

BILL ANALYSIS

C.S.H.B. 5573
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that, while current statute regarding whistleblower protections does not provide workplace protections for public employees who report wasteful government spending by state or local governmental entities or an elected officer of a governmental entity and does not provide those protections for public employees who report violations of law by an elected officer of the employing governmental entity, these protections could be crucial in making employees feel safe and confident in reporting wasteful government spending and the applicable violations of law without fear of retaliation from their employers. C.S.H.B. 5573 seeks to address this issue by ensuring that public employees of state or local governmental entities cannot be suspended, terminated, or face adverse personnel actions for reporting wasteful spending by the entity, another public employee, or an elected officer of the entity if the report is made to the state auditor's office.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 5573 amends the Government Code to prohibit a state or local governmental entity from suspending or terminating the employment of, or from taking other adverse personnel action against, a public employee who in good faith reports the following:

- wasteful spending by the employing governmental entity, another public employee, or an elected officer of the employing governmental entity to the state auditor's office; or
- a violation of law by an elected officer of the employing governmental entity to an appropriate law enforcement authority.

The bill establishes that a public employee who sues under provisions regarding protections for a public employee who reports violations of law or wasteful spending has the burden of proof, except that if the suspension or termination of, or adverse personnel action against, a public employee occurs not later than the 90th day after the date on which the employee reports wasteful spending, the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report. The bill further establishes that it is an affirmative defense to such a suit that the employing state or local governmental entity would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under provisions regarding protections for a public employee who reports violations of law or wasteful spending.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5573 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute prohibit a state or local governmental entity from taking certain personnel actions against a public employee who in good faith reports to an appropriate law enforcement authority certain violations by the employing governmental entity, another public employee, or an elected officer of the employing governmental entity. However, those prohibitions differ as follows:

- the introduced prohibited such actions with regard to good faith reports of wasteful or fraudulent spending, whereas the substitute prohibits such actions with regard to good faith reports of wasteful spending;
- the substitute, but not the introduced, includes a provision requiring the good faith report of wasteful spending to be made to the state auditor's office in order for the prohibition to apply;
- the substitute includes provisions absent from the introduced that establish, as follows:
 - a public employee who sues under provisions regarding protections for a public employee who reports violations of law or wasteful spending has the burden of proof, except that if the suspension or termination of, or adverse personnel action against, a public employee occurs not later than the 90th day after the date on which the employee reports wasteful spending, the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report; and
 - it is an affirmative defense to such a suit that the employing state or local governmental entity would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under provisions regarding protections for a public employee who reports violations of law or wasteful spending.