

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	CSHB 347(JUD)
Fiscal Note Number:	1
(H) Publish Date:	4/14/2016

Identifier: HB347-LAW-CIV-04-01-16  
 Title: RECOVERY OF FALSE CLAIMS FOR STATE FUNDS  
 Sponsor: KREISS-TOMKINS  
 Requester: House 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					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>								
Personal Services	***		***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	***	<b>0.0</b>	***	***	***	***	***	***

## Fund Source (Operating Only)

None								
<b>Total</b>	***	<b>0.0</b>	***	***	***	***	***	***

## Positions

Full-time								
Part-time								
Temporary								

## Change in Revenues

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**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 If yes, by what date are the regulations to be adopted, amended or repealed?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:

Initial version, not applicable.

Prepared By:	Valerie Rose, Budget Analyst	Phone:	(907)465-3674
Division:	Administrative Services Division	Date:	04/01/2016 09:27 AM
Approved By:	Craig W. Richards, Attorney General	Date:	04/02/16
Agency:	Department of Law		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

## Analysis

HB 347 establishes the Alaska False Claims Act (AFCA), which provides that no person may knowingly submit, authorize, or cause to be submitted, a false or fraudulent claim to the state or municipality for payment or approval. Under this AFCA, the court may impose a civil penalty of not less than \$6,000 and not more than \$12,000 in addition to the costs and fees associated with the enforcement under this AFCA. And if proven, the court is required to impose treble damages (three times the actual damages). Damages can be reduced if the person liable furnishes information to the state or municipality all information known to the person about the violation not later than 30 days after the information was obtained and the person cooperates with the attorney general, and no current action is pending with respect to the violation.

Under the AFCA, an action for damages due to a false or fraudulent claims may be brought by the attorney general, a municipality or by a private (qui tam) plaintiff. If the qui tam plaintiff files a complaint, the complaint is under seal for at least 60 days to allow the attorney general time to investigate the action and decide whether proceed with the action, intervene in the action, authorize the municipality to proceed with the action, authorize the municipality to intervene in the action, notify the court that the attorney general will not take the action but allow the qui tam plaintiff to proceed. The attorney general may request an extension of time to conduct the investigation.

If the attorney general elects not to proceed with the action, the qui tam plaintiff may proceed but the attorney general or municipality may move to dismiss the action over the objection of the qui tam plaintiff, so long as the qui tam plaintiff has an opportunity to object, or to settle the case, providing the qui tam plaintiff an opportunity to comment in court on the proposed settlement. The attorney general or municipality may also limit the participation of the qui tam plaintiffs under certain circumstances. If the state or municipality fails to file an action under proposed AS 37.10.120, a person who brought the action has the right to proceed and conduct the action in the name of the person and the state. If the qui tam plaintiff is allowed to proceed, the attorney general or municipality may request to serve with all documents related to an action pursued by the qui tam plaintiff. To protect pending state investigations, the attorney general may request a court to stay discovery for not more than 60 days.

If the action comes from a qui tam plaintiff, the qui tam plaintiff is entitled to damages as follows: for a successful action brought the attorney general or a municipality, the qui tam plaintiff is entitled to a 15 to 25 percentage of damages recovered, unless the court finds that the claims were based primarily on disclosures or other information by the qui tam plaintiff that arise out of a collateral source, the court may only award up to 10 percent of the damages. If the state does not proceed in the action, but the qui tam plaintiffs prevails, 25 to 30 percent of the award shall go to the qui tam plaintiff. If the court finds that the qui tam plaintiffs was part of the false claim it may reduce any award to the qui tam plaintiff. Under either scenario, if the action is successful, reasonable costs and fees are available to the attorney general, the municipality or the qui tam plaintiff, paid by the defendant.

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.

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.