necessary for fiscal
8 year 2008-2009, for the purposes of section 4.

9 The sums appropriated shall be expended by the state
10 ombudsman for the purposes of this Act.

11 SECTION 7. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect upon its approval;
14 provided that section 6 shall take effect on July 1, 2007.

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INTRODUCED BY:

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Report Title:

Employment Practices; Whistleblowers' Protection

Description:

Provides additional protection to public employees who report violations of the law, waste, and gross misconduct, incompetence, or inefficiency; expands the state ombudsman's responsibilities regarding whistleblowers; and appropriates funds.

