

**Assembly Bill No. 1666**

CHAPTER 80

An act to amend Section 53087.6 of the Government Code, relating to local government.

[Approved by Governor July 15, 2010. Filed with  
Secretary of State July 15, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1666, Swanson. Local government: whistleblower hotline.

Existing law authorizes a city, county, or city and county auditor or controller to maintain a whistleblower hotline to receive calls from persons who have information regarding possible violations by local government employees of state, federal, or local statutes, rules, or regulations, and requires any investigation conducted pursuant to this authorization to be kept confidential except where release of findings of a conducted investigation is deemed necessary to serve the interests of the public, except that the identity of the individual or individuals involved in the investigation is required to be kept confidential.

This bill would specify that a city, county, or city and county auditor or controller may maintain the whistleblower hotline to receive calls from persons who have information regarding fraud, waste, or abuse, and would define those terms. The bill would also authorize the auditor or controller to provide a copy of a substantiated audit report or investigation to the appropriate appointing authority for disciplinary purposes, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 53087.6 of the Government Code is amended to read:

53087.6. (a) (1) A city, county, or city and county auditor or controller who is elected to office may maintain a whistleblower hotline to receive calls from persons who have information regarding fraud, waste, or abuse by local government employees.

(2) A city, county, or city and county auditor or controller who is appointed by, or is an employee of, a legislative body or the government agency that is governed by the city, county, or city and county, shall obtain approval of that legislative body or the government agency, as the case may be, prior to establishing the whistleblower hotline.

(b) The auditor or controller may refer calls received on the whistleblower hotline to the appropriate government authority for review and possible investigation.

(c) During the initial review of a call received pursuant to subdivision (a), the auditor or controller, or other appropriate governmental agency, shall hold in confidence information disclosed through the whistleblower hotline, including the identity of the caller disclosing the information and the parties identified by the caller.

(d) A call made to the whistleblower hotline pursuant to subdivision (a), or its referral to an appropriate agency under subdivision (b), may not be the sole basis for a time period under a statute of limitation to commence. This section does not change existing law relating to statutes of limitation.

(e) (1) Upon receiving specific information that an employee or local government has engaged in an improper government activity, as defined by paragraph (2) of subdivision (f), a city or county auditor or controller may conduct an investigative audit of the matter. The identity of the person providing the information that initiated the investigative audit shall not be disclosed without the written permission of that person, unless the disclosure is to a law enforcement agency that is conducting a criminal investigation. If the specific information is in regard to improper government activity that occurred under the jurisdiction of another city, county, or city and county, the information shall be forwarded to the appropriate auditor or controller for that city, county, or city and county.

(2) Any investigative audit conducted pursuant to this subdivision shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential.

(3) Notwithstanding paragraph (2), the auditor or controller may provide a copy of a substantiated audit report that includes the identities of the subject employee or employees and other pertinent information concerning the investigation to the appropriate appointing authority for disciplinary purposes. The substantiated audit report, any subsequent investigatory materials or information, and the disposition of any resulting disciplinary proceedings are subject to the confidentiality provisions of applicable local, state, and federal statutes, rules, and regulations.

(f) (1) For purposes of this section, “employee” means any individual employed by any county, city, or city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, or political subdivision that falls under the auditor’s or controller’s jurisdiction.

(2) For purposes of this section, “fraud, waste, or abuse” means any activity by a local agency or employee that is undertaken in the performance of the employee’s official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion,

malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

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