

2016 Regular Session

HOUSE BILL NO. 987

BY REPRESENTATIVES MIKE JOHNSON, ABRAHAM, AMEDEE, BARRAS, BOUIE, BROADWATER, TERRY BROWN, CARMODY, ROBBY CARTER, STEVE CARTER, CONNICK, DEVILLIER, EDMONDS, EMERSON, FOIL, GUINN, HODGES, HOFFMANN, HORTON, IVEY, NANCY LANDRY, LEGER, LOPINTO, MACK, MCFARLAND, MIGUEZ, GREGORY MILLER, POPE, PYLANT, REYNOLDS, SEABAUGH, STOKES, WILLMOTT, AND ZERINGUE

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 state funds, state property, use of state
6 property, or other compensation from state government; to provide for civil actions
7 by the attorney general or by other persons to recover funds; to provide for damages,
8 fines, 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, including such payments made to a contractor, grantee,
14 or other recipient, if the funds are to be spent or used on the state's behalf or to
15 advance a state program, and if the state government provides or has provided any
16 portion of the money or property requested or demanded and will reimburse the
17 contractor, grantee, or other recipient for any portion of the funds which are
18 requested or demanded. Each claim may be treated as a separate claim, or several
19 claims may be combined to form one claim.

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

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

28 (4) "Misrepresentation" means the knowing failure to truthfully or fully
29 disclose any and all information required, or the concealment of any and all

1 information required on a claim or a provider agreement or the making of a false or
2 misleading statement to any local, state, or federal agency for the purpose of
3 obtaining state funds, state property, use of state property, or other compensation
4 from state government.

5 (5) "Property" means any and all property, movable and immovable,
6 corporeal and incorporeal, owned by the state of Louisiana.

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

9 §1234. False or fraudulent claim; misrepresentation

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

13 B. No person shall knowingly engage in misrepresentation to obtain, or
14 attempt to obtain, state funds, state property, use of state property, or other
15 compensation from state government.

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

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

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

26 F. No action brought pursuant to this Part shall be instituted later than ten
27 years after the date upon which the alleged violation occurred; however, the action
28 shall be instituted within three years of when the attorney general knew that the
29 prohibited conduct occurred.

1 §1235. Civil actions authorized

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

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

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

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

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

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

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

26 §1236. Damages; fines; penalties; interest

27 A. Actual damages incurred as a result of a violation of the provisions of this
28 Part shall be recovered only once on behalf of state government and shall not be
29 waived by the court. Actual damages shall equal the difference between the value

1 of the benefits received by the person from state government and the value of the
2 benefits that the person should have received had not a violation of this Part occurred
3 plus interest at the maximum rate of legal interest provided by R.S. 13:4202 from the
4 date the damage occurred to the date of repayment.

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

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

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

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

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

21 §1237. Qui tam action; civil action filed by private person

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

27 B.(1) A qui tam plaintiff shall be an original source of the information which
28 serves as the basis for the alleged violation. More than one person may serve as a

1 qui tam plaintiff in a qui tam action arising out of the same information and
2 allegations, provided each person qualifies as an original source.

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

7 C. No qui tam action shall be instituted later than one year after the date a
8 pre-filing disclosure is received by the attorney general.

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

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

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

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

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

1 F. No employer of a qui tam plaintiff shall discharge, demote, suspend,
2 threaten, harass, or discriminate against a qui tam plaintiff at any time arising out of
3 the fact that the qui tam plaintiff brought an action pursuant to this Part unless the
4 court finds that the qui tam plaintiff has instituted or proceeded with an action that
5 is frivolous, vexatious, or harassing.

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

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

16 §1238. Qui tam action procedures

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

18 (1)(a) A copy of the qui tam complaint and pre-filing disclosure of
19 substantially all material evidence and information each qui tam plaintiff possesses
20 shall be filed with the attorney general.

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

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

1 (b) If more than one qui tam action arising out of the same information and
2 allegations is filed, the court shall dismiss all qui tam actions where the complaint
3 and information filed with the attorney general was filed sixty days or more after the
4 first qui tam complaint and information which serve as the basis for the alleged
5 violation were filed with the attorney general.

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

9 (b) For good cause shown, the attorney general may request extensions of
10 the ninety-day time period for the complaint and information to remain under seal
11 and unserved on the defendant. This request shall be supported by affidavit or other
12 submission in camera and under seal. Extensions of the ninety-day time period may
13 be granted for a total of no more than three years.

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

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

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

25 (4) If the attorney general does not intervene, the qui tam plaintiff may
26 proceed with the qui tam action unless the attorney general shows that proceeding
27 would adversely affect the prosecution of any pending criminal actions or criminal
28 investigations into the activities of the defendant. Such a showing shall be made to
29 the court in camera, and neither the qui tam plaintiff nor the defendant shall be

1 informed of the information revealed in camera. In no case shall the qui tam action
2 be stayed for more than one year.

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

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

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

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

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

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

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

23 §1239. Administrative or civil action

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

27 §1240. Recovery awarded to a qui tam plaintiff

28 A.(1) Except as provided by Paragraph (3) of this Subsection and Subsection
29 D of this Section, if the attorney general intervenes in the action brought by a qui tam

1 plaintiff, the qui tam plaintiff shall receive at least fifteen percent, but not more than
2 twenty-five percent, of actual damages and civil fines awarded by the court,
3 exclusive of the civil monetary penalty provided in R.S. 42:1236(C).

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

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

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

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

23 (2) If the attorney general does not intervene and the qui tam plaintiff
24 conducts the action, the court shall award costs, expenses, fees, and attorney fees to
25 a prevailing defendant if the court finds that the allegations made by the qui tam
26 plaintiff were meritless or brought primarily for the purposes of harassment. A
27 finding by the court that qui tam allegations were meritless or brought primarily for
28 the purposes of harassment may be used by the prevailing defendant in the qui tam

1 action or any other civil proceeding to recover losses or damages sustained as a result
2 of the qui tam plaintiff filing and pursuing such a qui tam action.

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

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

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

15 G. The percentage of the share awarded to or settled for by the qui tam
16 plaintiff shall be determined using the total amount of the award.

17 §1241. Rewards for fraud and abuse information

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

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

27 §1242. Whistleblower protection and cause of action

28 A. No employee shall be discharged, demoted, suspended, threatened,
29 harassed, or discriminated against in any manner in the terms and conditions of his

1 employment because of any lawful act engaged in by the employee or on behalf of
2 the employee in furtherance of any action taken pursuant to this Part in regard to a
3 person from whom recovery is or could be sought. Such an employee may seek any
4 and all relief for his injury to which he is entitled under state or federal law.

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

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

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

17 (2) The provisions of this Part shall not apply to claims, records, or
18 statements related to state or local taxes or fees.

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

20 §4.1. Exceptions

21 * * *

22 B. The legislature further recognizes that there exist exceptions, exemptions,
23 and limitations to the laws pertaining to public records throughout the revised
24 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
25 limitations are hereby continued in effect by incorporation into this Chapter by
26 citation:

27 * * *

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

29 * * *

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

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)]

HB 987 Re-Reengrossed

2016 Regular Session

Mike Johnson

Abstract: Prohibits false or fraudulent claims for or false or misleading statements in relation to obtaining state funds, state property, use of state 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 state funds, state property, use of state 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 three years 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 pre-filing disclosure 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 state or federal 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.

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 claims, records, or statements related to state or local taxes or fees.

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. Change the civil fine from three to two times the amount of actual damages.
2. Add 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. Remove provisions relative to the qui tam plaintiff objecting to a settlement proposed by the attorney general.
4. Increase 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. Limit 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. Remove 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. Exclude 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.

The House Floor Amendments to the reengrossed bill:

1. Add provisions to the definition of "claim" regarding payments made to contractors, grantee, or other recipient.
2. Add provisions to specify applicability to state funds, state property, and use of state property.
3. Increase the prescriptive period from one to three years.
4. Change terminology from "qui tam complaint" to "pre-filing disclosure".
5. Authorize the filing of the complaint in federal court.

6. Authorize the attorney general to request multiple extensions to keep the complaint and information under seal and limit the extensions to no more than three years.
7. Delete the requirement that the state be made whole before disbursing funds to the qui tam plaintiff.
8. Specify that proposed law shall not apply to claims, records, or statements related to state or local taxes.