

AIA WASHINGTON COUNCIL

ISSUE BRIEF



KEY POINTS

- Allows “bounty hunting” to exploit billing errors
- Private parties can force a lawsuit even if the government finds no fault
- A submitting contractor can be found liable for 10 years
- The minimum penalty is \$5,000 per error
- Allows a private party to investigate on the government's behalf
- The AG's office found that this bill will significantly cost the state for administration, investigation and litigation.

NEW LAWSUITS AGAINST GOVERNMENT CONTRACTORS & AGENCIES

PLEASE OPPOSE SB 5144 AND SB 5224

SPONSORS SENATOR ADAM KLINE

Background

SB 5144 & 5224 establish a process for private parties to investigate and file lawsuits against government contractors for errors in their payment claims to their government agency clients.

If an error in a bill is found within 10 years, the submitting contractor would be liable for penalties of a minimum of \$5,000 and up to \$10,000 per error, plus three times the damages, attorneys' fees, and costs.

In addition, the bill would allow a private party to initiate the investigation and action on the government's behalf, up to 10 years after the bill was submitted, and claim up to 25% of the recovery.

If the government finds no fault and chooses not to pursue action, the private party can still force a lawsuit and claim up to 30% of the recovery (including penalties) plus costs and attorneys fees.

This would allow for “bounty hunting” on state contracts to find and exploit billing errors.

New Lawsuits, No Better Results

The Washington Attorney General's Office has evaluated this bill and found that “the bill will not achieve the recoveries anticipated and will cost the state more money than it will receive pursuant to the proposed Act.” The AGO found that there are “hidden administrative, investigative and litigation costs necessary initially to determine the viability of claims.” The AGO also is concerned about the “large payment” to the filer of the claim.

Excessive Penalties

In addition to the costs to governmental agencies, there will be high costs to government contractors to investigate allegations up to 10 years after the initial payment claim was filed. This puts an undue burden on contractors.

Moreover, the bill establishes penalties of a minimum of \$5,000 and up to \$10,000 per alleged false claim, plus three times the damages, attorneys' fees, and costs.

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