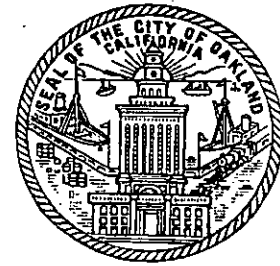


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OAKLAND  
2008 MAR 20 PM 4:08

# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** April 3, 2008  
**Bill Number:** AB 2001  
**Bill Author:** Assembly Member Swanson

### DEPARTMENT INFORMATION

**Contact:** City Auditor Courtney Ruby

**Department:** Office of the City Auditor

**Telephone:** x3378 **FAX #** x7640

**E-mail:** cruby@oaklandnet.com

### RECOMMENDED POSITION:

SUPPORT

### Summary of the Bill

Currently city or county auditors and controllers may 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. Under current state law the whistleblower's identity is subject to disclosure under the California public records act. AB 2001 would allow the auditor or controller to hold in confidence information disclosed through the whistleblower hotline, including the identity of the caller disclosing the information and the individuals identified by the caller during the initial review of a call. AB 2001 would also allow the City Auditor to hold in confidence the identity of an individual who discloses to the City Auditor that an employee or local agency has engaged in improper governmental activity when the information provided results in an investigative audit.

### Positive Factors for Oakland

AB 2001 is a foundational cornerstone to creating a culture of transparency and accountability by both welcoming and protecting whistleblowing by Oakland City employees. In the government environment 40% of fraud is detected through tips from employees and the public<sup>1</sup>. City employees are generally those who best understand how the City operates and the most aware of wasteful, unethical or illegal behavior within the City government. However, City employees are usually concerned that if they blow the whistle they will be subject to many forms of retaliation, and unfortunately, these concerns are often not unfounded. AB 2001 ensures that an employees' identity will be kept confidential unless the employee waives that confidentiality in writing. Affording this protection to whistleblowers reinforces that public servants best serve the citizenry when they can be candid and honest without reservation in conducting the people's business.

<sup>1</sup> 2006 Report of the Association of Certified Fraud Examiners on Occupational Fraud.

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**Negative Factors for Oakland**

None known at this time.

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical** (top priority for City lobbyist, city position required ASAP)  
 **Very Important** (priority for City lobbyist, city position necessary)  
 **Somewhat Important** (City position desirable if time and resources are available)  
 **Minimal** or  **None** (do not review with City Council, position not required)

**Known support:**

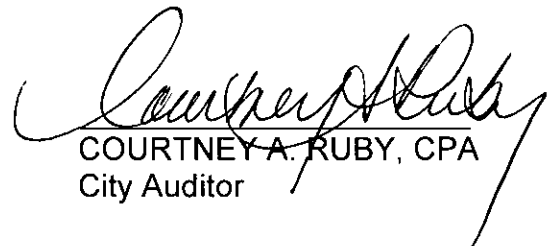
There is currently no known support.

**Known Opposition:**

None known at this time.

**Attach bill text and state/federal legislative committee analysis, if available.**

Respectfully Submitted,

  
COURTNEY A. RUBY, CPA  
City Auditor

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BILL NUMBER: AB 2001      INTRODUCED  
BILL TEXT

INTRODUCED BY    Assembly Member Swanson

FEBRUARY 15, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2001, as introduced, Swanson. Local government: whistleblower hotlines.

Existing law requires the State Auditor to maintain a whistleblower hotline to receive calls from persons who have information regarding possible violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility by a corporation or limited liability company to its shareholders, investors, or employees.

This bill would authorize a city or 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.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 53087.6 is added to the Government Code, to read:

53087.6. (a) A city or county auditor or controller may 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.

(b) 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 employer identified by the caller.

(c) 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.

(d) Upon receiving specific information that an employee or local agency has engaged in an improper governmental activity, 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.

(e) 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.

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Approved as to Form and Legality

*Gracy Chinn*  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY City Auditor Courtney A. Ruby

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**RESOLUTION IN SUPPORT OF ASSEMBLY BILL NO. 2001,  
A PROPOSAL TO AMEND THE GOVERNMENT CODE FOR  
THE PURPOSE OF AUTHORIZING CITY AND COUNTY  
AUDITORS AND CITY AND COUNTY CONTROLLERS TO  
HOLD IN CONFIDENCE THE IDENTITIES OF  
INDIVIDUALS WHO PROVIDE INFORMATION THAT  
RESULT IN INVESTIGATIVE AUDITS**

**WHEREAS**, the City of Oakland is committed to rooting out waste, fraud and abuse and to maintaining the highest standards of behavior by its officials and employees; and

**WHEREAS**, the City Auditor has a Charter mandated requirement to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste, and mismanagement; and

**WHEREAS**, the City Auditor maintains a Whistleblower Program for the purpose of receiving individual complaints concerning the quality and delivery of government services, wasteful and inefficient City government practices, misuse of City funds, and improper activities by City officers and employees; and

**WHEREAS**, AB 2001 would allow the City Auditor to hold in confidence information disclosed through the whistleblower hotline, including the identity of the caller disclosing the information and the individuals identified by the caller during the initial review of a call; and

**WHEREAS**, AB 2001 would also allow the City Auditor to hold in confidence the identity of an individual who discloses to the City Auditor that an employee or local agency has engaged in improper governmental activity when the information provided results in an investigative audit; and

**WHEREAS**, the City of Oakland has an interest in protecting the integrity of the City Auditor's Whistleblower Program and in both welcoming and protecting whistleblowing by Oakland City employees; and

**WHEREAS**, the California Legislature recognized the need for the Attorney General to maintain the confidence of information disclosed through its whistleblower hotline, including the identity of the caller by enacting California Labor Code Section 1102.7; and

**WHEREAS**, it is in the interest of the City of Oakland to have similar protections extended to the Office of the City Auditor thereby enhancing the City Auditor's ability to perform her job and protect the interest of the public; now therefore be it

**RESOLVED**: that the City of Oakland declares its support for AB 2001 (Swanson); and be it

**FURTHER RESOLVED**: that the City's state lobbyist are directed to advocate the City's position to the State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California