

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1174

Page 1, line 1, remove "civil"

Page 1, line 1, after "false" insert "medical assistance"

Page 1, line 6, after "1." insert "a."

Page 1, line 6, replace "includes any" with "means a"

Page 1, line 6, after "demand" insert ", whether under a contract or otherwise."

Page 1, line 6, replace the first underscored comma with "or"

Page 1, line 6, replace "or services made" with "regardless of whether the state has title to that money or property, which is presented"

Page 1, line 7, replace "a governmental unit" with "the state"

Page 1, line 7, after the second "or" insert "is made"

Page 1, line 8, remove "whether under contract or not."

Page 1, line 8, remove "any portion of"

Page 1, line 8, replace the third underscored comma with "or"

Page 1, line 8, remove ", or"

Page 1, line 9, replace "services requested or demanded issued from or was provided by a governmental unit" with "is to be spent or used on behalf of the state or to advance a state program or interest, and if the state:"

- (1) Provides or has provided any portion of the money or property requested or demanded; or
- (2) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded

Page 1, after line 9, insert

"b."

Page 1, line 10, replace "includes a document submitted as part of or in support of the claim" with "does not include a request or demand for money or property the state has paid to an individual as compensation for state employment or as an income subsidy with no restrictions on that individual's use of the money or property"

Page 1, line 11, remove "Governmental unit means the state or a political subdivision of the state."

Page 1, replace lines 12 and 13 with:

"Knowingly" or "knowing" means an individual who, regardless of whether that individual has an intent to defraud, has actual knowledge of

information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information.

3. "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.
4. "Obligation" means an established duty, regardless of whether fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.
5. "Original source" means an individual, who before a public disclosure, voluntarily disclosed to the state the information on which allegations or transactions in the claim are based, or who has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the state before filing an action under this Act."

Page 1, line 16, replace "a governmental unit" with "the state"

Page 1, line 17, after the first "thousand" insert "five hundred"

Page 1, line 17, replace "ten" with "eleven"

Page 1, line 18, remove "a"

Page 1, line 19, replace "governmental unit" with "the state"

Page 1, line 21, remove "to an officer or employee of the"

Page 1, line 22, remove "governmental unit"

Page 1, line 22, after "fraudulent" insert "medical assistance"

Page 2, line 2, after "statement" insert "material"

Page 2, line 2, remove "get"

Page 2, line 2, after "fraudulent" insert "medical assistance"

Page 2, line 2, remove "governmental"

Page 2, line 3, replace "unit" with "state"

Page 2, line 6, replace "governmental unit" with "state to provide medical assistance"

Page 2, line 6, remove ", with the intent to defraud the governmental"

Page 2, line 7, remove "unit or to willfully conceal the property."

Page 2, line 8, after "less" insert "than all that"

Page 2, line 8, remove "than the amount for which the person receives"

Page 2, line 9, remove "a certificate or receipt"

Page 2, line 11, replace "governmental unit" with "state"

Page 2, line 12, replace "governmental unit or to willfully conceal the property" with "state"

Page 2, line 13, after "without" insert "completely"

Page 2, line 14, remove "buys or receives as a pledge of an obligation or debt public property of"

Page 2, remove line 15

Page 2, line 16, replace "property" with "conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state"

Page 2, line 16, after the underscored semicolon insert "or"

Page 2, line 18, after "statement" insert "material"

Page 2, line 18, remove "conceal, avoid, or decrease"

Page 2, line 19, replace "governmental unit or its contractors; or" with "state."

Page 2, remove lines 20 through 23

Page 2, line 25, after the first "thousand" insert "five hundred"

Page 2, line 25, replace "ten" with "eleven"

Page 2, line 27, replace "a governmental unit" with "the state"

Page 2, line 27, after "act" insert ". However, the court may assess not less than two times the amount of damages the state sustains as a result of the act of the person and the person is liable to the state for the costs of the civil action brought to recover any such penalty or damages"

Page 3, line 7, remove "governmental"

Page 3, line 8, replace "unit" with "state"

Page 3, line 12, replace "This section does not apply to claims filed under title 38, 57, or 65" with "The attorney general may adopt rules to increase the minimum amount of civil penalties under this section to address inflation. The attorney general may base this increase on the Federal Civil Penalties Inflation Adjustment Act of 1990 [Pub. L. 101-410; 28 U.S.C. 2461]"

Page 3, line 15, remove "a person may not file a"

Page 3, remove lines 16 through 30

Page 4, replace lines 1 through 7 with "unless opposed by the state, a court shall dismiss an action or a claim brought under this Act if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a criminal, civil, or administrative hearing in which the state or the state's agent is a party; in a legislative, state auditor, or other state report, hearing, audit, or investigation; or from the news media, unless the action is brought by the attorney general, or the person bringing the action is an original source of the information."

Page 4, line 13, replace "governmental unit" with "state"

Page 4, line 24, replace "governmental unit" with "state"

Page 4, line 24, remove the second "governmental"

Page 4, line 25, replace "unit" with "state"

Page 5, line 17, replace "it" with "the action"

Page 5, line 19, replace "governmental unit" with "attorney general"

Page 6, after line 6, insert:

- "9. Regardless of whether the attorney general proceeds with the action, upon an in-camera showing by the attorney general that actions of discovery by the person initiating the action would interfere with the attorney general's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may extend the sixty-day period upon a further in-camera showing that the attorney general has pursued the criminal or civil investigation with reasonable diligence and any discovery in the civil action will interfere with the ongoing investigation or proceedings.
10. The attorney general may elect to pursue the claim through any alternate remedy available, including administrative proceedings to determine a civil penalty. If an alternate remedy is pursued, the person initiating the action has the same rights in such proceeding as the person would in a proceeding under this section. A finding of fact or conclusion of law made in such other proceeding which has become final is conclusive on all parties to an action under this section. A finding or conclusion is final if the finding or conclusion has been determined on appeal to the appropriate court, if time for filing such an appeal has expired, or if the finding or conclusion is not subject to judicial review.
11. If the attorney general elects to intervene and proceed with an action, the attorney general may file a complaint or amend the complaint of a person that brought an action to clarify or add detail to the claim in which the attorney general is intervening and to add additional claims with which the attorney general contends the attorney general is entitled to relief. For statute of limitations purposes, any such pleading must relate back to the filing date of the complaint of the person that originally brought the action to the extent the attorney general's claim arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the earlier complaint of that person."

Page 6, line 28, after the third underscored comma insert "or"

Page 7, line 9, remove "or governmental unit"

Page 7, line 16, replace the first underscored comma with "or"

Page 7, line 16, remove ", or knowingly participated in"

Page 7, line 25, replace "governmental unit" with "attorney general"

Page 7, line 26, after "person" insert "bringing the action"

Page 7, line 26, remove "of"

Page 7, remove lines 27 through 29

Page 7, line 30, remove "in the general fund of the governmental unit"

Page 8, line 11, replace "The governmental unit that filed" with "If the state favorably settles or prevails in"

Page 8, line 11, replace "or" with "in which the state"

Page 8, line 11, after "intervened" insert "or filed, the state"

Page 8, line 11, after "to" insert "be awarded"

Page 8, line 11, after "reasonable" insert "expenses, consultant and expert witness fees."

Page 8, line 11, after "costs" insert an underscored comma

Page 8, line 12, remove "if the action is settled favorably for the governmental unit or the"

Page 8, remove lines 13 through 19

Page 8, line 20, remove "incurred in the prosecution of the action"

Page 8, line 22, replace "governmental unit" with "state"

Page 8, line 22, remove the second "governmental"

Page 8, line 23, replace "unit" with "state"

Page 8, line 23, after the underscored period insert "The expenses, fees, and costs must be awarded against the defendant."

Page 8, line 26, after "action" insert an underscored comma

Page 8, line 26, replace "governmental unit" with "state"

Page 8, line 27, replace "a governmental unit" with "the state"

Page 8, line 29, replace "**Prohibitions on employers - Employee remedies**" with "**Relief from retaliatory actions**"

Page 8, remove lines 30 and 31

Page 9, replace lines 1 through 16 with:

- "1. An employee, contractor, or agent is entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, or agent or associated others in furtherance of an action under this Act or other efforts to stop one or more violations of this Act.
2. Relief under subsection 1 must include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, two times the amount of backpay, interest on the backpay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An action under this subsection may be brought in the appropriate district court for the relief provided in this subsection.
3. A civil action under this section may not be brought more than three years after the date the retaliation occurred."

Page 9, line 19, replace the first "the" with "a"

Page 9, line 19, after "defendant" insert "under this Act."

Page 9, line 24, after "**False**" insert "**medical assistance**"

Page 9, line 27, after "fraudulent" insert "medical assistance"

Page 9, line 28, after "valid" insert "medical assistance"

Page 10, line 1, after "fraudulent" insert "medical assistance"

Page 10, line 5, after "fraudulent" insert "medical assistance"

Page 10, line 9, after "fraudulent" insert "medical assistance"

Renumber accordingly