

BILL ANALYSIS

Senate Research Center

S.B. 1528
By: Moncrief
Jurisprudence
4-8-97
Committee Report (Amended)

DIGEST

Currently, Texas has no law specifically imposing a civil penalty for the misuse of state monies, other than Medicaid. A serious potential for fraud exists wherever public funds are spent. This bill would prohibit a person from presenting to an officer, employee, or agent of a governmental entity or government contractor any false claim, record, or statement to obtain or avoid a payment due from or to the state; provide for monetary penalties, including treble damages; allow local governments to participate in a suit affecting local monies; and allow a private person to bring an action on behalf of persons and the state or local government.

PURPOSE

As proposed, S.B. 1528 prohibits a person from presenting to an officer, employee, or agent of a governmental entity or government contractor any false claim, record, or statement to obtain or avoid a payment due from or to the state; provides for monetary penalties, including treble damages; allows local governments to participate in a suit affecting local monies; and allows a private person to bring an action on behalf of persons and the state or local government.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 10F, Government Code, by adding Chapter 2259, as follows:

CHAPTER 2259. FALSE CLAIMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2259.001. DEFINITIONS. Defines "claim," "government contractor," "governmental entity," "local governmental entity," "managing official," and "prosecuting attorney."

Sec. 2259.002. PROHIBITED ACTS. Sets forth prohibited acts of a person.

SUBCHAPTER B. LIABILITY FOR VIOLATIONS

Sec. 2259.011. LIABILITY FOR KNOWING VIOLATION. Sets forth damages to be awarded to an affected governmental entity by a person violating Section 2259.002, Government Code. Authorizes the court to reduce the amount of exemplary damages awarded under Subsection (a)(2) to an amount not less than the amount of actual damages if the person who knowingly violated Section 2259.02 committed certain actions. Sets forth violations of Section 2259.002.

Sec. 2259.012. CIVIL PENALTY. Sets forth a civil penalty for a violation under Section 2259.002, Government Code.

Sec. 2259.013. LIABILITY JOINT AND SEVERAL; PROPORTIONATE RESPONSIBILITY INAPPLICABLE. Provides that joint and several liability apply and that

Chapter 33, Civil Practice and Remedies Code, does not.

Sec. 2259.014. EXCEPTIONS. Sets forth exceptions for paying damages.

Sec. 2259.015. DEPOSIT OF MONEY. Sets forth procedures after money from a violation under this chapter is collected.

Sec. 2259.016. LIMITATIONS. Sets forth the statute of limitations.

Sec. 2259.017. APPLICATION OF LAW GOVERNING EXEMPLARY DAMAGES. Provides that Chapter 41, Civil Practice and Remedy Code, does not apply.

SUBCHAPTER C. ATTORNEY GENERAL ACTION

Sec. 2259.021. ATTORNEY GENERAL INVESTIGATION. Requires the attorney general to investigate alleged violation of Section 2259.002, Government Code. Authorizes the attorney general to bring an action under Subchapter B.

Sec. 2259.022. AFFECTED LOCAL GOVERNMENTAL ENTITY. Requires the attorney general, if the attorney general brings an action under Subchapter B, to provide a copy of a complaint to the appropriate prosecuting attorney. Sets forth requirements for notifying the prosecuting authority.

SUBCHAPTER D. ACTION BROUGHT BY PROSECUTING ATTORNEY

Sec. 2259.031. PROSECUTING AUTHORITY INVESTIGATION. Sets forth requirements for prosecuting authority investigations.

Sec. 2259.032. ATTORNEY GENERAL. Sets forth notice requirements to be sent by the prosecuting attorney to the attorney general. Sets forth the primary responsibility of conducting an action.

SUBCHAPTER E. PRIVATE CAUSE OF ACTION

Sec. 2259.041. PRIVATE ACTION. Authorizes a person to bring a private action for a violation of Section 2259.002, Government Code.

Sec. 2259.042. SERVICE OF PETITION. Sets forth requirements for service of a petition.

Sec. 2259.043. INTERVENTION. Sets forth requirements for assuming primary responsibility in an action.

Sec. 2259.044. AWARD TO PRIVATE PARTY IF GOVERNMENT PROSECUTES ACTION. Sets forth requirements for the court in making an award to a private party if the government prosecutes the action.

Sec. 2259.045. AWARD TO PRIVATE PARTY IF GOVERNMENT DOES NOT PROSECUTE ACTION. Sets forth requirements for the court in making an award to a private party if the government does not prosecute the action.

SUBCHAPTER F. INTERFERENCE WITH DISCLOSURE BY EMPLOYEES

Sec. 2259.051. RIGHT TO DISCLOSE INFORMATION AND PARTICIPATE IN ACTION. Sets forth entitlements of a person with regard to participation in an action.

Sec. 2259.052. PROHIBITED CONDUCT BY EMPLOYER. Sets forth prohibited conduct and liability of an employer for engaging in prohibited conduct. Prohibits an employee from recovering damages unless certain requirements are met. Provides that this section shall not apply to an employer who is covered by Chapter 554, Government Code.

SECTION 2. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Amends S.B. 1528, SECTION 1, page 12, line 12, by adding Subsection (d) to Section 2259.052 to read as follows: (d) This section shall not apply to an employer who is covered by Chapter 554, Government Code.