

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 211
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB211-LAW-CIV-04-08-16
Title: RECOVERY OF FALSE CLAIMS FOR STATE FUNDS
Sponsor: JUDICIARY
Requester: Senate Judiciary

Department: Department of Law
Appropriation: Civil Division
Allocation: Deputy Attorney General's Office
OMB Component Number: 2205

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By: Valerie Rose, Budget Analyst
Division: Administrative Services Division
Approved By: Craig W. Richards, Attorney General
Agency: Department of Law

Phone: (907)465-3674
Date: 04/08/2016 04:24 PM
Date: 04/09/16

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB211

Analysis

SB 211 would establish an Alaska False Claims Act (AFCA) to establish civil penalties if a person knowingly presents or causes to be presented a false or fraudulent claim to the state or a municipality. Proposed AS 37.10.110 would include a range of actions as constituting a false claim, including actions to defraud, actions relating to possession or delivery of public property, use of false records, and failure to disclose a false claim within a reasonable time after discovery. The bill appears to limit false claim allegations related to a taxpayer to only taxpayers with a net income of over \$1,000,000 in a taxable year and to require that damages be for at least \$350,000.

SB 211 would require the attorney general to investigate a false claims allegation and would authorize the attorney general to bring an action. Similarly municipalities may also investigate a false claims allegation. It is uncertain if the bill proposes that the attorney general investigate on behalf of a municipality.

If the attorney general or a municipality fails to file an action, the bill would allow a private person, called a qui tam plaintiff, to bring a civil action in the name of the qui tam person and the state, and to receive a portion of the damage award allowed under proposed AS 37.10.135. The bill includes procedures for filing a complaint by a qui tam plaintiff, and includes a requirement that the attorney general shall investigate a complaint filed by a qui tam plaintiff within 60 days (extensions are allowed) in order to decide if the attorney general will proceed with the case in the name of the state. Alternately, the attorney general may intervene to assist the plaintiff, authorize a municipality to proceed with the action, or notify the court that the attorney general agrees to allow the qui tam plaintiff to proceed with the action.

The bill contains provisions to allow dismissal of a case, to allow a state or municipality to request a stay of discovery upon a showing that the actions of a qui tam plaintiff are interfering with a state or municipal investigation and to allow a state or municipality to elect to pursue a claim through an alternate remedy, which may include a criminal or administrative proceeding.

A qui tam plaintiff would be entitled to damage awards based on a minimum and maximum percentage set in proposed AS 37.10.135. An award to a qui tam plaintiff may also include attorney fees and expenses.

The bill identifies certain actions that do not constitute a false claim (actions against the legislature, the judiciary, the governor or lieutenant governor) if the information was known to the attorney general when the action was brought, if the claims were publically known or if the claims are based upon a pending civil or administrative action where the state or municipality is already a party. Finally, the AFCA so provides for whistle blower protection for reporting false claims.

Because the types of claims covered in this bill require complex investigations, the department will need to hire forensic auditors and investigators with expertise in the particular subject matter in which the claim is being asserted. For example, if it is a construction claim, the investigator or auditor will need to have a background in construction contracts and accounting. If the claim relates to a type of software the State purchased, the department will need to find an expert in IT accounting. With the broad reach of this bill, the department cannot determine at this time exactly how many claims it is likely to have to investigate and exactly how many permanent or temporary positions would be necessary. Any claim filed would require significant resources to conduct a thorough investigation within the 60-day timeframe and determine whether there is sufficient evidence to support the claim.

The Department of Law cannot estimate the number of possible violations that the attorney general may be required to investigate and the fiscal effect on the department is indeterminate.