

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by
5 changing Section 50-2 as follows:

6 (30 ILCS 500/50-2)

7 (This Section may contain text from a Public Act with a
8 delayed effective date)

9 Sec. 50-2. Continuing disclosure; false certification.
10 Every person that has entered into a multi-year contract and
11 every subcontractor with a multi-year subcontract shall
12 certify, by July 1 of each fiscal year covered by the contract
13 after the initial fiscal year, to the responsible chief
14 procurement officer whether it continues to satisfy the
15 requirements of this Article pertaining to eligibility for a
16 contract award. If a contractor or subcontractor is not able to
17 truthfully certify that it continues to meet all requirements,
18 it shall provide with its certification a detailed explanation
19 of the circumstances leading to the change in certification
20 status. A contractor or subcontractor that makes a false
21 statement material to any given certification required under
22 this Article is, in addition to any other penalties or
23 consequences prescribed by law, subject to liability under the

1 Illinois False Claims ~~Whistleblower Reward and Protection~~ Act

2 for submission of a false claim.

3 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
4 for the effective date of P.A. 96-795).)

5 Section 10. The Whistleblower Reward and Protection Act is
6 amended by changing Sections 1, 2, 3, 4, 5, 6, and 8 as
7 follows:

8 (740 ILCS 175/1) (from Ch. 127, par. 4101)

9 Sec. 1. This Act may be cited as the Illinois False Claims
10 ~~Whistleblower Reward and Protection~~ Act.

11 (Source: P.A. 87-662.)

12 (740 ILCS 175/2) (from Ch. 127, par. 4102)

13 Sec. 2. Definitions. As used in this Act:

14 (a) "State" means the State of Illinois; any agency of
15 State government; the system of State colleges and
16 universities, any school district, community college district,
17 county, municipality, municipal corporation, unit of local
18 government, and any combination of the above under an
19 intergovernmental agreement that includes provisions for a
20 governing body of the agency created by the agreement.

21 (b) "Guard" means the Illinois National Guard.

22 (c) "Investigation" means any inquiry conducted by any
23 investigator for the purpose of ascertaining whether any person

1 is or has been engaged in any violation of this Act.

2 (d) "Investigator" means a person who is charged by the
3 Attorney General or the Department of State Police with the
4 duty of conducting any investigation under this Act, or any
5 officer or employee of the State acting under the direction and
6 supervision of the Attorney General or the Department of State
7 Police, through the Division of Operations or the Division of
8 Internal Investigation, in the course of an investigation.

9 (e) "Documentary material" includes the original or any
10 copy of any book, record, report, memorandum, paper,
11 communication, tabulation, chart, or other document, or data
12 compilations stored in or accessible through computer or other
13 information retrieval systems, together with instructions and
14 all other materials necessary to use or interpret such data
15 compilations, and any product of discovery.

16 (f) "Custodian" means the custodian, or any deputy
17 custodian, designated by the Attorney General under subsection
18 (i) (1) of Section 6.

19 (g) "Product of discovery" includes:

20 (1) the original or duplicate of any deposition,
21 interrogatory, document, thing, result of the inspection
22 of land or other property, examination, or admission, which
23 is obtained by any method of discovery in any judicial or
24 administrative proceeding of an adversarial nature;

25 (2) any digest, analysis, selection, compilation, or
26 derivation of any item listed in paragraph (1); and

1 (3) any index or other manner of access to any item
2 listed in paragraph (1).

3 (Source: P.A. 95-128, eff. 1-1-08.)

4 (740 ILCS 175/3) (from Ch. 127, par. 4103)

5 Sec. 3. False claims.

6 (a) Liability for certain acts.

7 (1) In general, any ~~Any~~ person who:

8 (A) ~~(1)~~ knowingly presents, or causes to be
9 presented, ~~to an officer or employee of the State or a~~
10 ~~member of the Guard~~ a false or fraudulent claim for
11 payment or approval;

12 (B) ~~(2)~~ knowingly makes, uses, or causes to be made
13 or used, a false record or statement material to ~~get~~ a
14 false or fraudulent claim ~~paid or approved by the~~
15 ~~State~~;

16 (C) ~~(3)~~ conspires to commit a violation of
17 subparagraph (A), (B), (D), (E), (F), or (G) ~~defraud~~
18 ~~the State by getting a false or fraudulent claim~~
19 ~~allowed or paid~~;

20 (D) ~~(4)~~ has possession, custody, or control of
21 property or money used, or to be used, by the State and
22 knowingly ~~, intending to defraud the State or willfully~~
23 ~~to conceal the property,~~ delivers, or causes to be
24 delivered, less than all the money or property ~~than the~~
25 ~~amount for which the person receives a certificate or~~

1 ~~receipt;~~

2 (E) ~~is~~ ~~(5)~~ authorized to make or deliver a document
3 certifying receipt of property used, or to be used, by
4 the State and, intending to defraud the State, makes or
5 delivers the receipt without completely knowing that
6 the information on the receipt is true;

7 (F) ~~(6)~~ knowingly buys, or receives as a pledge of
8 an obligation or debt, public property from an officer
9 or employee of the State, or a member of the Guard, who
10 lawfully may not sell or pledge ~~the~~ property; or

11 (G) ~~(7)~~ knowingly makes, uses, or causes to be made
12 or used, a false record or statement material to
13 ~~conceal, avoid or decrease~~ an obligation to pay or
14 transmit money or property to the State, or knowingly
15 conceals or knowingly and improperly avoids or
16 decreases an obligation to pay or transmit money or
17 property to the State, +

18 ~~(8) knowingly takes adverse employment action against~~
19 ~~an employee for disclosing information to a government or~~
20 ~~law enforcement agency, if the employee has reasonable~~
21 ~~cause to believe that the information discloses a violation~~
22 ~~of State or federal law, rule, or regulation; or~~

23 ~~(9) knowingly retaliates against an employee who has~~
24 ~~disclosed information in a court, an administrative~~
25 ~~hearing, before a legislative commission or committee, or~~
26 ~~in another proceeding and discloses information, if the~~

1 ~~employee has reasonable cause to believe that the~~
2 ~~information discloses a violation of State or federal law,~~
3 ~~rule, or regulation,~~

4 is liable to the State for a civil penalty of not less than
5 \$5,500 and not more than \$11,000, plus 3 times the amount
6 of damages which the State sustains because of the act of
7 that person. The penalties in this Section are intended to
8 be remedial rather than punitive, and shall not preclude,
9 nor be precluded by, a criminal prosecution for the same
10 conduct.

11 (2) A person violating this subsection ~~(a)~~ shall also
12 be liable to the State for the costs of a civil action
13 brought to recover any such penalty or damages.

14 (b) Definitions. For purposes of this Section:

15 (1) The ~~Knowing and knowingly defined. As used in this~~
16 Section, the terms "knowing" and "knowingly":

17 (A) mean that a person, with respect to
18 information:

19 (i) ~~(1)~~ has actual knowledge of the
20 information;

21 (ii) ~~(2)~~ acts in deliberate ignorance of the
22 truth or falsity of the information; or

23 (iii) ~~(3)~~ acts in reckless disregard of the
24 truth or falsity of the information, and

25 (B) require no proof of specific intent to defraud
26 ~~is required.~~

1 (2) The term (c) Claim defined. As used in this
2 ~~Section, "claim": includes~~

3 (A) means any request or demand, whether under a
4 contract or otherwise, for money or property and
5 whether or not the State has title to the money or
6 property, that

7 (i) is presented to an officer, employee, or
8 agent of the State; or

9 (ii) which is made to a contractor, grantee, or
10 other recipient, if the money or property is to be
11 spent or used on the State's behalf or to advance a
12 State program or interest, and if the State:

13 (I) provides or has provided any portion
14 of the money or property which is requested or
15 demanded; or

16 (II) if the State will reimburse such
17 contractor, grantee, or other recipient for
18 any portion of the money or property which is
19 requested or demanded; and;

20 (B) does not include requests or demands for money
21 or property that the State has paid to an individual as
22 compensation for State employment or as an income
23 subsidy with no restrictions on that individual's use
24 of the money or property. A claim also includes a
25 request or demand for money damages or injunctive
26 relief on behalf of an employee who has suffered an

1 ~~adverse employment action taken in violation of~~
2 ~~paragraphs (8) or (9) of subsection (a).~~

3 (3) The term "obligation" means an established duty,
4 whether or not fixed, arising from an express or implied
5 contractual, grantor-grantee, or licensor-licensee
6 relationship, from a fee-based or similar relationship,
7 from statute or regulation, or from the retention of any
8 overpayment.

9 (4) The term "material" means having a natural tendency
10 to influence, or be capable of influencing, the payment or
11 receipt of money or property.

12 (c) ~~(d)~~ Exclusion. This Section does not apply to claims,
13 records, or statements made under the Illinois Income Tax Act.
14 (Source: P.A. 94-1059, eff. 7-31-06; 95-128, eff. 1-1-08.)

15 (740 ILCS 175/4) (from Ch. 127, par. 4104)

16 Sec. 4. Civil actions for false claims.

17 (a) Responsibilities of the Attorney General and the
18 Department of State Police. The Attorney General or the
19 Department of State Police shall diligently investigate a civil
20 violation under Section 3, ~~except for civil violations under~~
21 ~~Section 3 that relate to and adversely affect primarily the~~
22 ~~system of State colleges and universities, any school district,~~
23 ~~any public community college district, any municipality,~~
24 ~~municipal corporations, units of local government, or any~~
25 ~~combination of the above under an intergovernmental agreement~~

1 ~~that includes provisions for a governing board of the agency~~
2 ~~created by the agreement.~~ If the ~~The~~ Attorney General finds
3 that a person violated or is violating Section 3, the Attorney
4 General may bring a civil action under this Section against the
5 ~~any person that has violated or is violating Section 3.~~

6 The State shall receive an amount for reasonable expenses
7 that the court finds to have been necessarily incurred by the
8 Attorney General, including reasonable attorneys' fees and
9 costs. All such expenses, fees, and costs shall be awarded
10 against the defendant. The court may award amounts from the
11 proceeds of an action or settlement that it considers
12 appropriate to any governmental entity or program that has been
13 adversely affected by a defendant. The Attorney General, if
14 necessary, shall direct the State Treasurer to make a
15 disbursement of funds as provided in court orders or settlement
16 agreements.

17 (b) Actions by private persons.

18 (1) A person may bring a civil action for a violation
19 of Section 3 for the person and for the State. The action
20 shall be brought in the name of the State. The action may
21 be dismissed only if the court and the Attorney General
22 give written consent to the dismissal and their reasons for
23 consenting.

24 (2) A copy of the complaint and written disclosure of
25 substantially all material evidence and information the
26 person possesses shall be served on the State. The

1 complaint shall be filed in camera, shall remain under seal
2 for at least 60 days, and shall not be served on the
3 defendant until the court so orders. The State may elect to
4 intervene and proceed with the action within 60 days after
5 it receives both the complaint and the material evidence
6 and information.

7 (3) The State may, for good cause shown, move the court
8 for extensions of the time during which the complaint
9 remains under seal under paragraph (2). Any such motions
10 may be supported by affidavits or other submissions in
11 camera. The defendant shall not be required to respond to
12 any complaint filed under this Section until 20 days after
13 the complaint is unsealed and served upon the defendant.

14 (4) Before the expiration of the 60-day period or any
15 extensions obtained under paragraph (3), the State shall:

16 (A) proceed with the action, in which case the
17 action shall be conducted by the State; or

18 (B) notify the court that it declines to take over
19 the action, in which case the person bringing the
20 action shall have the right to conduct the action.

21 (5) When a person brings an action under this
22 subsection (b), no person other than the State may
23 intervene or bring a related action based on the facts
24 underlying the pending action.

25 (c) Rights of the parties to Qui Tam actions.

26 (1) If the State proceeds with the action, it shall

1 have the primary responsibility for prosecuting the
2 action, and shall not be bound by an act of the person
3 bringing the action. Such person shall have the right to
4 continue as a party to the action, subject to the
5 limitations set forth in paragraph (2).

6 (2) (A) The State may dismiss the action
7 notwithstanding the objections of the person
8 initiating the action if the person has been notified
9 by the State of the filing of the motion and the court
10 has provided the person with an opportunity for a
11 hearing on the motion.

12 (B) The State may settle the action with the
13 defendant notwithstanding the objections of the person
14 initiating the action if the court determines, after a
15 hearing, that the proposed settlement is fair,
16 adequate, and reasonable under all the circumstances.
17 Upon a showing of good cause, such hearing may be held
18 in camera.

19 (C) Upon a showing by the State that unrestricted
20 participation during the course of the litigation by
21 the person initiating the action would interfere with
22 or unduly delay the State's prosecution of the case, or
23 would be repetitious, irrelevant, or for purposes of
24 harassment, the court may, in its discretion, impose
25 limitations on the person's participation, such as:

26 (i) limiting the number of witnesses the

1 person may call:

2 (ii) limiting the length of the testimony of
3 such witnesses;

4 (iii) limiting the person's cross-examination
5 of witnesses; or

6 (iv) otherwise limiting the participation by
7 the person in the litigation.

8 (D) Upon a showing by the defendant that
9 unrestricted participation during the course of the
10 litigation by the person initiating the action would be
11 for purposes of harassment or would cause the defendant
12 undue burden or unnecessary expense, the court may
13 limit the participation by the person in the
14 litigation.

15 (3) If the State elects not to proceed with the action,
16 the person who initiated the action shall have the right to
17 conduct the action. If the State so requests, it shall be
18 served with copies of all pleadings filed in the action and
19 shall be supplied with copies of all deposition transcripts
20 (at the State's expense). When a person proceeds with the
21 action, the court, without limiting the status and rights
22 of the person initiating the action, may nevertheless
23 permit the State to intervene at a later date upon a
24 showing of good cause.

25 (4) Whether or not the State proceeds with the action,
26 upon a showing by the State that certain actions of

1 discovery by the person initiating the action would
2 interfere with the State's investigation or prosecution of
3 a criminal or civil matter arising out of the same facts,
4 the court may stay such discovery for a period of not more
5 than 60 days. Such a showing shall be conducted in camera.
6 The court may extend the 60-day period upon a further
7 showing in camera that the State has pursued the criminal
8 or civil investigation or proceedings with reasonable
9 diligence and any proposed discovery in the civil action
10 will interfere with the ongoing criminal or civil
11 investigation or proceedings.

12 (5) Notwithstanding subsection (b), the State may
13 elect to pursue its claim through any alternate remedy
14 available to the State, including any administrative
15 proceeding to determine a civil money penalty. If any such
16 alternate remedy is pursued in another proceeding, the
17 person initiating the action shall have the same rights in
18 such proceeding as such person would have had if the action
19 had continued under this Section. Any finding of fact or
20 conclusion of law made in such other proceeding that has
21 become final shall be conclusive on all parties to an
22 action under this Section. For purposes of the preceding
23 sentence, a finding or conclusion is final if it has been
24 finally determined on appeal to the appropriate court, if
25 all time for filing such an appeal with respect to the
26 finding or conclusion has expired, or if the finding or

1 conclusion is not subject to judicial review.

2 (d) Award to Qui Tam plaintiff.

3 (1) If the State proceeds with an action brought by a
4 person under subsection (b), such person shall, subject to
5 the second sentence of this paragraph, receive at least 15%
6 but not more than 25% of the proceeds of the action or
7 settlement of the claim, depending upon the extent to which
8 the person substantially contributed to the prosecution of
9 the action. Where the action is one which the court finds
10 to be based primarily on disclosures of specific
11 information (other than information provided by the person
12 bringing the action) relating to allegations or
13 transactions in a criminal, civil, or administrative
14 hearing, in a legislative, administrative, or Auditor
15 General's report, hearing, audit, or investigation, or
16 from the news media, the court may award such sums as it
17 considers appropriate, but in no case more than 10% of the
18 proceeds, taking into account the significance of the
19 information and the role of the person bringing the action
20 in advancing the case to litigation. Any payment to a
21 person under the first or second sentence of this paragraph
22 (1) shall be made from the proceeds. Any such person shall
23 also receive an amount for reasonable expenses which the
24 court finds to have been necessarily incurred, plus
25 reasonable attorneys' fees and costs. The State shall also
26 receive an amount for reasonable expenses which the court

1 finds to have been necessarily incurred by the Attorney
2 General, including reasonable attorneys' fees and costs,
3 ~~and the amount received shall be deposited in the~~
4 ~~Whistleblower Reward and Protection Fund created under~~
5 ~~this Act.~~ All such expenses, fees, and costs shall be
6 awarded against the defendant. The court may award amounts
7 from the proceeds of an action or settlement that it
8 considers appropriate to any governmental entity or
9 program that has been adversely affected by a defendant.
10 The Attorney General, if necessary, shall direct the State
11 Treasurer to make a disbursement of funds as provided in
12 court orders or settlement agreements. ~~When the system of~~
13 ~~State colleges and universities, any school district, any~~
14 ~~public community college district, any municipality, any~~
15 ~~municipal corporation, any unit of local government, or any~~
16 ~~combination of the above under an intergovernmental~~
17 ~~agreement has been adversely affected by a defendant, the~~
18 ~~court may award such sums as it considers appropriate to~~
19 ~~the affected entity, specifying in its order the amount to~~
20 ~~be awarded to the entity from the net proceeds that are~~
21 ~~deposited in the Whistleblower Reward and Protection Fund.~~

22 (2) If the State does not proceed with an action under
23 this Section, the person bringing the action or settling
24 the claim shall receive an amount which the court decides
25 is reasonable for collecting the civil penalty and damages.
26 The amount shall be not less than 25% and not more than 30%

1 of the proceeds of the action or settlement and shall be
2 paid out of such proceeds. Such person shall also receive
3 an amount for reasonable expenses which the court finds to
4 have been necessarily incurred, plus reasonable attorneys'
5 fees and costs. All such expenses, fees, and costs shall be
6 awarded against the defendant. The court may award amounts
7 from the proceeds of an action or settlement that it
8 considers appropriate to any governmental entity or
9 program that has been adversely affected by a defendant.
10 The Attorney General, if necessary, shall direct the State
11 Treasurer to make a disbursement of funds as provided in
12 court orders or settlement agreements.

13 (3) Whether or not the State proceeds with the action,
14 if the court finds that the action was brought by a person
15 who planned and initiated the violation of Section 3 upon
16 which the action was brought, then the court may, to the
17 extent the court considers appropriate, reduce the share of
18 the proceeds of the action which the person would otherwise
19 receive under paragraph (1) or (2) of this subsection (d),
20 taking into account the role of that person in advancing
21 the case to litigation and any relevant circumstances
22 pertaining to the violation. If the person bringing the
23 action is convicted of criminal conduct arising from his or
24 her role in the violation of Section 3, that person shall
25 be dismissed from the civil action and shall not receive
26 any share of the proceeds of the action. Such dismissal

1 shall not prejudice the right of the State to continue the
2 action, represented by the Attorney General.

3 (4) If the State does not proceed with the action and
4 the person bringing the action conducts the action, the
5 court may award to the defendant its reasonable attorneys'
6 fees and expenses if the defendant prevails in the action
7 and the court finds that the claim of the person bringing
8 the action was clearly frivolous, clearly vexatious, or
9 brought primarily for purposes of harassment.

10 (e) Certain actions barred.

11 (1) No court shall have jurisdiction over an action
12 brought by a former or present member of the Guard under
13 subsection (b) of this Section against a member of the
14 Guard arising out of such person's service in the Guard.

15 (2) (A) No court shall have jurisdiction over an action
16 brought under subsection (b) against a member of the
17 General Assembly, a member of the judiciary, or an
18 exempt official if the action is based on evidence or
19 information known to the State when the action was
20 brought.

21 (B) For purposes of this paragraph (2), "exempt
22 official" means any of the following officials in State
23 service: directors of departments established under
24 the Civil Administrative Code of Illinois, the
25 Adjutant General, the Assistant Adjutant General, the
26 Director of the State Emergency Services and Disaster

1 Agency, members of the boards and commissions, and all
2 other positions appointed by the Governor by and with
3 the consent of the Senate.

4 (3) In no event may a person bring an action under
5 subsection (b) which is based upon allegations or
6 transactions which are the subject of a civil suit or an
7 administrative civil money penalty proceeding in which the
8 State is already a party.

9 (4) (A) No court shall have jurisdiction over an
10 action under this Section based upon the public
11 disclosure of allegations or transactions in a
12 criminal, civil, or administrative hearing, in a
13 legislative, administrative, or Auditor General's
14 report, hearing, audit, or investigation, or from the
15 news media, unless the action is brought by the
16 Attorney General or the person bringing the action is
17 an original source of the information.

18 (B) For purposes of this paragraph (4), "original
19 source" means an individual who has direct and
20 independent knowledge of the information on which the
21 allegations are based and has voluntarily provided the
22 information to the State before filing an action under
23 this Section which is based on the information.

24 (f) State not liable for certain expenses. The State is not
25 liable for expenses which a person incurs in bringing an action
26 under this Section.

1 (g) Relief from retaliatory actions.

2 (1) In general, any Any employee, contractor, or agent
3 is entitled to all relief necessary to make that employee,
4 contractor, or agent whole, if that employee, contractor,
5 or agent who is discharged, demoted, suspended,
6 threatened, harassed, or in any other manner discriminated
7 against in the terms and conditions of employment ~~by his or~~
8 ~~her employer~~ because of lawful acts done by the employee,
9 contractor, or agent on behalf of the employee, contractor,
10 or agent or associated others in furtherance of other
11 efforts to stop one or more violations of this Act an
12 ~~action under this Section, including investigation for,~~
13 ~~initiation of, testimony for, or assistance in an action~~
14 ~~filed or to be filed under this Section, shall be entitled~~
15 ~~to all relief necessary to make the employee whole. Such~~
16 ~~relief~~

17 (2) Relief under paragraph (1) shall include
18 reinstatement with the seniority status that the such
19 employee, contractor, or agent would have had but for the
20 discrimination, 2 times the amount of back pay, interest on
21 the back pay, and compensation for any special damages
22 sustained as a result of the discrimination, including
23 litigation costs and reasonable attorneys' fees. An action
24 under this subsection (g) may be brought ~~employee may bring~~
25 ~~an action~~ in the appropriate circuit court for the relief
26 provided in this subsection (g).

1 (Source: P.A. 89-260, eff. 1-1-96.)

2 (740 ILCS 175/5) (from Ch. 127, par. 4105)

3 Sec. 5. False claims procedure.

4 (a) A subpoena requiring the attendance of a witness at a
5 trial or hearing conducted under Section 4 of this Act may be
6 served at any place in the State.

7 (b) A civil action under Section 4 may not be brought:

8 (1) more than 6 years after the date on which the
9 violation of Section 3 is committed, or

10 (2) more than 3 years after the date when facts
11 material to the right of action are known or reasonably
12 should have been known by the official of the State charged
13 with responsibility to act in the circumstances, but in no
14 event more than 10 years after the date on which the
15 violation is committed,

16 whichever occurs last.

17 (c) If the State elects to intervene and proceed with an
18 action brought under subsection (b) of Section 4, the State may
19 file its own complaint or amend the complaint of a person who
20 has brought an action under subsection (b) of Section 4 to
21 clarify or add detail to the claims in which the State is
22 intervening and to add any additional claims with respect to
23 which the State contends it is entitled to relief. For statute
24 of limitations purposes, any such State pleading shall relate
25 back to the filing date of the complaint of the person who

1 originally brought the action, to the extent that the claim of
2 the State arises out of the conduct, transactions, or
3 occurrences set forth, or attempted to be set forth, in the
4 prior complaint of that person.

5 (d) ~~(e)~~ In any action brought under Section 4, the State
6 shall be required to prove all essential elements of the cause
7 of action, including damages, by a preponderance of the
8 evidence.

9 (e) ~~(d)~~ Notwithstanding any other provision of law, a final
10 judgement rendered in favor of the State in any criminal
11 proceeding charging fraud or false statements, whether upon a
12 verdict after trial or upon a plea of guilty, shall estop the
13 defendant from denying the essential elements of the offense in
14 any action which involves the same transaction as in the
15 criminal proceeding and which is brought under subsection (a)
16 or (b) of Section 4.

17 (Source: P.A. 87-662.)

18 (740 ILCS 175/6) (from Ch. 127, par. 4106)

19 Sec. 6. Subpoenas.

20 (a) In general.

21 (1) Issuance and service. Whenever the Attorney
22 General, or a designee (for purposes of this Section), has
23 reason to believe that any person may be in possession,
24 custody, or control of any documentary material or
25 information relevant to an investigation, the Attorney

1 General, or a designee, may, before commencing a civil
2 proceeding under this Act or making an election under
3 paragraph (4) of subsection (b) of Section 4, issue in
4 writing and cause to be served upon such person, a subpoena
5 requiring such person:

6 (A) to produce such documentary material for
7 inspection and copying,

8 (B) to answer, in writing, written interrogatories
9 with respect to such documentary material or
10 information,

11 (C) to give oral testimony concerning such
12 documentary material or information, or

13 (D) to furnish any combination of such material,
14 answers, or testimony.

15 The Attorney General may delegate the authority to issue
16 subpoenas under this subsection (a) to the Department of
17 State Police subject to conditions as the Attorney General
18 deems appropriate. Whenever a subpoena is an express demand
19 for any product of discovery, the Attorney General or his
20 or her delegate shall cause to be served, in any manner
21 authorized by this Section, a copy of such demand upon the
22 person from whom the discovery was obtained and shall
23 notify the person to whom such demand is issued of the date
24 on which such copy was served. Any information obtained by
25 the Attorney General or a designee under this Section may
26 be shared with any qui tam relator if the Attorney General

1 or designee determines it necessary as part of any False
2 Claims Act investigation.

3 (1.5) Where a subpoena requires the production of
4 documentary material, the respondent shall produce the
5 original of the documentary material, provided, however,
6 that the Attorney General, or a designee, may agree that
7 copies may be substituted for the originals. All
8 documentary material kept or stored in electronic form,
9 including electronic mail, shall be produced in native
10 format, as kept in the normal course of business, or as
11 otherwise directed by ~~hard copy,~~ unless the Attorney
12 General or designee ~~agrees that electronic versions may be~~
13 ~~substituted for the hard copy.~~ The production of
14 documentary material shall be made at the respondent's
15 expense.

16 (2) Contents and deadlines. Each subpoena issued under
17 paragraph (1):

18 (A) Shall state the nature of the conduct
19 constituting an alleged violation that is under
20 investigation and the applicable provision of law
21 alleged to be violated.

22 (B) Shall identify the individual causing the
23 subpoena to be served and to whom communications
24 regarding the subpoena should be directed.

25 (C) Shall state the date, place, and time at which
26 the person is required to appear, produce written

1 answers to interrogatories, produce documentary
2 material or give oral testimony. The date shall not be
3 less than 10 days from the date of service of the
4 subpoena. Compliance with the subpoena shall be at the
5 Office of the Attorney General in either the
6 Springfield or Chicago location or at other location by
7 agreement.

8 (D) If the subpoena is for documentary material or
9 interrogatories, shall describe the documents or
10 information requested with specificity.

11 (E) Shall notify the person of the right to be
12 assisted by counsel.

13 (F) Shall advise that the person has 20 days from
14 the date of service or up until the return date
15 specified in the demand, whichever date is earlier, to
16 move, modify, or set aside the subpoena pursuant to
17 subparagraph (j) (2) (A) of this Section.

18 (b) Protected material or information.

19 (1) In general. A subpoena issued under subsection (a)
20 may not require the production of any documentary material,
21 the submission of any answers to written interrogatories,
22 or the giving of any oral testimony if such material,
23 answers, or testimony would be protected from disclosure
24 under:

25 (A) the standards applicable to subpoenas or
26 subpoenas duces tecum issued by a court of this State

1 to aid in a grand jury investigation; or

2 (B) the standards applicable to discovery requests
3 under the Code of Civil Procedure, to the extent that
4 the application of such standards to any such subpoena
5 is appropriate and consistent with the provisions and
6 purposes of this Section.

7 (2) Effect on other orders, rules, and laws. Any such
8 subpoena which is an express demand for any product of
9 discovery supersedes any inconsistent order, rule, or
10 provision of law (other than this Section) preventing or
11 restraining disclosure of such product of discovery to any
12 person. Disclosure of any product of discovery pursuant to
13 any such subpoena does not constitute a waiver of any right
14 or privilege which the person making such disclosure may be
15 entitled to invoke to resist discovery of trial preparation
16 materials.

17 (c) Service in general. Any subpoena issued under
18 subsection (a) may be served by any person so authorized by the
19 Attorney General or by any person authorized to serve process
20 on individuals within Illinois, through any method prescribed
21 in the Code of Civil Procedure or as otherwise set forth in
22 this Act.

23 (d) Service upon legal entities and natural persons.

24 (1) Legal entities. Service of any subpoena issued
25 under subsection (a) or of any petition filed under
26 subsection (j) may be made upon a partnership, corporation,

1 association, or other legal entity by:

2 (A) delivering an executed copy of such subpoena or
3 petition to any partner, executive officer, managing
4 agent, general agent, or registered agent of the
5 partnership, corporation, association or entity;

6 (B) delivering an executed copy of such subpoena or
7 petition to the principal office or place of business
8 of the partnership, corporation, association, or
9 entity; or

10 (C) depositing an executed copy of such subpoena or
11 petition in the United States mails by registered or
12 certified mail, with a return receipt requested,
13 addressed to such partnership, corporation,
14 association, or entity as its principal office or place
15 of business.

16 (2) Natural person. Service of any such subpoena or
17 petition may be made upon any natural person by:

18 (A) delivering an executed copy of such subpoena or
19 petition to the person; or

20 (B) depositing an executed copy of such subpoena or
21 petition in the United States mails by registered or
22 certified mail, with a return receipt requested,
23 addressed to the person at the person's residence or
24 principal office or place of business.

25 (e) Proof of service. A verified return by the individual
26 serving any subpoena issued under subsection (a) or any

1 petition filed under subsection (j) setting forth the manner of
2 such service shall be proof of such service. In the case of
3 service by registered or certified mail, such return shall be
4 accompanied by the return post office receipt of delivery of
5 such subpoena.

6 (f) Documentary material.

7 (1) Sworn certificates. The production of documentary
8 material in response to a subpoena served under this
9 Section shall be made under a sworn certificate, in such
10 form as the subpoena designates, by:

11 (A) in the case of a natural person, the person to
12 whom the subpoena is directed, or

13 (B) in the case of a person other than a natural
14 person, a person having knowledge of the facts and
15 circumstances relating to such production and
16 authorized to act on behalf of such person.

17 The certificate shall state that all of the documentary
18 material required by the demand and in the possession,
19 custody, or control of the person to whom the subpoena is
20 directed has been produced and made available to the
21 Attorney General.

22 (2) Production of materials. Any person upon whom any
23 subpoena for the production of documentary material has
24 been served under this Section shall make such material
25 available for inspection and copying to the Attorney
26 General at the place designated in the subpoena, or at such

1 other place as the Attorney General and the person
2 thereafter may agree and prescribe in writing, or as the
3 court may direct under subsection (j)(1). Such material
4 shall be made so available on the return date specified in
5 such subpoena, or on such later date as the Attorney
6 General may prescribe in writing. Such person may, upon
7 written agreement between the person and the Attorney
8 General, substitute copies for originals of all or any part
9 of such material.

10 (g) Interrogatories. Each interrogatory in a subpoena
11 served under this Section shall be answered separately and
12 fully in writing under oath and shall be submitted under a
13 sworn certificate, in such form as the subpoena designates by:

14 (1) in the case of a natural person, the person to whom
15 the subpoena is directed, or

16 (2) in the case of a person other than a natural
17 person, the person or persons responsible for answering
18 each interrogatory.

19 If any interrogatory is objected to, the reasons for the
20 objection shall be stated in the certificate instead of an
21 answer. The certificate shall state that all information
22 required by the subpoena and in the possession, custody,
23 control, or knowledge of the person to whom the demand is
24 directed has been submitted. To the extent that any information
25 is not furnished, the information shall be identified and
26 reasons set forth with particularity regarding the reasons why

1 the information was not furnished.

2 (h) Oral examinations.

3 (1) Procedures. The examination of any person pursuant
4 to a subpoena for oral testimony served under this Section
5 shall be taken before an officer authorized to administer
6 oaths and affirmations by the laws of this State or of the
7 place where the examination is held. The officer before
8 whom the testimony is to be taken shall put the witness on
9 oath or affirmation and shall, personally or by someone
10 acting under the direction of the officer and in the
11 officer's presence, record the testimony of the witness.
12 The testimony shall be taken stenographically and shall be
13 transcribed. When the testimony is fully transcribed, the
14 officer before whom the testimony is taken shall promptly
15 transmit a certified copy of the transcript of the
16 testimony in accordance with the instructions of the
17 Attorney General. This subsection shall not preclude the
18 taking of testimony by any means authorized by, and in a
19 manner consistent with, the Code of Civil Procedure.

20 (2) Persons present. The investigator conducting the
21 examination shall exclude from the place where the
22 examination is held all persons except the person giving
23 the testimony, the attorney for and any other
24 representative of the person giving the testimony, the
25 attorney for the State, any person who may be agreed upon
26 by the attorney for the State and the person giving the

1 testimony, the officer before whom the testimony is to be
2 taken, and any stenographer taking such testimony.

3 (3) Where testimony taken. The oral testimony of any
4 person taken pursuant to a subpoena served under this
5 Section shall be taken in the county within which such
6 person resides, is found, or transacts business, or in such
7 other place as may be agreed upon by the Attorney General
8 and such person.

9 (4) Transcript of testimony. When the testimony is
10 fully transcribed, the Attorney General or the officer
11 before whom the testimony is taken shall afford the
12 witness, who may be accompanied by counsel, a reasonable
13 opportunity to review and correct the transcript, in
14 accordance with the rules applicable to deposition
15 witnesses in civil cases. Upon payment of reasonable
16 charges, the Attorney General shall furnish a copy of the
17 transcript to the witness, except that the Attorney General
18 may, for good cause, limit the witness to inspection of the
19 official transcript of the witness' testimony.

20 (5) Conduct of oral testimony.

21 (A) Any person compelled to appear for oral
22 testimony under a subpoena issued under subsection (a)
23 may be accompanied, represented, and advised by
24 counsel, who may raise objections based on matters of
25 privilege in accordance with the rules applicable to
26 depositions in civil cases. If such person refuses to

1 answer any question, a petition may be filed in circuit
2 court under subsection (j)(1) for an order compelling
3 such person to answer such question.

4 (B) If such person refuses any question on the
5 grounds of the privilege against self-incrimination,
6 the testimony of such person may be compelled in
7 accordance with Article 106 of the Code of Criminal
8 Procedure of 1963.

9 (6) Witness fees and allowances. Any person appearing
10 for oral testimony under a subpoena issued under subsection
11 (a) shall be entitled to the same fees and allowances which
12 are paid to witnesses in the circuit court.

13 (i) Custodians of documents, answers, and transcripts.

14 (1) Designation. The Attorney General or his or her
15 delegate shall serve as custodian of documentary material,
16 answers to interrogatories, and transcripts of oral
17 testimony received under this Section.

18 (2) Except as otherwise provided in this Section, no
19 documentary material, answers to interrogatories, or
20 transcripts of oral testimony, or copies thereof, while in
21 the possession of the custodian, shall be available for
22 examination by any individual, except as determined
23 necessary by the Attorney General and subject to the
24 conditions imposed by him or her for effective enforcement
25 of the laws of this State, or as otherwise provided by
26 court order.

1 (3) Conditions for return of material. If any
2 documentary material has been produced by any person in the
3 course of any investigation pursuant to a subpoena under
4 this Section and:

5 (A) any case or proceeding before the court or
6 grand jury arising out of such investigation, or any
7 proceeding before any State agency involving such
8 material, has been completed, or

9 (B) no case or proceeding in which such material
10 may be used has been commenced within a reasonable time
11 after completion of the examination and analysis of all
12 documentary material and other information assembled
13 in the course of such investigation,
14 the custodian shall, upon written request of the person who
15 produced such material, return to such person any such
16 material which has not passed into the control of any
17 court, grand jury, or agency through introduction into the
18 record of such case or proceeding.

19 (j) Judicial proceedings.

20 (1) Petition for enforcement. Whenever any person
21 fails to comply with any subpoena issued under subsection
22 (a), or whenever satisfactory copying or reproduction of
23 any material requested in such demand cannot be done and
24 such person refuses to surrender such material, the
25 Attorney General may file, in the circuit court of any
26 county in which such person resides, is found, or transacts

1 business, or the circuit court of the county in which an
2 action filed pursuant to Section 4 of this Act is pending
3 if the action relates to the subject matter of the subpoena
4 and serve upon such person a petition for an order of such
5 court for the enforcement of the subpoena.

6 (2) Petition to modify or set aside subpoena.

7 (A) Any person who has received a subpoena issued
8 under subsection (a) may file, in the circuit court of
9 any county within which such person resides, is found,
10 or transacts business, and serve upon the Attorney
11 General a petition for an order of the court to modify
12 or set aside such subpoena. In the case of a petition
13 addressed to an express demand for any product of
14 discovery, a petition to modify or set aside such
15 demand may be brought only in the circuit court of the
16 county in which the proceeding in which such discovery
17 was obtained is or was last pending. Any petition under
18 this subparagraph (A) must be filed:

19 (i) within 20 days after the date of service of
20 the subpoena, or at any time before the return date
21 specified in the subpoena, whichever date is
22 earlier, or

23 (ii) within such longer period as may be
24 prescribed in writing by the Attorney General.

25 (B) The petition shall specify each ground upon
26 which the petitioner relies in seeking relief under

1 subparagraph (A), and may be based upon any failure of
2 the subpoena to comply with the provisions of this
3 Section or upon any constitutional or other legal right
4 or privilege of such person. During the pendency of the
5 petition in the court, the court may stay, as it deems
6 proper, the running of the time allowed for compliance
7 with the subpoena, in whole or in part, except that the
8 person filing the petition shall comply with any
9 portion of the subpoena not sought to be modified or
10 set aside.

11 (3) Petition to modify or set aside demand for product
12 of discovery. In the case of any subpoena issued under
13 subsection (a) which is an express demand for any product
14 of discovery, the person from whom such discovery was
15 obtained may file, in the circuit court of the county in
16 which the proceeding in which such discovery was obtained
17 is or was last pending, a petition for an order of such
18 court to modify or set aside those portions of the subpoena
19 requiring production of any such product of discovery,
20 subject to the same terms, conditions, and limitations set
21 forth in subparagraph (j) (2) of this Section.

22 (4) Jurisdiction. Whenever any petition is filed in any
23 circuit court under this subsection (j), such court shall
24 have jurisdiction to hear and determine the matter so
25 presented, and to enter such orders as may be required to
26 carry out the provisions of this Section. Any final order

1 so entered shall be subject to appeal in the same manner as
2 appeals of other final orders in civil matters. Any
3 disobedience of any final order entered under this Section
4 by any court shall be punished as a contempt of the court.

5 (k) Disclosure exemption. Any documentary material,
6 answers to written interrogatories, or oral testimony provided
7 under any subpoena issued under subsection (a) shall be exempt
8 from disclosure under the Illinois Administrative Procedure
9 Act.

10 (Source: P.A. 93-579, eff. 1-1-04; 94-940, eff. 1-1-07.)

11 (740 ILCS 175/8) (from Ch. 127, par. 4108)

12 Sec. 8. Funds; Grants.

13 (a) There is hereby created the Whistleblower Reward and
14 Protection Fund as a special fund in the State Treasury. All
15 proceeds of an action or settlement of a claim brought under
16 this Act shall be deposited in the Fund. Any attorneys' fees,
17 expenses, and costs paid by or awarded against any defendant
18 pursuant to Section 4 of this Act shall not be considered part
19 of the proceeds to be deposited in the Fund.

20 (b) Monies in the Fund shall be allocated, subject to
21 appropriation, as follows: One-sixth of the monies shall be
22 paid to the Attorney General and one-sixth of the monies shall
23 be paid to the Department of State Police for State law
24 enforcement purposes. The remaining two-thirds of the monies in
25 the Fund shall be used for payment of awards to Qui Tam

1 plaintiffs, ~~for attorneys' fees and expenses,~~ and as otherwise
2 specified in this Act, with any remainder to the General
3 Revenue Fund. The Attorney General shall direct the State
4 Treasurer to make disbursement of funds ~~as provided in court~~
5 ~~orders setting those awards, fees, and expenses.~~ The State
6 ~~Treasurer shall transfer any fund balances in excess of those~~
7 ~~required for these purposes to the General Revenue Fund.~~

8 (Source: P.A. 87-662.)

9 Section 95. No acceleration or delay. Where this Act makes
10 changes in a statute that is represented in this Act by text
11 that is not yet or no longer in effect (for example, a Section
12 represented by multiple versions), the use of that text does
13 not accelerate or delay the taking effect of (i) the changes
14 made by this Act or (ii) provisions derived from any other
15 Public Act.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.