

AMENDED IN SENATE JUNE 29, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1412**

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**Introduced by Assembly Member Wildman**  
*(Coauthor: Senator Hughes)*

February 26, 1999

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An act to add Article 10 (commencing with Section 9149.20) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1412, as amended, Wildman. Public employees.

Under the Reporting of Improper Governmental Activities Act, a state employee is prohibited from using his or her authority or influence to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose an improper governmental activity to the State Auditor.

This bill would prohibit any state or local governmental employee from interfering with the right of any person to disclose an improper governmental activity to an investigating committee of the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Article 10 (commencing with Section  
2 9149.20) is added to Chapter 1.5 of Part 1 of Division 2 of  
3 Title 2 of the Government Code, to read:

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Article 10. Whistleblower Protection Act

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7 9149.20. This article shall be known and may be cited  
8 as the Whistleblower Protection Act.

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10 9149.21. It is the intent of the Legislature that state  
11 employees and other persons should disclose, to the  
12 extent not expressly prohibited by law, improper  
13 governmental activities.

14 9149.22. For the purposes of this article, the following  
15 words have the following meanings:

16 (a) "Committee" means any investigating committee  
17 of the Legislature.

18 (b) "Employee" means any individual appointed by  
19 the Governor or employed or holding office in a state  
20 agency, as defined by Section 11000, including the  
21 California State University and the University of  
22 California, or any public entity as defined by Section 7260,  
23 or any agency of local government, as defined in  
24 subdivision (d) of Section 8 of Article XIII B of the  
25 California Constitution.

26 (c) "Improper governmental activity" means any  
27 activity by a governmental agency or by an employee  
28 that is undertaken in the performance of the employee's  
29 official duties, whether or not that action is within the  
30 scope of his or her employment, and that (1) is in  
31 violation of any state or federal law or regulation,  
32 including, but not limited to, corruption, malfeasance,  
33 bribery, theft of government property, fraudulent claims,  
34 fraud, coercion, conversion, malicious prosecution,  
35 misuse of government property, or willful omission to  
36 perform duty, or (2) is economically wasteful, or involves  
gross misconduct, incompetency, or inefficiency.



1 (d) “Person” means any individual, corporation, trust,  
2 association, any state or local government, or any agency  
3 or instrumentality of any of the foregoing.

4 (e) “Use of official authority or influence” includes  
5 promising to confer, or conferring, any benefit; effecting,  
6 or threatening to effect, any reprisal; or taking, or  
7 directing others to take, or recommending, processing, or  
8 approving, any personnel action, including, but not  
9 limited to, appointment, promotion, transfer,  
10 assignment, performance evaluation, suspension, or  
11 other disciplinary action.

12 9149.23. (a) An employee may not directly or  
13 indirectly use or attempt to use the official authority or  
14 influence of the employee for the purpose of  
15 intimidating, threatening, coercing, commanding, or  
16 attempting to intimidate, threaten, coerce, or command  
17 any person for the purpose of interfering with the right  
18 of that person to disclose to a legislative committee  
19 improper governmental activities.

20 (b) Any employee who violates subdivision (a) may be  
21 liable in an action for civil damages brought against the  
22 employee by the offended party.

23 (c) Nothing in this section shall be construed to  
24 authorize an individual to disclose information otherwise  
25 prohibited by or under law.

26 (d) *Nothing in this section shall be construed to*  
27 *abrogate or limit any other theory of liability or any other*  
28 *remedy that is otherwise available at law.*

