

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to the effective date of this act.

**NEW SECTION.** Sec. 3. There is appropriated from the general fund to the department of corrections for the biennium ending June 30, 1983, the sum of one hundred forty-eight thousand dollars, including 2.2 full time equivalent staff years, or so much thereof as may be necessary, to carry out the purposes of sections 1 and 2 of this act.

**NEW SECTION.** Sec. 4. There is added to chapter 10.64 RCW a new section to read as follows:

(1) Every judge of a court of limited jurisdiction shall have the authority to levy upon each misdemeanor a monthly assessment not to exceed fifty dollars for services provided whenever such a person is referred by the court to the misdemeanor probation department for evaluation or supervision services. The assessment may also be made by a sentencing judge in superior court when such misdemeanor or gross misdemeanor cases are heard in the superior court.

(2) It shall be the responsibility of the misdemeanor probation services office to implement local procedures approved by the court of limited jurisdiction to ensure collection and payment of such fees into the general fund of the city or county treasury.

(3) Revenues raised under this section shall be used to fund programs for misdemeanor probation services and shall be in addition to those funds provided in RCW 3.62.050.

Passed the House March 10, 1982.

Passed the Senate March 8, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.

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## CHAPTER 208

[Substitute House Bill No. 593]

### STATE EMPLOYEES—DISCLOSURE OF IMPROPER GOVERNMENTAL ACTIONS—PROTECTIONS

AN ACT Relating to state employees; adding new sections to chapter 41.06 RCW; adding a new section to chapter 42.17 RCW; creating a new section; and adding a new chapter to Title 42 RCW.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Section 1. It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures.

**NEW SECTION.** Sec. 2. As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Auditor" means the office of the state auditor.

(2) "Employee" means any individual employed or holding office in any department or agency of state government.

(3) "Improper governmental action" means any action by an employee:

(a) Which is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and

(b) Which is in violation of any state law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.

**NEW SECTION.** Sec. 3. (1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to disclose to the auditor (or representative thereof) information concerning improper governmental action.

(2) For the purpose of subsection (1) of this section, "use of official authority or influence" includes taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(3) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law.

**NEW SECTION.** Sec. 4. (1) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, for a period not to exceed thirty days, conduct such preliminary investigation of the matter as the auditor deems appropriate. In conducting the investigation, the identity of the person providing the information which initiated the investigation shall be kept confidential.

(2) In addition to the authority under subsection (1) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(3) (a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the person, if known, who provided the information initiating the investigation.

(b) The notification shall be by memorandum containing a summary of the information received, a summary of the results of the preliminary investigation with regard to each allegation of improper governmental action, and any determination made by the auditor under (c) of this subsection.

(c) In any case to which this section applies, the identity of the person who provided the information initiating the investigation shall be kept confidential unless the auditor determines that the information has been provided other than in good faith.

(4) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the party, if known, who provided the information initiating the investigation and either conduct further investigations or issue a report under subsection (6) of this section.

(5) (a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(6) (a) If the auditor determines that there is reasonable cause to believe that an employee has engaged in any improper activity, the auditor shall report the nature and details of the activity to:

(i) The employee and the head of the employing agency; and

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate.

(b) The auditor has no enforcement power except that in any case in which the auditor submits a report of alleged improper activity to the head of an agency, the attorney general, or any other individual to which a report has been made under this section, the individual shall report to the auditor with respect to any action taken by the individual regarding the activity, the first report being transmitted no later than thirty days after the date of the auditor's report and monthly thereafter until final action is taken. If the

auditor determines that appropriate action is not being taken within a reasonable time, the auditor shall report the determination to the governor and to the legislature.

(7) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter.

**NEW SECTION.** Sec. 5. (1) Any employee (a) who provides his or her name and specific information to the auditor on any matter which is found to warrant further investigation or other action, or which is provided by the employee in good faith, as determined by the auditor, whether or not further action is warranted and (b) who is subjected to any reprisal or retaliatory action undertaken during the period beginning on the day after the date on which the information is provided to the auditor and ending on the date which is two years after the auditor's report on the matter, may seek judicial review of the reprisal or retaliatory action in superior court, whether or not there has been an administrative review of the action. In such an action, the reviewing court may award reasonable attorney's fees.

(2) The auditor shall, by rule, establish a program which provides that, during the two-year period after a report to the auditor under this chapter, the auditor will contact the employee who provided specific information involved on at least a quarterly basis for purposes of determining if any changes in the employee's work situation exist which are related to the employee's having provided information. If the auditor has reason to believe that such a change in work situation has occurred, the auditor shall investigate and report on the matter in accordance with this chapter.

(3) For the purpose of this section "reprisal or retaliatory action" means but is not limited to:

- (a) Denial of adequate staff to perform duties;
- (b) Frequent staff changes;
- (c) Frequent and undesirable office changes;
- (d) Refusal to assign meaningful work;
- (e) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
- (f) Demotion;
- (g) Reduction in pay;
- (h) Denial of promotion;
- (i) Suspension; and
- (j) Dismissal.

**NEW SECTION.** Sec. 6. An employee who wishes to disclose information under this chapter shall make a good faith effort to provide to the agency head the information to be disclosed before its disclosure.

**NEW SECTION.** Sec. 7. A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available to each employee upon entering public

employment. Employees shall be notified each year of the procedures and protections under this chapter.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 42 RCW.

NEW SECTION. Sec. 9. The legislature finds that, under some circumstances, maintaining information relating to state employee misconduct or alleged misconduct is unfair to employees and serves no useful function to the state. The purpose of section 10 of this act is to direct the personnel board to adopt rules governing maintenance of employee records so that the records are maintained in a manner which is fair to employees, which ensures proper management of state governmental affairs, and which adequately protects the public interest.

NEW SECTION. Sec. 10. There is added to chapter 41.06 RCW a new section to read as follows:

(1) By January 1, 1983, the personnel board shall adopt rules applicable to each agency to ensure that information relating to employee misconduct or alleged misconduct is destroyed or maintained as follows:

(a) All such information determined to be false and all such information in situations where the employee has been fully exonerated of wrongdoing, shall be promptly destroyed;

(b) All such information having no reasonable bearing on the employee's job performance or on the efficient and effective management of the agency, shall be promptly destroyed;

(c) All other information shall be retained only so long as it has a reasonable bearing on the employee's job performance or on the efficient and effective management of the agency.

(2) Notwithstanding subsection (1) of this section, an agency may retain information relating to employee misconduct or alleged misconduct if:

(a) The employee requests that the information be retained; or

(b) The information is related to pending legal action or legal action may be reasonably expected to result.

(3) In adopting rules under this section, the personnel board shall consult with the public disclosure commission to ensure that the public policy of the state, as expressed in chapter 42.17 RCW, is adequately protected.

NEW SECTION. Sec. 11. There is added to chapter 41.06 RCW a new section to read as follows:

Section 10 of this act does not prohibit an agency from destroying identifying information in records relating to employee misconduct or alleged misconduct if the agency deems the action is consistent with the policy expressed in section 10 of this act and in chapter 42.17 RCW.

NEW SECTION. Sec. 12. There is added to chapter 41.06 RCW a new section to read as follows:

Notwithstanding RCW 41.06.040, sections 10 and 11 of this act apply to all classified and exempt employees of the state, including employees of the institutions of higher education.

NEW SECTION. Sec. 13. There is added to chapter 42.17 RCW a new section to read as follows:

Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with section 10 of this act, to the extent necessary to ensure fairness to the employee.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 9, 1982.

Passed the Senate March 4, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.

## CHAPTER 209

[Substitute House Bill No. 452]

### URBAN ARTERIAL BOARD—MEMBERSHIP

AN ACT Relating to urban arterials; and amending section 18, chapter 83, Laws of 1967 ex. sess. as last amended by section 3, chapter 315, Laws of 1981 and RCW 47.26.120.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 18, chapter 83, Laws of 1967 ex. sess. as last amended by section 3, chapter 315, Laws of 1981 and RCW 47.26.120 are each amended to read as follows:

(1) There is hereby created an urban arterial board of thirteen members, six of whom shall be county members, six of whom shall be city members. The chairman shall be the state aid engineer for the department of transportation.

(2) Of the county members of the board, one member shall be a county engineer from a county of the first class or larger; one member shall be a county engineer from a county of the second class or smaller; one member shall be an engineer occupying the position of county road administration engineer, created by RCW 36.78.060; one member shall be the chairman of the county road administration board created by RCW 36.78.030; one member shall be a county executive, council member, or commissioner from a county of the first class or larger; one member shall be a county executive, council member, or commissioner from a county of the second class or smaller. All county members of the board, except the county road administration engineer and the chairman of the county road administration board,