



LAWS OF ALASKA

1989

Source

SCS CSHB 91(SA)

Chapter No.

27

AN ACT

Relating to protection for certain public employees and certain other persons who report or participate in a proceeding connected with a matter of public concern.

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

THE ACT FOLLOWS ON PAGE 1, LINE 11

Approved by the Governor: May 11, 1989
Actual Effective Date: August 9, 1989

AN ACT

Relating to protection for certain public employees and certain other persons who report or participate in a proceeding connected with a matter of public concern.

* Section 1. AS 39.90 is amended by adding new sections to read:

ARTICLE 2. PROTECTION FOR WHISTLEBLOWERS.

Sec. 39.90.100. PERSONS PROTECTED. (a) A public employer may not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because

(1) the employee, or a person acting on behalf of the employee, reports to a public body or is about to report to a public body a matter of public concern; or

(2) the employee participates in a court action, an investigation, a hearing, or an inquiry held by a public body on a matter of public concern.

(b) A public employer may not disqualify a public employee or other person who reports a matter of public concern or participates in a proceeding connected with a matter of public concern before a public body or court, because of the report or participation, from eligibility to

(1) bid on contracts with the public employer;

(2) receive land under a law of the state or an ordinance

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1 of the municipality; or

2 (3) receive another right, privilege, or benefit.

3 (c) The provisions of AS 39.90.100 - 39.90.150 do not

4 (1) require an employer to compensate an employee for
5 participation in a court action or in an investigation, hearing, or
6 inquiry by a public body;

7 (2) prohibit an employer from compensating an employee for
8 participation in a court action or in an investigation, hearing, or
9 inquiry by a public body;

10 (3) authorize the disclosure of information that is legally
11 required to be kept confidential; or

12 (4) diminish or impair the rights of an employee under a
13 collective bargaining agreement.

14 (d) An employer shall post notices and use other appropriate
15 means to inform employees of their protections and obligations under
16 AS 39.90.100 - 39.90.150.

17 Sec. 39.90.110. LIMITATION TO PROTECTIONS. (a) A person is not
18 entitled to the protections under AS 39.90.100 - 39.90.150 unless the
19 person

20 (1) reasonably believes that the information reported is or
21 is about to become a matter of public concern; and

22 (2) reports the information in good faith.

23 (b) A person is entitled to the protections under AS 39.90.100 -
24 39.90.150 only if the matter of public concern

25 (1) is not the result of conduct by the person seeking
26 protection; or

27 (2) is the result of conduct by the person that was re-
28 quired by the person's employer.

29 (c) As part of its written personnel policy, a public employer

may require that, before an employee initiates a report on a matter of public concern under AS 39.90.100, the employee shall submit a written report concerning the matter to the employer. However, the employee is not required to submit a report if the employee

(1) reasonably believes that reports to the employer will not result in prompt action to remedy the matter of public concern;

(2) believes with reasonable certainty that the activity, policy, or practice is already known to one or more supervisors;

(3) reasonably believes that an emergency is involved; or

(4) reasonably fears reprisal or discrimination as a result of disclosure.

Sec. 39.90.120. RELIEF AND PENALTIES. (a) A person who alleges a violation of AS 39.90.100 may bring a civil action and the court may grant appropriate relief, including punitive damages.

(b) A person who violates or attempts to violate AS 39.90.100 is also liable for a civil fine of not more than \$10,000. The attorney general may enforce this subsection.

(c) A person who attempts to prevent another person from making a report or participating in a matter under AS 39.90.100(a) with intent to impede or prevent a public inquiry on the matter is liable for a civil fine of not more than \$10,000.

Sec. 39.90.130. EXEMPTION FOR MUNICIPALITIES. A municipality is not required to comply with the provisions of AS 39.90.100 - 39.90.150 if the municipality has adopted an ordinance that provides protections for its employees and other persons that are substantially similar to the protections under AS 39.90.100 - 39.90.150. Notwithstanding AS 29.25.070, the ordinance may provide for a civil penalty for violation of the ordinance not to exceed \$10,000.

Sec. 39.90.140. DEFINITIONS. In AS 39.90.100 - 39.90.150

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1 (1) "employee" or "public employee" means a person who
2 performs a service for wages or other remuneration under a contract of
3 hire, written or oral, express or implied, for a public employer;

4 (2) "employer" or "public employer" includes the state, a
5 public or quasi-public corporation or authority established by state
6 law, the University of Alaska, and a political subdivision of the
7 state including a municipality, school district, and rural educational
8 attendance area;

9 (3) "matter of public concern" means

10 (A) a violation of a state, federal, or municipal law,
11 regulation, or ordinance;

12 (B) a danger to public health or safety;

13 (C) gross mismanagement, a substantial waste of funds,
14 or a clear abuse of authority; or

15 (D) a matter accepted for investigation by the office
16 of the ombudsman under AS 24.55.100 or 24.55.320;

17 (4) "public body" includes an officer or agency of

18 (A) the federal government;

19 (B) the state;

20 (C) a political subdivision of the state including

21 (i) a municipality;

22 (ii) a school district; and

23 (iii) a rural educational attendance area;

24 (D) a public or quasi-public corporation or authority
25 established by state law including the Alaska Railroad Corpora-
26 tion; and

27 (E) the University of Alaska.

28 Sec. 39.90.150. SHORT TITLE. AS 39.90.100 - 39.90.150 may be
29 cited as the Alaska Whistleblower Act.