

# SENATE BILL REPORT

## SB 5435

---

---

As of January 31, 2001

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

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

**Sponsors:** Senators Kline, Roach, Gardner, Fairley and Costa.

**Brief History:**

**Committee Activity:** Judiciary: 2/5/01.

---

### SENATE COMMITTEE ON JUDICIARY

**Staff:** Aldo Melchiori (786-7439)

**Background:** State and local governments make innumerable payments to individuals and businesses in connection with government contracts, programs, and services. Sometimes those payments are made in reliance on incorrect or intentionally misleading information furnished by the other parties involved. A governmental entity can, in theory, recover undeserved payments under tort or contract law, or as restitution ordered in a criminal action.

Under current state law, a private citizen is unable to initiate an action based upon a false claim on behalf of an injured state 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 claimant who knowingly presents or assists in presenting 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 and actual damages. Under certain conditions, the court may reduce the damages if the wrongdoer cooperates with the investigation. A defense is provided where the claimant reasonably relied upon the advice or rules of the governmental entity or of the person who acts as counsel to the governmental entity.

A civil action may be brought either by a public attorney for the governmental entity that has sustained losses as a result of a false claim or by a person (which is defined as an individual, firm, corporation, association, etc.) who may initiate an action on behalf of a governmental entity. If the civil action is brought by a person, 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 person, if the governmental entity chooses to participate, and individually by the person if the governmental entity chooses not to participate. In either event, all the essential elements of a cause of action for fraud must be proved by a preponderance of the evidence.

A person who brings a false claims action may receive up to 30 percent of the amount recovered by the governmental entity, depending upon the person's degree of involvement in the action. If the wrongdoer is found guilty of submitting a false claim and pays in installments, the person is paid in full before the governmental entity collects payment.

Specifically exempt from the provisions of this act are fraudulent claims for health care services filed with the Department of Labor and Industries and with the Department of Social and Health Services. State officers and state employees are also exempt from liability because these claims can be brought against them under the Ethics in Public Service Act.

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

**Appropriation:** None.

**Fiscal Note:** Requested on 1/31/01.

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