
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. Special Provisions Applicable to Only Public Employment**

5 **§378-A Protected disclosure by a public employee.** (a) In
6 addition to any other protection under this chapter, a public
7 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) Action by a public employer or a public employee that:

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

18 (B) Is economically wasteful; or

19 (C) Involved gross misconduct, incompetence, or
20 inefficiency; or

21 (2) Condition that may significantly threaten the health
22 or safety of the public or the public employee;



1 provided that the disclosure is made for the purpose
2 of remedying the condition.

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

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

13 (d) For purposes of this section:

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

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



1 §378-B Enforcement jurisdiction. (a) The department of
2 labor and industrial relations shall have jurisdiction over
3 practices made unlawful by this subpart. Any public employee
4 claiming to be aggrieved by an unlawful practice under this
5 subpart may file with the department of labor and industrial
6 relations a verified complaint in writing, which shall state the
7 name and address of the public employer alleged to have
8 committed the unlawful practice complained of and which shall
9 set forth the particulars thereof and contain other information
10 as may be required by the department of labor and industrial
11 relations.

12 (b) If the public employer alleged to have committed the
13 unlawful practice complained of is the department of labor and
14 industrial relations, the public employee may file the verified
15 complaint with the department of the attorney general, which
16 shall have jurisdiction over practices made unlawful by this
17 subpart and alleged to have been committed by the department of
18 labor and industrial relations."

19 SECTION 4. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$, or so
21 much thereof as may be necessary for fiscal year 2007-2008, and
22 the same sum, or so much thereof as may be necessary for fiscal



1 year 2008-2009, to provide additional whistleblower protection
2 to public employers.

3 The sums appropriated shall be expended by the department
4 of labor and industrial relations for the purposes of this Act.

5 SECTION 5. In codifying the new sections added by section
6 3 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval;
12 provided that section 4 shall take effect on July 1, 2007.



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. (SD1)

