

# SENATE BILL REPORT

## SB 6365

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As Reported By Senate Committee On:  
Law & Justice, February 5, 1998

**Title:** An act relating to false claims against the government.

**Brief Description:** Enacting the Washington state false claims act.

**Sponsors:** Senators Kline, Roach, Long, Hargrove, Haugen, Johnson, Brown, Rasmussen, Jacobsen, Snyder, Winsley, Wojahn and Oke.

**Brief History:**

**Committee Activity:** Law & Justice: 2/4/98, 2/5/98 [DP].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Kline, Long and McCaslin.

**Staff:** Dick Armstrong (786-7460)

**Background:** State and local governments make innumerable payments to individuals and businesses in connection with governmental contracts, programs, and services. Sometimes those payments are made in reliance on incorrect or intentionally misleading information furnished by the other parties involved.

While a governmental entity can, in theory, recover undeserved payments under tort or contract law, or as restitution ordered in a criminal action, false claims for payment can be difficult to detect.

In most circumstances, under state law a private citizen is unable to initiate an action, based on a false claim, on behalf of an injured governmental entity. In contrast, a private citizen may bring such an action on behalf of the federal government under the federal False Claims Act.

**Summary of Bill:** A person who knowingly presents, or assists in the presentation of, a false claim that results in losses to a state or local governmental entity of at least \$1,000 is liable for a civil penalty of at least \$5,000, but not more than \$10,000, treble damages, attorney fees and costs. Under specified conditions, the court may reduce the damages if the wrongdoer cooperates with the investigation.

A governmental entity that has sustained losses as a result of a false claim may bring a civil action, or a private party may initiate an action on the governmental entity's behalf. If a civil action is brought by a private party, the governmental entity has the option to take control of the action.

Procedures are established for the conduct of a false claims action jointly by the governmental entity and the private party, if the governmental entity chooses to participate, and individually by the private party, if the governmental entity chooses not to participate.

A private party who brings a false claims action may receive up to 30 percent of the amount recovered by the governmental entity, depending on the party's degree of involvement in the action.

Remedies are provided to employees who suffer workplace discrimination or reprisals because of their participation in a false claims action.

**Appropriation:** None.

**Fiscal Note:** Requested on February 2, 1998.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The intent of the bill is to provide an incentive for private individuals to reveal fraud. The incentive for the individual is that the whistleblower can get up to 30 percent of the recovery. The government has the right to control the case, if it so chooses.

There are protections against filing frivolous cases. The government has the right to intervene, monitor the case, and the department can get attorney fees in a frivolous case. Fourteen states have similar laws. The federal government has recovered about \$1 billion in such fraudulent cases.

This type of bill has worked well at the federal level and has deterred fraud. The bill protects the taxpayers from overpaying for government services. The amount of the recoveries should be reviewed by the committee.

**Testimony Against:** None.

**Testified:** Senator Kline, prime sponsor; David Walsh, Attorney General's Office; Larry Shannon, WSTRA; Eileen Anderson, Whistleblower Program.