

2016 Regular Session

HOUSE BILL NO. 987

BY REPRESENTATIVE MIKE JOHNSON

CIVIL/ACTIONS: Authorizes a qui tam action for persons who disclose certain cases of fraud

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(28) and to enact Part VII of Chapter 15 of Title 42 of  
3 the Louisiana Revised Statutes of 1950, to be comprised of R.S. 42:1231 through  
4 1242, relative to qui tam actions; to prohibit false or fraudulent claims or false or  
5 misleading statements in relation to obtaining funds, property, use of property, or  
6 other compensation from state government; to provide for civil actions by the  
7 attorney general or by other persons to recover funds; to provide for damages, fines,  
8 penalties, and interest; to provide for an awards program for information on  
9 violations; to provide for protection for certain persons against reprisals by certain  
10 persons; to provide for an exception to the laws relative to public records; to provide  
11 a prescriptive period; to provide for an effective date; and to provide for related  
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Part VII of Chapter 15 of Title 42 of the Louisiana Revised Statutes of  
15 1950, comprised of R.S. 42:1231 through 1242, is hereby enacted to read as follows:

16 PART VII. STATE GOVERNMENT INTEGRITY ACT

17 §1231. Short title

18 This Part may be cited as the "State Government Integrity Act".

1        §1232. Legislative intent and purpose

2                The legislature intends that the attorney general and private citizens of  
3        Louisiana shall be agents of this state with the ability, authority, and resources to  
4        pursue civil monetary penalties or other remedies to protect the fiscal and  
5        programmatic integrity of state government in Louisiana from persons who engage  
6        in fraud, misrepresentation, abuse, or other ill practices, as set forth in this Part, and  
7        who obtain funds, property, or other compensation to which these persons are not  
8        entitled.

9        §1233. Definitions

10               As used in this Part, the following terms shall have the following meanings:

11               (1) "Claim" includes any request or demand, including any and all  
12        documents or information required by federal or state law or rule, made against state  
13        program funds for payment. Each claim may be treated as a separate claim, or  
14        several claims may be combined to form one claim.

15               (2) "False or fraudulent claim" means a claim which a person submits  
16        knowing the claim to be false, fictitious, untrue, or misleading in regard to any  
17        material information. "False or fraudulent claim" shall include a claim which is part  
18        of a pattern of incorrect submissions in regard to material information or which is  
19        otherwise part of a pattern in violation of applicable federal or state law or rule.

20               (3) "Knowing" or "knowingly" means that the person has actual knowledge  
21        of the information or acts in deliberate ignorance or reckless disregard of the truth  
22        or falsity of the information.

23               (4) "Misrepresentation" means the knowing failure to truthfully or fully  
24        disclose any and all information required, or the concealment of any and all  
25        information required on a claim or a provider agreement or the making of a false or  
26        misleading statement to any local, state, or federal agency for the purpose of  
27        obtaining funds, property, use of property, or other compensation from state  
28        government.

1           (5) "Property" means any and all property, movable and immovable,  
2           corporeal and incorporeal.

3           (6) "Recovery" means the recovery of overpayments, damages, fines,  
4           penalties, costs, expenses, restitution, attorney fees, interest, or settlement amounts.

5           §1234. False or fraudulent claim; misrepresentation

6           A. No person shall knowingly present or cause to be presented a false or  
7           fraudulent claim for funds, property, use of property, or other compensation from  
8           state government.

9           B. No person shall knowingly engage in misrepresentation to obtain, or  
10           attempt to obtain, funds, property, use of property, or other compensation from state  
11           government.

12           C. No person shall conspire to defraud, or attempt to defraud, state  
13           government through misrepresentation or by obtaining, or attempting to obtain,  
14           payment for a false or fraudulent claim.

15           D. No person shall knowingly make, use, or cause to be made or used a false,  
16           fictitious, or misleading statement on any form used for the purpose of certifying or  
17           qualifying any person for eligibility for state government programs or to receive any  
18           funds, property, use of property, or other compensation from state government which  
19           that person is not eligible to receive.

20           E. Each violation of this Part may be treated as a separate violation or may  
21           be combined into one violation at the option of the attorney general.

22           F. No action brought pursuant to this Part shall be instituted later than ten  
23           years after the date upon which the alleged violation occurred; however, the action  
24           shall be instituted within one year of when the attorney general knew that the  
25           prohibited conduct occurred.

26           §1235. Civil actions authorized

27           A. The attorney general may institute a civil action in the courts of this state  
28           to seek recovery from persons who violate any provision of this Part.

1           B. An action to recover costs, expenses, fees, and attorney fees shall be  
2           ancillary to, and shall be brought and heard in the same court as, the civil action  
3           brought under the provisions of Subsection A of this Section.

4           C.(1) A prevailing defendant may only seek recovery for costs, expenses,  
5           fees, and attorney fees if the court finds, following a contradictory hearing, that  
6           either of the following apply:

7           (a) The action was instituted by the attorney general pursuant to Subsection  
8           A of this Section after it should have been determined by the attorney general to be  
9           frivolous, vexatious, or brought primarily for the purpose of harassment.

10           (b) The attorney general proceeded with the action instituted pursuant to  
11           Subsection A of this Section after it should have been determined by the attorney  
12           general that proceeding would be frivolous, vexatious, or for the purpose of  
13           harassment.

14           (2) Recovery awarded to a prevailing defendant shall be awarded only for  
15           those reasonable, necessary, and proper costs, expenses, fees, and attorney fees  
16           actually incurred by the prevailing defendant.

17           D. An action to recover costs, expenses, fees, and attorney fees may be  
18           brought no later than sixty days after the rendering of judgment by the district court,  
19           unless the district court decision is appealed. If the district court decision is  
20           appealed, such action may be brought no later than sixty days after the rendering of  
21           the final opinion on appeal by the court of appeal or, if applicable, by the supreme  
22           court.

23           §1236. Damages; fines; penalties; interest

24           A. Actual damages incurred as a result of a violation of the provisions of this  
25           Part shall be recovered only once on behalf of state government and shall not be  
26           waived by the court. Actual damages shall equal the difference between the value  
27           of the benefits received by the person from state government and the value of the  
28           benefits that the person should have received had not a violation of this Part occurred

1 plus interest at the maximum rate of legal interest provided by R.S. 13:4202 from the  
2 date the damage occurred to the date of repayment.

3 B. Except as limited by this Part, any person who is found to have violated  
4 any provision of this Part shall be subject to a civil fine in an amount not to exceed  
5 two times the amount of actual damages sustained by state government as a result  
6 of the violation.

7 C. In addition to any other penalty or fine imposed herein, any person who  
8 is found to have violated any provision of this Part shall be subject to a civil  
9 monetary penalty of not more than ten thousand dollars for each false or fraudulent  
10 claim, misrepresentation, illegal remuneration, or other act prohibited by this Part.

11 D. Costs, expenses, fees, and attorney fees. (1) Any person who is found  
12 to have violated this Part shall be liable for all costs, expenses, and fees related to  
13 investigations and proceedings associated with the violation, including attorney fees.

14 (2) All awards of costs, expenses, fees, and attorney fees are subject to  
15 review by the court using a reasonable, necessary, and proper standard of review.

16 (3) The attorney general shall promptly remit awards for those costs,  
17 expenses, and fees incurred by the various clerks of court or sheriffs involved in the  
18 investigations or proceedings to the appropriate clerk or sheriff.

19 §1237. Qui tam action; civil action filed by private person

20 A. A private person may institute a civil action to seek recovery on behalf  
21 of state government and himself, except for the civil monetary penalty provided in  
22 R.S. 42:1236(C) for a violation of this Part. The institutor of such an action shall be  
23 known as a "qui tam plaintiff" and the civil action shall be known as a "qui tam  
24 action".

25 B.(1) A qui tam plaintiff shall be an original source of the information which  
26 serves as the basis for the alleged violation. More than one person may serve as a  
27 qui tam plaintiff in a qui tam action arising out of the same information and  
28 allegations, provided each person qualifies as an original source.

1           (2) For purposes of this Section, the term "original source" means a person  
2           who has direct and independent knowledge of the alleged violation and who has  
3           voluntarily provided the information to the attorney general before filing a qui tam  
4           action with the court.

5           C. No qui tam action shall be instituted later than one year after the date a  
6           qui tam complaint is received by the attorney general.

7           D.(1) No court shall have jurisdiction over a qui tam action based upon a  
8           disclosure of allegations or transactions in a criminal, civil, or administrative hearing  
9           or as the result of disclosure of an audit report, investigation, or hearing unless the  
10          person bringing the action is an original source of the information.

11          (2) No court shall have jurisdiction over a qui tam action based upon a  
12          disclosure through the media unless the person bringing the action is an original  
13          source of the information and that fact is confirmed by a person with knowledge of  
14          who provided the information.

15          E.(1) A person who is or was a public employee or public official or a person  
16          who is or was acting on behalf of the state shall not bring a qui tam action if the  
17          person has or had a duty or obligation to report, investigate, or pursue allegations of  
18          wrongdoing or misconduct by persons who apply for relief from or work for state  
19          government.

20          (2) A person who is or was a public employee or public official or a person  
21          who is or was acting on behalf of the state shall not bring a qui tam action if the  
22          person has or had access to records of the state through the normal course and scope  
23          of his employment or other relationship with the state.

24          (3) A person shall not bring a qui tam action if the person is or was a  
25          participant in the wrongdoing or misconduct which is the subject of the qui tam  
26          action.

27          F. No employer of a qui tam plaintiff shall discharge, demote, suspend,  
28          threaten, harass, or discriminate against a qui tam plaintiff at any time arising out of  
29          the fact that the qui tam plaintiff brought an action pursuant to this Part unless the

1 court finds that the qui tam plaintiff has instituted or proceeded with an action that  
2 is frivolous, vexatious, or harassing.

3 G. The court shall allow the attorney general to intervene and proceed with  
4 the qui tam action in the district court at any time during the qui tam action  
5 proceedings.

6 H. Notwithstanding any other law to the contrary, a qui tam complaint and  
7 information filed with the attorney general shall not be subject to discovery or  
8 become public record until judicial service of the qui tam action is made on any of  
9 the defendants, except that the information contained therein may be given to other  
10 governmental entities or their authorized agents for review and investigation. Such  
11 entities and their authorized agents shall maintain the confidentiality of the  
12 information provided to them under this Subsection.

13 §1238. Qui tam action procedures

14 A. The following procedures shall be applicable to a qui tam action:

15 (1)(a) A copy of the qui tam complaint and written disclosure of  
16 substantially all material evidence and information each qui tam plaintiff possesses  
17 shall be filed with the attorney general.

18 (b) The qui tam complaint and written disclosure of substantially all material  
19 evidence and information shall be filed with the attorney general within one year of  
20 the date the qui tam plaintiff knew or should have known of the information forming  
21 the basis of the complaint. No qui tam action shall be instituted by a qui tam  
22 plaintiff if he fails to timely file a complaint with the attorney general.

23 (2)(a) At least sixty days after filing with the attorney general, the qui tam  
24 complaint and information may be filed with the appropriate state district court. On  
25 the same date as the qui tam action is filed, the qui tam plaintiff shall serve the  
26 attorney general with notice of the filing.

27 (b) If more than one qui tam action arising out of the same information and  
28 allegations is filed, the court shall dismiss all qui tam actions where the complaint  
29 and information filed with the attorney general was filed sixty days or more after the

1 first qui tam complaint and information which serve as the basis for the alleged  
2 violation were filed with the attorney general.

3 (3)(a) The complaint and information filed with the court shall be made  
4 under seal, shall remain under seal for at least ninety days from the date of filing, and  
5 shall be served on the defendant when the seal is removed.

6 (b) For good cause shown, the attorney general may request one extension  
7 of the ninety-day time period for the complaint and information to remain under seal  
8 and unserved on the defendant. This request shall be supported by affidavit or other  
9 submission in camera and under seal.

10 B.(1) If the attorney general elects to intervene in the action, the attorney  
11 general shall not be bound by any act of a qui tam plaintiff. The attorney general  
12 shall control the qui tam action proceedings on behalf of the state, and the qui tam  
13 plaintiff may continue as a party to the action.

14 (2) The qui tam plaintiff and his counsel shall cooperate fully with the  
15 attorney general during the pendency of the qui tam action.

16 (3) If requested by the attorney general and notwithstanding the objection of  
17 the qui tam plaintiff, the court may dismiss the qui tam action, provided the qui tam  
18 plaintiff has been notified by the attorney general of the filing of the motion to  
19 dismiss and the court has provided the qui tam plaintiff a contradictory hearing on  
20 the motion.

21 (4) If the attorney general does not intervene, the qui tam plaintiff may  
22 proceed with the qui tam action unless the attorney general shows that proceeding  
23 would adversely affect the prosecution of any pending criminal actions or criminal  
24 investigations into the activities of the defendant. Such a showing shall be made to  
25 the court in camera, and neither the qui tam plaintiff nor the defendant shall be  
26 informed of the information revealed in camera. In no case shall the qui tam action  
27 be stayed for more than one year.



1           C. If a qui tam plaintiff fails to comply with any provision of this Part, after  
2           a contradictory hearing, the court may dismiss the qui tam plaintiff on its own  
3           motion or on motion made by the attorney general.

4           D. A defendant shall have thirty days from the time a qui tam complaint is  
5           served on him to file a responsive pleading.

6           E. The qui tam plaintiff and the defendant shall serve all pleadings and  
7           papers filed, as well as discovery, in the qui tam action on the attorney general.

8           F.(1) Upon showing by the attorney general that certain actions of discovery  
9           by the qui tam plaintiff or defendant would interfere with a criminal or civil  
10          investigation or proceeding arising out of the same facts, the court shall stay the  
11          discovery for a period of not more than ninety days.

12          (2) Upon a further showing that federal or state authorities have pursued the  
13          criminal or civil investigation or proceeding with reasonable diligence and any  
14          proposed discovery in the qui tam action would unduly interfere with the criminal  
15          or civil investigation or proceeding, the court may stay the discovery for an  
16          additional period not to exceed one year.

17          (3) Such showings shall be conducted in camera, and neither the defendant  
18          nor the qui tam plaintiff shall be informed of the information presented to the court.

19          (4) If discovery is stayed pursuant to this Subsection, the trial and any  
20          motion for summary judgment in the qui tam action shall likewise be stayed.

21          §1239. Administrative or civil action

22          Notwithstanding any other provision of this Part, the attorney general may  
23          elect to pursue an administrative or civil action against a qui tam defendant through  
24          any alternative remedy available to the attorney general.

25          §1240. Recovery awarded to a qui tam plaintiff

26          A.(1) Except as provided by Paragraph (3) of this Subsection and Subsection  
27          D of this Section, if the attorney general intervenes in the action brought by a qui tam  
28          plaintiff, the qui tam plaintiff shall receive at least fifteen percent, but not more than

1 twenty-five percent, of actual damages and civil fines awarded by the court,  
2 exclusive of the civil monetary penalty provided in R.S. 42:1236(C).

3 (2) In making a determination of award to the qui tam plaintiff, the court  
4 shall consider the extent to which the qui tam plaintiff substantially contributed to  
5 investigations and proceedings related to the qui tam action.

6 (3) If the court finds the allegations in the qui tam action to be based  
7 primarily on disclosures of specific information other than information provided by  
8 the qui tam plaintiff, the court may award less than ten percent of actual damages and  
9 civil fines awarded by the court, exclusive of the civil monetary penalty provided in  
10 R.S. 42:1236(C), taking into account the significance of the information and the role  
11 of the qui tam plaintiff in advancing the qui tam action to judgment or settlement.

12 B. Except as provided by Subsection D of this Section, if the attorney  
13 general does not intervene in the qui tam action, the qui tam plaintiff shall receive  
14 at least twenty-five percent, but not more than thirty percent of actual damages, civil  
15 fines, and the civil monetary penalty provided for in R.S. 42:1236(C), which the  
16 court decides is reasonable for the qui tam plaintiff pursuing the action to judgment  
17 or settlement.

18 C.(1) In addition to all other recovery to which he is entitled and if he  
19 prevails in the qui tam action, the qui tam plaintiff shall be entitled to an award  
20 against the defendant for costs, expenses, fees, and attorney fees, subject to review  
21 by the court using a reasonable, necessary, and proper standard of review.

22 (2) If the attorney general does not intervene and the qui tam plaintiff  
23 conducts the action, the court shall award costs, expenses, fees, and attorney fees to  
24 a prevailing defendant if the court finds that the allegations made by the qui tam  
25 plaintiff were meritless or brought primarily for the purposes of harassment. A  
26 finding by the court that qui tam allegations were meritless or brought primarily for  
27 the purposes of harassment may be used by the prevailing defendant in the qui tam  
28 action or any other civil proceeding to recover losses or damages sustained as a result  
29 of the qui tam plaintiff filing and pursuing such a qui tam action.

1           D. Whether or not the attorney general intervenes, if the court finds that the  
2           action was brought by a person who participated in the violation which is the subject  
3           of the action, then the court shall not award any sum of money to such qui tam  
4           plaintiff.

5           E. When more than one party serves as a qui tam plaintiff, the share of  
6           recovery each receives shall be determined by the court. In no case, however, shall  
7           the total award to multiple qui tam plaintiffs be greater than the total award allowed  
8           to a single qui tam plaintiff under the provisions of Subsection A or B of this  
9           Section.

10           F. In no instance shall the attorney general or the state be liable for any costs,  
11           expenses, fees, or attorney fees incurred by the qui tam plaintiff or for any award  
12           entered against the qui tam plaintiff.

13           G. The percentage of the share awarded to or settled for by the qui tam  
14           plaintiff shall be determined using the total amount of the award. However, the total  
15           amount of funds lost from the state shall be made whole through the payment of any  
16           and all actual damages prior to the disbursement of any funds related to the  
17           percentage of the damages to be received by the qui tam plaintiff.

18           §1241. Rewards for fraud and abuse information

19           A. The attorney general may provide a reward of up to two thousand dollars  
20           to an individual who submits information to the attorney general which results in  
21           recovery pursuant to the provisions of this Part, provided such individual is not  
22           himself subject to recovery under this Part.

23           B. The attorney general shall grant rewards only to the extent monies are  
24           appropriated for this purpose. The attorney general shall determine the amount of  
25           a reward, not to exceed two thousand dollars per individual per action, and establish  
26           a process to grant the reward in accordance with rules and regulations promulgated  
27           in accordance with the Administrative Procedure Act.

1 §1242. Whistleblower protection and cause of action

2 A. No employee shall be discharged, demoted, suspended, threatened,  
3 harassed, or discriminated against in any manner in the terms and conditions of his  
4 employment because of any lawful act engaged in by the employee or on behalf of  
5 the employee in furtherance of any action taken pursuant to this Part in regard to a  
6 person from whom recovery is or could be sought. Such an employee may seek any  
7 and all relief for his injury to which he is entitled under state or federal law.

8 B. No individual shall be threatened, harassed, or discriminated against in  
9 any manner by a business organization, governmental agency, or other person  
10 because of any lawful act engaged in by the individual or on behalf of the individual  
11 in furtherance of any action taken pursuant to this Part in regard to a person from  
12 whom recovery is or could be sought. Such an individual may seek any and all relief  
13 for his injury to which he is entitled under state or federal law.

14 C. An employee of a private entity may bring his action for relief against his  
15 employer in the same court as the action or actions were brought pursuant to this  
16 Part.

17 D.(1) A qui tam plaintiff shall not be entitled to recovery pursuant to this  
18 Section if the court finds that the qui tam plaintiff instituted or proceeded with an  
19 action that was frivolous, vexatious, or harassing.

20 (2) The provisions of this Part shall not apply to the filing or submission of  
21 state income tax returns.

22 Section 2. R.S. 44:4.1(B)(28) is hereby amended and reenacted to read as follows:

23 §4.1. Exceptions

24 \* \* \*

25 B. The legislature further recognizes that there exist exceptions, exemptions,  
26 and limitations to the laws pertaining to public records throughout the revised  
27 statutes and codes of this state. Therefore, the following exceptions, exemptions, and

1 limitations are hereby continued in effect by incorporation into this Chapter by  
2 citation:

3 \* \* \*

4 (28) R.S. 42:17, 57, 1111, 1141.4, 1158, 1161, 1193, 1194, 1237

5 \* \* \*

6 Section 3. This Act shall become effective upon signature by the governor or, if not  
7 signed by the governor, upon expiration of the time for bills to become law without signature  
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
10 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law [R.S. 1:13(B)] and do not constitute proof or indicia of legislative intent. [R.S. 24:177(E)]

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HB 987 Reengrossed

2016 Regular Session

Mike Johnson

**Abstract:** Prohibits false or fraudulent claims for or false or misleading statements in relation to obtaining funds, property, use of property, or other compensation from state government. Authorizes civil actions by the attorney general or by persons to recover amounts obtained in violation of proposed law. Protects whistleblowers against reprisals by persons violating the provisions of proposed law.

Proposed law prohibits persons from conspiring to or knowingly presenting or causing to be presented a false or fraudulent claim or misrepresentation to obtain funds, property, use of property, or other compensation from state government.

Proposed law prohibits persons from knowingly making a false or misleading statement on any form used for the purpose of qualifying any person for eligibility for state programs.

Proposed law authorizes the attorney general to institute a civil action to seek recovery from persons who violate the provisions of proposed law. Further authorizes an action to recover costs, expenses, fees, and attorney fees.

Proposed law authorizes a prevailing defendant to seek recovery for costs, expenses, fees, and attorney fees actually incurred if the court finds that the action was instituted by the attorney general after it should have been determined to be frivolous, vexatious, or brought primarily for the purpose of harassment.

Proposed law provides that no action shall be instituted later than 10 years after the date upon which the alleged violation occurred; however, the action shall be instituted within one year of when the attorney general knew that the prohibited conduct occurred.

Proposed law provides that actual damages, plus legal interest, incurred as a result of a violation shall be recovered only once on behalf of the state.

Proposed law authorizes a civil fine in an amount not to exceed two times the amount of actual damages sustained by the state as a result of the violation.

Proposed law authorizes civil monetary penalties of not more than \$10,000 for each false or fraudulent claim, misrepresentation, illegal remuneration, or other act prohibited by proposed law.

Proposed law provides that any person who is found to have violated proposed law shall be liable for all costs, expenses, and fees related to investigations and proceedings associated with the violation, including attorney fees.

Proposed law authorizes a private person to institute a civil action, or "qui tam action" to seek recovery on behalf of the state and himself for violations of proposed law. Provides that all qui tam plaintiffs shall be original sources of the information which serves as the basis for the alleged violation.

Proposed law provides that no qui tam action shall be instituted later than one year after the date a qui tam complaint is received by the attorney general.

Proposed law provides that no court shall have jurisdiction over a qui tam action based upon a disclosure of allegations or transactions in a criminal, civil, or administrative hearing or as the result of disclosure of an audit report, investigation, or hearing or through the media unless the person bringing the action is an original source of the information.

Proposed law provides that a person who is or was a public employee or public official or a person who is or was acting on behalf of the state shall not bring a qui tam action if the person: (1) has a duty to report, investigate, or pursue allegations of wrongdoing or misconduct by persons or (2) has access to records of the state through the normal course and scope of his employment or other relationship with the state. Further provides that a person participating in the wrongdoing or misconduct shall not bring a qui tam action.

Proposed law prohibits an employer of a qui tam plaintiff from discharging, demoting, suspending, threatening, harassing, or discriminating against a qui tam plaintiff because he instituted an action unless the court finds that the action is frivolous, vexatious, or harassing.

Proposed law provides that the court shall allow the attorney general to intervene and proceed with the qui tam action at any time during the qui tam action proceedings.

Proposed law provides that a qui tam complaint and information filed with the attorney general shall not be subject to discovery or become public record until judicial service of the qui tam action is made on the defendants, except that the information contained therein may be given to other governmental entities or their authorized agents for review and investigation.

Proposed law provides for the procedure for qui tam actions, including the following:

- (1) A copy of the qui tam complaint and accompanying documentation shall be filed with the attorney general within one year of the date the qui tam plaintiff knew or should have known of the information forming the basis of the complaint.
- (2) At least 60 days after filing with the attorney general, the qui tam complaint and information may be filed with the appropriate district court. On the same date as the qui tam action is filed, the qui tam plaintiff shall serve the attorney general with notice of the filing.
- (3) If more than one qui tam action arising out of the same information and allegations is filed, the court shall dismiss all qui tam actions where the complaint was filed 30 days or more after the first qui tam complaint.

- (4) The complaint and information filed with the court shall be made under seal and shall be served on the defendant when the seal is removed.
- (5) If the attorney general elects to intervene in the action, he shall not be bound by any act of a qui tam plaintiff and he shall control the proceedings.
- (6) If requested by the attorney general, the court may dismiss the qui tam action, provided the qui tam plaintiff has been notified and the court has provided the qui tam plaintiff a contradictory hearing on the motion.
- (7) If the attorney general does not intervene, the qui tam plaintiff may proceed with the action unless the attorney general shows that proceeding would adversely affect the prosecution of any pending criminal actions or investigations into the activities of the defendant.
- (8) If a qui tam plaintiff fails to comply with proposed law, the court may dismiss the plaintiff.

Proposed law provides that a defendant shall have 30 days from the time a complaint is served on him to file a responsive pleading. Requires the plaintiff and the defendant to serve all pleadings and papers filed, as well as discovery, on the attorney general.

Proposed law provides that the court may stay any proposed discovery under certain circumstances involving ongoing criminal or civil investigation or proceeding arising out of the same facts.

Proposed law provides that the attorney general may elect to pursue an administrative or civil action against a qui tam defendant through any alternative remedy available to him.

Proposed law provides that, if the attorney general intervenes in the action brought by a qui tam plaintiff, the plaintiff shall receive between 15% and 25% of actual damages and civil fines awarded by the court, but if the attorney general does not intervene, he shall receive between 25% and 30% of actual damages, civil fines, and civil monetary penalties which the court decides is reasonable.

Proposed law provides that the qui tam plaintiff shall be entitled to an award against the defendant for reasonable costs, expenses, fees, and attorney fees.

Proposed law provides that if the attorney general does not intervene and the qui tam plaintiff conducts the action, the court shall award costs, expenses, fees, and attorney fees to a prevailing defendant if the court finds that the allegations made by the qui tam plaintiff were meritless or brought primarily for the purposes of harassment.

Proposed law provides that in no instance shall the attorney general or state be liable for any costs, expenses, fees, or attorney fees incurred by the plaintiff or for any award entered against the plaintiff.

Proposed law provides that the percentage of the share awarded to or settled for by the plaintiff shall be determined using the total amount of the award. Further provides the total amount of funds lost from the state must be made whole through the payment of all actual damages prior to the disbursement of any funds to any plaintiff.

Proposed law authorizes the attorney general to provide a reward of up to \$2,000 to an individual who submits information which results in recovery pursuant to proposed law, provided such individual is not himself subject to recovery. The rewards shall be granted only to the extent monies are appropriated for this purpose.

Proposed law provides that no employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken pursuant to proposed law.

Proposed law provides that no individual shall be threatened, harassed, or discriminated against in any manner by a business organization, governmental agency, or other person because of any lawful act engaged in by the individual or on behalf of the individual in furtherance of any action taken pursuant to proposed law.

Proposed law excludes applicability of proposed law to the filing or submission of state income tax returns.

Proposed law provides for exception of proposed law to present law laws relative to public records.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(28); Adds R.S. 42:1231-1242)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Changes the civil fine from three to two times the amount of actual damages.
2. Adds provisions specifying that a participant in the wrongdoing shall not bring a qui tam action and shall not be entitled to a monetary award as a qui tam plaintiff.
3. Removes provisions relative to the qui tam plaintiff objecting to a settlement proposed by the attorney general.
4. Increases the available award to a qui tam plaintiff from between 10% and 20% to between 15% and 25% of actual damages and fines when the attorney general intervenes.
5. Limits the available award to a qui tam plaintiff from no more than 30% to between 25% and 30% of actual damages and fines when the attorney general does not intervene.
6. Removes provision entitling an employee of a private entity to three times the amount of actual damages incurred as a result of the employers violation of the whistleblower protection provisions.
7. Excludes applicability of proposed law to the filing or submission of state income tax returns.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Add to the Public Records Law a reference to the exception in proposed law to present law relative to public records.