

Alaska Can Save Millions with a False Claims Act & Whistleblower Protection

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“Thieves Operate in the Dark, Yet are Visible in Ways Many Can See.”

—Scottish Proverb

The federal False Claims Act, a law that operates primarily in the private sector, brought to the Federal Treasury almost **\$21 billion in fraud recoveries over the past five years.**

The law is universally praised for its effectiveness in gaining compensation for fraud committed against the federal taxpayers and, more importantly, for its vast deterrent effect on potential fraudsters. The FCA calls for the award of treble damages and attorney’s fees and fines for the commission of fraud against the federal government. Private citizens are empowered by the law to investigate and pursue fraud litigation on behalf of the federal government.

Twenty-nine States and the District of Columbia have enacted their own false claims acts. The federal government incentivizes states to do so by expanding the state’s share of the recovery in Medicaid fraud cases. Alaska does not have a false claims act, nor a comprehensive whistleblower protection act.

A past effort in the Alaska Legislature toward enacting such a law failed on the ground the law as then written may end up enriching the Alaska Law Department far more than it does the citizens of Alaska.

Yet, there is **no good reason** to have an Alaska false claims act administered by the Law Department. That department has had the authority and obligation to do something along such lines for the past fifty years without yet doing so. The Law Department is governed by politics, not fraud recovery numbers, like the private sector would.

So, this year’s legislative proposal on this subject leaves most of the work to the private sector, just as the federal False Claims Act does.

The needed companion for an effective false claims act is a broad set of whistleblower protections, such as confidentiality and immunity from employment sanctions due to whistleblowing, along with financial incentives. This year’s proposal for Alaska molds the best of such laws from across the country into one law. Operating the new Alaska Hotline for Fraud will be competitively bid in the private sector.

The money provided to whistleblowers and their lawyers is typically drawn from sums that the federal and state governments would never have otherwise. Since the law only punishes fraud, not breach of contract or other theories of law, there is little downside risk by intimidating or harassing honest Alaska businesses.

Content provided by the Alaska Policy Forum blog. - Office of Rep. Kreiss-Tomkins