

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 861

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to rights of persons who report viola-
7 tions of law; and providing for an effective date."

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

9 * Section 1. AS 39.26.010 is amended by adding a new subsection to read:

10 (d) A violation of (a) of this section is a class A misdemeanor.

11 * Sec. 2. AS 39.26 is amended by adding a new section to read:

12 ARTICLE 2. PROTECTIONS FOR REPORTING A VIOLATION.

13 Sec. 39.26.030. PROTECTIONS FOR REPORTING A VIOLATION. (a) A
14 state or municipal employee who reports that a public official has
15 committed an act that constitutes a violation of law is not, because of
16 that reporting, subject to

17 (1) dismissal from office or employment;

18 (2) withholding of salary increases;

19 (3) withholding of promotions;

20 (4) demotion in employment status;

21 (5) transfer of employment location;

22 (6) denial of a right or benefit to which the person is

23 entitled; or

24 (7) any other type of retaliation.

25 (b) If a state or municipal employee who has reported or is about
26 to report that a public official has committed an act that constitutes a
27 violation of law is subject to an action described in (a) of this section
28 for a reason other than the reporting, the state agency or municipality
29 shall establish by a preponderance of evidence that the action is not a

1 sanction imposed because of the reporting.

2 (c) A person who is not a public official who reports or is about
3 to report that a public official has committed an act that constitutes a
4 violation of law may not be disqualified because of that reporting from
5 eligibility to

6 (1) bid on contracts with an agency of the state or of a
7 municipality of the state;

8 (2) receive land under a law of the state or an ordinance of
9 a municipality;

10 (3) receive any other right or benefit to which the person is
11 entitled.

12 (d) If a person who is not a public official who has reported or
13 is about to report that a public official has committed an act that con-
14 stitutes a violation of law is determined to be ineligible for a right
15 or benefit described in (c) of this section for a reason other than the
16 reporting, the state agency or municipality shall establish by a pre-
17 ponderance of evidence that the determination of ineligibility is not a
18 sanction imposed because of the reporting.

19 (e) A person who violates (a) or (c) of this section is subject to
20 a civil penalty of not more than \$5,000.

21 (f) A person who alleges a violation of (a) or (c) of this section
22 may bring a civil action in the superior court for appropriate injunc-
23 tive relief or actual damages or both within 90 days after the occur-
24 rence of the alleged violation. The court may order reinstatement,
25 payment of back wages, reinstatement of other rights or benefits in-
26 cluding seniority rights, and other damages.

27 (g) A state agency or municipality shall post notices and use
28 other means to keep its employees and other persons informed of the
29 provisions of this section.

1 (h) As used in this section, "public official" includes each
2 person employed by

3 (1) a state department or agency, whether in the executive,
4 legislative, or judicial branch or by a political subdivision or muni-
5 cipality of the state, and

6 (2) an entity such as the University of Alaska, the Alaska
7 State Housing Authority, and the Alaska Commercial Fishing and Agricul-
8 ture Bank.

9 * Sec. 3. AS 09.55 is amended by adding a new section to read:

10 ARTICLE 10. PROTECTIONS TO EMPLOYEES.

11 Sec. 09.55.641. PROTECTION TO AN EMPLOYEE. (a) An employer may
12 not discharge, threaten, or otherwise discriminate against an employee
13 regarding the compensation, terms, conditions, location, or privileges
14 of employment of the employee because

15 (1) the employee or a person acting on behalf of the employee
16 reports or is about to report verbally or in writing to a federal,
17 state, or municipal officer or agency a violation or a suspected viola-
18 tion of a law or regulation adopted under the law of the state, a poli-
19 tical subdivision of the state, or the United States unless the employee
20 knows that the report is false; or

21 (2) the employee is requested to participate in an investiga-
22 tion, hearing, or inquiry held by a federal, state, or municipal officer
23 or agency or in a court action.

24 (b) Nothing in this section requires an employer to compensate an
25 employee for participation in an investigation, hearing, or inquiry held
26 by a federal, state, or municipal officer or agency or in a court action.

27 (c) A person who alleges a violation of this section may bring a
28 civil action for injunctive relief or damages or both within 90 days
29 after the violation.

1 (d) In an action brought under this section, the court may order
2 reinstatement of the employee, payment of back wages, full reinstatement
3 of fringe benefits and seniority rights, damages, and any other remedy
4 the court considers appropriate. In addition to the remedies stated in
5 this subsection, a person who violates this section is subject to a
6 civil fine of not more than \$5,000.

7 (e) This section does not diminish or impair the rights of a
8 person under a collective bargaining agreement.

9 (f) An employer shall post notices and use other means to keep
10 employees informed of the provisions of this section.

11 (g) In this section

12 (1) "employee"

13 (A) means a person who performs a service for wages or
14 other remuneration under a contract of hire, written or oral,
15 express or implied;

16 (B) includes a person employed by the state or by a
17 political subdivision of the state;

18 (2) "employer"

19 (A) means a person who has one or more employees;

20 (B) includes the state or a political subdivision of the
21 state.

22 * Sec. 4. This Act takes effect July 1, 1982.
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