

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

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Part VII of Chapter 15 of Title 42 of the Louisiana Revised Statutes of
13 1950, comprised of R.S. 42:1231 through 1242, is hereby enacted to read as follows:

14 PART VII. STATE GOVERNMENT INTEGRITY ACT

15 §1231. Short title

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

17 §1232. Legislative intent and purpose

18 The legislature intends that the attorney general and private citizens of
19 Louisiana shall be agents of this state with the ability, authority, and resources to
20 pursue civil monetary penalties or other remedies to protect the fiscal and

1 programmatic integrity of state government in Louisiana from persons who engage
2 in fraud, misrepresentation, abuse, or other ill practices, as set forth in this Part, and
3 who obtain funds, property, or other compensation to which these persons are not
4 entitled.

5 §1233. Definitions

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

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

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

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

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

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

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

1 §1234. False or fraudulent claim; misrepresentation

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

5 B. No person shall knowingly engage in misrepresentation to obtain, or
6 attempt to obtain, funds, property, use of property, or other compensation from state
7 government.

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

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

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

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

22 §1235. Civil actions authorized

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

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

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

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

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

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

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

20 §1236. Damages; fines; penalties; interest

21 A. Actual damages incurred as a result of a violation of the provisions of this
22 Part shall be recovered only once on behalf of state government and shall not be
23 waived by the court. Actual damages shall equal the difference between the value
24 of the benefits received by the person from state government and the value of the
25 benefits that the person should have received had not a violation of this Part occurred
26 plus interest at the maximum rate of legal interest provided by R.S. 13:4202 from the
27 date the damage occurred to the date of repayment.

28 B. Except as limited by this Part, any person who is found to have violated
29 any provision of this Part shall be subject to a civil fine in an amount not to exceed

1 two times the amount of actual damages sustained by state government as a result
2 of the violation.

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

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

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

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

15 §1237. Qui tam action; civil action filed by private person

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

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

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

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

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

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

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

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

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

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

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

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

11 §1238. Qui tam action procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 §1239. Administrative or civil action

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

22 §1240. Recovery awarded to a qui tam plaintiff

23 A.(1) Except as provided by Paragraph (3) of this Subsection and Subsection
24 D of this Section, if the attorney general intervenes in the action brought by a qui tam
25 plaintiff, the qui tam plaintiff shall receive at least fifteen percent, but not more than
26 twenty-five percent, of actual damages and civil fines awarded by the court,
27 exclusive of the civil monetary penalty provided in R.S. 42:1236(C).

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

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

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

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

20 (2) If the attorney general does not intervene and the qui tam plaintiff
21 conducts the action, the court shall award costs, expenses, fees, and attorney fees to
22 a prevailing defendant if the court finds that the allegations made by the qui tam
23 plaintiff were meritless or brought primarily for the purposes of harassment. A
24 finding by the court that qui tam allegations were meritless or brought primarily for
25 the purposes of harassment may be used by the prevailing defendant in the qui tam
26 action or any other civil proceeding to recover losses or damages sustained as a result
27 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. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 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 Engrossed

2016 Regular Session

Mike Johnson

Abstract: Creates the State Government Integrity Act. 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.

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

(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.