

First Extraordinary Session, 2008

HOUSE BILL NO. 69

BY REPRESENTATIVE TUCKER

CIVIL/ACTIONS: Authorizes a qui tam action for persons who disclose certain cases of fraud (Item #6(4))

1 AN ACT

2 To enact Part V of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 42:1191 through 1202, 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 V of Chapter 15 of Title 42 of the Louisiana Revised Statutes of  
13 1950, comprised of R.S. 42:1191 through 1202, is hereby enacted to read as follows:

14 PART V. QUI TAM ACTION

15 §1191. Short title

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

17 §1192. Legislative intent and purpose

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

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

5 §1193. 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        §1194. 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        §1195. 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 the provisions 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          §1196. 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 three 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 §1197. 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. 42:1196(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 or inspector general  
28 before filing a qui tam 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 or inspector 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          F. No employer of a qui tam plaintiff shall discharge, demote, suspend,  
21          threaten, harass, or discriminate against a qui tam plaintiff at any time arising out of  
22          the fact that the qui tam plaintiff brought an action pursuant to this Part unless the  
23          court finds that the qui tam plaintiff has instituted or proceeded with an action that  
24          is frivolous, vexatious, or harassing.

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

28          H. Notwithstanding any other law to the contrary, a qui tam complaint and  
29          information filed with the attorney general or inspector general shall not be subject

1 to discovery or become public record until judicial service of the qui tam action is  
2 made on any of the defendants, except that the information contained therein may be  
3 given to other governmental entities or their authorized agents for review and  
4 investigation. Such entities and their authorized agents shall maintain the  
5 confidentiality of the information provided to them under this Subsection.

6 §1198. Qui tam action procedures

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

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

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

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

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

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 or the defendant shall be  
24          informed of the information revealed in camera. In which case, the qui tam action  
25          shall be stayed for no more than one year.

26          (5) If the qui tam plaintiff objects to a settlement of the qui tam action  
27          proposed by the attorney general, the court may authorize the settlement only after  
28          a hearing to determine whether the proposed settlement is fair, adequate, and  
29          reasonable under the circumstances.

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           inspector general, and legislative auditor.

9           F.(1) Whether or not the attorney general proceeds with the action, upon  
10          showing by the attorney general that certain actions of discovery by the qui tam  
11          plaintiff or defendant would interfere with a criminal or civil investigation or  
12          proceeding arising out of the same facts, the court shall stay the discovery for a  
13          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          §1199. 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          §1200. 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 ten percent, but not more than  
2 twenty percent, of actual damages and civil fines awarded by the court, exclusive of  
3 the civil monetary penalty provided in R.S. 42:1196(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. 42:1196(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 an amount, not to exceed thirty percent of actual damages, civil fines, and the civil  
16 monetary penalty provided for in R.S. 42:1196(C), which the court decides is  
17 reasonable for the qui tam plaintiff pursuing the action to judgment 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 may, to the extent the court considers appropriate, reduce  
4           the share of the proceeds of the action which the qui tam plaintiff would otherwise  
5           receive under the provisions of Subsection A or B of this Section, taking into account  
6           the role that the qui tam plaintiff played in advancing the case to judgment or  
7           settlement and any relevant circumstances pertaining to the qui tam plaintiff's  
8           participation in the violation. A person who planned the violation shall not be  
9           entitled to recovery.

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

15           F. In no instance shall the attorney general, inspector general, legislative  
16           auditor, or the state be liable for any costs, expenses, fees, or attorney fees incurred  
17           by the qui tam plaintiff or for any award entered against the qui tam plaintiff.

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

23           §1201. Rewards for fraud and abuse information

24           A. The attorney general may provide a reward of up to two thousand dollars  
25           to an individual who submits information to the attorney general, inspector general,  
26           or legislative auditor which results in recovery pursuant to the provisions of this Part,  
27           provided such individual is not himself subject to recovery under this Part.

28           B. The attorney general shall grant rewards only to the extent monies are  
29           appropriated for this purpose. The attorney general shall determine the amount of

1        a reward, not to exceed two thousand dollars per individual per action, and establish  
2        a process to grant the reward in accordance with rules and regulations promulgated  
3        in accordance with the Administrative Procedure Act.

4        §1202. Whistleblower protection and cause of action

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

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

17           C.(1) An employee of a private entity may bring his action for relief against  
18        his employer in the same court as the action or actions were brought pursuant to this  
19        Part.

20           (2) A person aggrieved of a violation of the provisions of Subsection A or  
21        B of this Section shall be entitled to treble damages.

22           D. A qui tam plaintiff shall not be entitled to recovery pursuant to this  
23        Section if the court finds that the qui tam plaintiff instituted or proceeded with an  
24        action that was frivolous, vexatious, or harassing.

25        Section 2. This Act shall become effective upon signature by the governor or, if not  
26        signed by the governor, upon expiration of the time for bills to become law without signature  
27        by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
28        vetoed by the governor and subsequently approved by the legislature, this Act shall become  
29        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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Tucker

HB No. 69

**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 whistle-blowers 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, inspector general, or legislative auditor 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 three 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, inspector general, or legislative auditor.

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.

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, inspector general, or legislative auditor 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, inspector general, and legislative auditor 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, inspector general, and legislative auditor, 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, inspector general, and legislative auditor 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 the qui tam plaintiff objects to a settlement of the action proposed by the attorney general, the court may authorize the settlement only after a hearing.
- (9) 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, inspector general, and legislative auditor.

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 10% and 20% of actual damages and civil fines awarded by the court, but if the attorney general does not intervene, he shall receive no more than 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, inspector general, legislative auditor, 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. Affords the right to treble damages for any person aggrieved by any of the foregoing prohibited actions.

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.

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

(Adds R.S. 42:1191-1202)