

SB 311 STAFF MEASURE SUMMARY

Carrier: Rep. Andersen

House Committee On Judiciary

Action Date: 04/25/23

Action: Do Pass.

Vote: 8-2-0-0

Yeas: 8 - Andersen, Bynum, Chaichi, Conrad, Kropf, Reynolds, Tran, Wallan

Nays: 2 - Lewis, Morgan

Fiscal: Has minimal fiscal impact

Revenue: Has minimal revenue impact

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Meeting Dates: 3/15, 4/25

WHAT THE MEASURE DOES:

Increases maximum penalty in Attorney General’s (AG) civil actions for false claims violations to \$50,000, if it is the greater alternative to twice the amount of damages incurred. Increases the statute of limitations from three years to five years from the time the AG discovers the violation, for claims discovered after effective date of the measure. Provides confidentiality for materials or answers disclosed during discovery, with exceptions to allow use in false claims investigations or case proceedings, or when deemed appropriate for disclosure to a legislative committee or subcommittee.

ISSUES DISCUSSED:

- \$17 million settlement last year in false claims act case involving Medicaid overcharges
- Hypothetical of state agency employee involvement in fraud; knowledge is not imputed to Attorney General
- Frequency of time limitation preventing Attorney General from filing action
- "Ultimate repose" date still applies to prohibit any claims after 10 years

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon’s False Claims Act prohibits a person from requesting payment from a government entity when the person knows it is false, or is based on false, fraudulent, or concealed information, or when a person benefits from and fails to disclose a false claim when discovered. It prohibits a person from buying or receiving public property from a public employee if the person knows it is not authorized. It further prohibits the use of a false or fraudulent statement to avoid part or all of a financial obligation to a public agency.

The Attorney General (AG) is authorized to serve an investigative demand on persons for oral testimony, answers to written questions, or production of documents, or physical evidence. No penalties may be awarded in a false claim action if the defendant provides the AG with all known information about the violation within 30 days of becoming aware of it, prior to the AG commencing formal action, and the defendant fully cooperates in the investigation of the violation.

Senate Bill 311 increases the maximum penalty and time for Attorney General to bring an action for a violation of Oregon's False Claims Act and provides confidentiality for materials or answers received.