Texas False Claims Act expansion bill

Constituent discussion draft | Proposed expansion of Chapter 36

A BILL TO BE ENTITLED

AN ACT

relating to false claims involving state and local public funds, including obligations to return unearned payments; providing civil remedies and penalties; authorizing governmental and private enforcement; protecting public records research and health care program and other whistleblower reporting; waiving immunity for specified retaliation actions; providing confidentiality and reporting requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 36, Human Resources Code, is amended to read as follows:

CHAPTER 36. TEXAS FALSE CLAIMS ACT

SECTION 2. Section 36.001, Human Resources Code, is amended by amending Subdivisions (1-a) and (7-a) and adding Subdivisions (13) through (19) to read as follows:

(1-a) "Claim" means a written or electronically submitted request or demand that:

(A) is signed by a provider or a fiscal agent and that identifies a product or service provided or purported to have been provided to a health care recipient as reimbursable under a health care program, without regard to whether the money that is requested or demanded is paid; or

(B) states the income earned or expense incurred by a provider in providing a product or a service and that is used to determine a rate of payment under a health care program; or

(C) is presented, under a contract, grant, or otherwise, for money or property to a governmental entity or its officer, employee, or agent, or to a contractor, subcontractor, grantee, subgrantee, or other recipient if the money or property is to be used on behalf of a governmental entity or to advance its program or interest and a governmental entity provides or has provided any portion of the money or property requested or will reimburse any portion. For purposes of this paragraph, the term includes an invoice, grant draw, reimbursement request, payment application, and a request for approval that is a prerequisite to payment. Liability does not require payment of the claim.

(7-a) "Obligation" means a duty, whether or not fixed, that arises from:

(A) an express or implied contractual, grantor-grantee, or licensor-licensee relationship;

(B) a fee-based or similar relationship;

(C) a statute or regulation;

(D) the retention of any overpayment; or

(E) the repayment duty established by Section 36.009.

(13) "Governmental entity" means this state, a state agency or institution of higher education, a political subdivision, or an agency, department, instrumentality, or public corporation of a political subdivision. The term includes a municipality, county, school district, hospital district, transit authority, special district, regional governmental authority, and an entity created by an interlocal agreement.

(14) "Affected governmental entity" means a governmental entity whose money, property, or legally protected financial interest is involved in an alleged unlawful act.

(15) "Local governmental entity" means a governmental entity other than this state or a state agency or institution of higher education.

(16) "Local prosecuting authority" means an attorney authorized to represent an affected local governmental entity in civil litigation, including an attorney designated by its governing body.

(17) "Governmental attorney" means the attorney general or a local prosecuting authority authorized to act in the particular matter under this chapter.

(18) "Covered agreement" means a written contract or grant agreement providing governmental money or property, including a bid, proposal, application, specification, renewal, or amendment incorporated as a binding term.

(19) "General public funds claim" means a claim or obligation involving governmental money or property other than a claim for or retention of payment under a health care program or conduct independently constituting an unlawful act under Section 36.002(1) through (11) or (13) in connection with a health care program. A governmental entity's health care function does not alone exclude its unrelated procurement or grant expenditures from this definition.

SECTION 3. Section 36.002, Human Resources Code, is amended by amending Subdivisions (12) and (13) and adding Subdivisions (14) through (19) to read as follows:

(12) knowingly makes, uses, or causes the making or use of a false record or statement material to an obligation to pay or transmit money or property to this state under a health care program or to an affected governmental entity in connection with a general public funds claim, or knowingly conceals or knowingly and improperly avoids or decreases that obligation, subject to Section 36.009 when the obligation rests solely on a performance shortfall;

(13) knowingly engages in conduct that constitutes a violation under Section 32.039(b);

(14) knowingly presents or causes the presentation of a materially false or fraudulent general public funds claim for payment or approval;

(15) knowingly makes, uses, or causes the making or use of a false record or statement material to a false or fraudulent general public funds claim;

(16) obtains a covered agreement involving a general public funds claim through a knowingly false material representation or omission, including a promise made with no intent to perform when made or a materially false statement of present capacity, on which the awarding entity relies, and presents or causes the presentation of a claim under that agreement. Subsequent nonperformance alone does not establish the knowledge or intent required by this subdivision;

(17) knowingly conspires to commit a violation of Subdivision (12), (14), (15), (16), (18), or (19) involving general public funds;

(18) possesses or controls governmental money or property involving general public funds and knowingly delivers less than all required to be delivered; or

(19) intending to defraud a governmental entity, falsely certifies receipt of property involving general public funds without knowing the certification is true, or knowingly buys or receives as security public property from an officer or employee who lacks lawful authority to sell or pledge it.

SECTION 4. Section 36.005, Human Resources Code, is amended by adding Subsection (h) to read as follows:

(h) This section applies only to an unlawful act involving a health care program. A finding of liability under Section 36.052 solely for a general public funds unlawful act does not trigger suspension, revocation, ineligibility, or professional discipline under this section. This subsection does not limit discipline, debarment, or another consequence independently authorized by other law.

SECTION 5. Subchapter A, Chapter 36, Human Resources Code, is amended by adding Sections 36.009 through 36.012 to read as follows:

Sec. 36.009. OBLIGATION TO RETURN UNEARNED PERFORMANCE PAYMENTS. (a) This section establishes a repayment obligation enforceable under Section 36.002(12) for general public funds. It does not establish a separate reduced-remedy cause of action.

(b) An enforceable commitment is specific work, a deliverable, a unit of service, or an objectively measurable outcome stated in a covered agreement as a binding commitment for which governmental funds are provided. An express condition-of-payment label is not required. A general purpose or an expressly aspirational goal is not an enforceable commitment. An agreement purchasing specified efforts or services does not imply a guarantee of a different result.

(c) A recipient has an established obligation to return an unearned portion of a payment when:

(1) an enforceable commitment has materially failed by its applicable deadline, after giving effect to lawful extensions, acceptance or reconciliation terms, force majeure, governmental delay, and other terms allocating performance risk;

(2) any express contractual opportunity to cure that is applicable to that failure and is a condition to the government's repayment entitlement has expired without conforming cure; and

(3) the recipient actually knows the facts constituting the material failure and that an identified or reasonably ascertainable portion of the payment is unearned because of that failure.

(d) The obligation under Subsection (c) is due when those conditions are satisfied. This chapter adds no period in which to cure or return that payment before the obligation becomes enforceable. A governmental demand, notice from a private person, administrative determination, or judgment is not a prerequisite. Failure to repay is actionable only when the plaintiff also proves knowing and improper avoidance, reduction, or concealment under Section 36.002(12).

(e) A material failure concerns an important binding commitment and a substantial shortfall in magnitude or duration. The plaintiff must prove the commitment, measure, deadline, actual result, required knowledge, and unearned amount. A reasonable, good-faith dispute is relevant to knowledge and impropriety. Prompt return of the unearned amount after the obligation becomes due, without concealment, is relevant evidence in determining whether avoidance was knowing and improper. It creates no return period or automatic defense and does not extinguish a violation that has already accrued. Initiating or maintaining a dispute does not by itself suspend an established obligation. A contractual reconciliation or dispute decision postpones establishment only to the extent that the agreement expressly makes that event a condition of repayment entitlement; a court-ordered stay shall be given effect. A person may not rely on its own bad-faith obstruction of that condition or a collusive act to postpone repayment.

(f) The unearned amount is the portion of payment attributable to the material failure, with credit for conforming value received before the obligation became due. Contractual unit or milestone allocations are rebuttable evidence of value. If no reasonable allocation is stated, the plaintiff must establish one with competent evidence. Neither the full price nor the recipient's expenditures are presumed to equal the unearned amount. Cost reimbursement for work actually performed does not become unearned solely because an outcome not guaranteed by the agreement was missed.

(g) Truthful reporting, governmental inaction, continued payment, or acceptance by a conflicted official does not alone extinguish this obligation. A lawful modification may change future performance; an accrued chapter claim may be released only under the applicable disposition provisions of this chapter. Return of money or accepted substitute performance after a violation accrues is credited under Section 36.052(f) and does not erase that violation.

(h) If a claim rests solely on material nonperformance and retention of the resulting unearned payment, the actual-knowledge and obligation-establishment requirements of this section apply even if an overlapping repayment duty arises under the agreement or another law. That requirement may not be avoided by recasting the same shortfall as conspiracy, property delivery, or a reverse claim under another source of duty. Independently proved false billing, false records, fraudulent inducement, and other unlawful acts remain actionable. One loss may not produce duplicate monetary recovery under different theories.

(i) An existing health care program obligation, unlawful act, repayment deadline, standard of knowledge, or remedy is not limited by this section. The section's performance-specific requirements do not govern a health care program claim or an independently proved unlawful act.

Sec. 36.010. GENERAL PUBLIC FUNDS COVERAGE AND PROOF. (a) For general public funds claims, this chapter covers money or property a governmental entity owns, administers, holds, distributes, or is obligated to safeguard or repay. A mixed public and private payment is covered to the extent of the governmental financial interest. Receipt of public funds does not by itself make a private person a governmental entity.

(b) General public funds coverage does not apply to assessment, collection, or payment of a tax. A procurement or grant expenditure financed by tax revenue remains covered. Subsequent use of unrestricted compensation or income assistance already paid to an individual is excluded; a false request to obtain that money remains covered.

(c) For general public funds claims, materiality is evaluated from the payment or award terms, significance of the noncompliance, likely or actual effect, and governmental practices. Minor noncompliance and lawful, properly allocated multiple funding alone do not establish an unlawful act. Knowing duplicate charging prohibited by the applicable allocation or payment terms may establish one. Actual informed payment decisions and explanations for continued payment are relevant. An official's participation in the violation does not by itself constitute an informed governmental decision.

(d) For general public funds claims, fraud-based pleadings must identify with particularity the conduct, basis for falsity, financial interest, knowledge, and materiality. A Section 36.009 allegation must identify its binding commitment, deadline, failure, obligation, actual knowledge, improper retention, and amount. Knowledge may be alleged generally with supporting facts. The standard of proof is a preponderance of the evidence.

(e) This chapter is not a general waiver of governmental, sovereign, or official immunity. Except for Section 36.1151, a governmental entity or an officer or employee sued in an official capacity is not a defendant for general public funds liability. A private person may not claim immunity solely because it performs governmental work. Chapter 84, Civil Practice and Remedies Code, does not limit proved private liability for a general public funds unlawful act. An individual is not liable solely because of status as a director, officer, employee, or volunteer; personal conduct and the required knowledge must be proved.

(f) For general public funds claims, knowledge is evaluated in light of the person's understanding and beliefs when the act occurred. A later-developed interpretation does not defeat proof that the person then knew a claim, representation, or asserted entitlement was false or that retention was improper. This subsection does not replace actual knowledge where Section 36.009 expressly requires it.

(g) For a general public funds claim, an obligation must be established, although its amount need not be fixed. A merely potential penalty or contingent liability is not an obligation. Section 36.009 governs when an obligation attributable solely to a performance shortfall is established and the knowledge required to enforce it. This subsection does not narrow an existing health care program obligation.

Sec. 36.011. LEGISLATIVE FINDINGS. Recovery of misused public funds serves a public purpose. Private persons supply information, investigation, and litigation services that assist enforcement. A recovery award is consideration for those services and for the recovery obtained through the conditional assignment under

Section 36.101(c), and is not a gratuitous payment. Governmental review and intervention, judicial supervision, fund restrictions, and public reporting retain public control and secure public benefit.

Sec. 36.012. WRITTEN PERFORMANCE TERMS. An entity making, renewing, or materially amending an agreement subject to Section 36.009 shall identify binding commitments, measures, deadlines, applicable contractual cure and reconciliation terms, allocation of performance risk, and attributable payment or its allocation method. The agreement shall notify the recipient of the repayment obligation. Omission of notice or an allocation does not excuse an otherwise proved obligation. This section does not require an outcome guarantee where the agreement purchases efforts or services.

SECTION 6. Section 36.052, Human Resources Code, is amended by amending the introductory language of Subsection (a) and Subdivision (1) of that subsection and adding Subsections (c-1) and (f) through (i) to read as follows:

(a) Except as provided by Subsection (c) or (c-1), a person who commits an unlawful act is liable to the state or, for a general public funds claim, to an affected governmental entity for:

(1) the amount of any payment or the value of any monetary or in-kind benefit provided under a health care program or from other governmental funds, directly or indirectly, as a result of the unlawful act, including any payment made to a third party, subject to Subsection (f) for a general public funds claim;

(c-1) For a general public funds claim, this subsection governs the disclosure and cooperation reduction instead of Subsection (c). The trier of fact may reduce the combined amount under Subsections (a)(1) and (a)(4) to not less than two times the amount determined under Subsection (a)(1) if the person furnished the attorney general or the appropriate nonconflicted local prosecuting authority, with all information known about the unlawful act within 30 days after first obtaining that information, fully cooperated with the governmental investigation, and furnished the information before a criminal prosecution, civil action, or administrative action concerning the unlawful act commenced and without actual knowledge of an existing investigation. This reduction does not eliminate applicable civil penalties, interest, fees, or costs and is not a defense to liability.

(f) For a general public funds claim, the amount under Subsection (a)(1) is the actual loss caused by the unlawful act, accounting for conforming value received before the violation accrued. For an obligation established under Section 36.009, that amount is the unearned portion established under that section. Subsections (a)(1) and (a)(4) together provide three times that amount, except for a reduction under Subsection (c-1). Determine that combined amount before subtracting compensatory money recovered, refunds paid, or accepted substitute performance after the violation accrued. Credit each such recovery once, to the extent attributable to the same loss, against the combined monetary amount; do not reduce it below zero. A recovery before the violation accrued reduces the original loss or obligation rather than receiving a second credit. The court shall identify the compensatory and additional components and controlling fund restrictions. This subsection does not change the existing payment-or-benefit measure under Subsection (a)(1) for health care program unlawful acts.

(g) For a general public funds claim, interest under Subsection (a)(2) is simple interest and is not multiplied. For a Section 36.009 obligation, it begins when the obligation becomes due and stops on principal actually returned as of the return date. No duplicate interest may be assessed for the same amount and period.

(h) For a general public funds unlawful act, apply the civil penalty ranges in Subsection (a)(3). A supporting record and alternative theories for the same claim do not multiply penalties. A continuing retention of the same unearned portion under the same agreement and performance period is one unlawful act; it does not generate a daily or per-objective penalty. Independently proved false payment requests remain separately actionable. Subsection (b) and constitutional limits govern penalty assessment. This subsection creates no additional discretionary authority to reduce penalties below the applicable statutory floor and does not alter assessment of a health care program penalty.

(i) Amounts recoverable for general public funds are owed to the state in its statutory financial interest and to affected entities for allocation under Section 36.157. They are recoverable through the same remedies, investigations, and private-action framework as other unlawful acts under this chapter, subject to the express local-authority provisions. An existing health care program measure or remedy is not reduced by Subsections (f) through (h).

SECTION 7. Section 36.054(h), Human Resources Code, is amended to read as follows:

(h) A person who has committed an unlawful act in relation to a health care program in this state has submitted to the jurisdiction of this state and personal service of an investigative demand under this section may be made on the person outside of this state. A person who has committed a general public funds unlawful act in this state is also subject to jurisdiction and service under this subsection. Applicable constitutional requirements govern both applications.

SECTION 8. Section 36.055, Human Resources Code, is amended to read as follows:

Sec. 36.055. ATTORNEY GENERAL AS RELATOR IN FEDERAL ACTION. To the extent permitted by 31 U.S.C. Sections 3729-3733, the attorney general may bring an action as relator under 31 U.S.C. Section 3730 with respect to an act for which a person may be held liable under 31 U.S.C. Section 3729. The attorney general may contract with a private attorney to represent the state under this section.

SECTION 9. Section 36.101, Human Resources Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) For a general public funds claim, the action may also be brought in the name of each affected governmental entity, for those entities and the person. To that extent this chapter assigns a conditional partial interest in the statutory financial claim of the state and affected entities, subject to governmental supervision and judicial disposition. The person must act through counsel authorized to practice in the court and need not be an employee or taxpayer of an affected entity or prove a separate personal financial injury.

(d) Sections 36.151–36.159 govern local authority, allocation, and specified adaptations for general public funds actions. Except as expressly provided there, Subchapters B and C supply the common enforcement and private-action procedures.

SECTION 10. Section 36.102, Human Resources Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Section 36.156 governs dismissal and settlement of a general public funds claim instead of the consent requirement in Subsection (e). Subsection (e) continues to govern other claims.

SECTION 11. Section 36.106, Human Resources Code, is amended to read as follows:

Sec. 36.106. INTERVENTION BY OTHER PARTIES. Except for governmental participation authorized by Section 36.154, a person other than the state may not intervene or bring a related action based on facts underlying a pending action under this subchapter.

SECTION 12. Section 36.110, Human Resources Code, is amended by adding Subsections (b-1), (e), and (f) to read as follows:

(b-1) For a general public funds claim, availability, release, or analysis of records described by Section 36.113(d) does not alone make an action primarily based on outside disclosures under Subsection (b). A person's own first public disclosure described by Section 36.113(e) is information provided by that person for purposes of Subsection (b).

(e) For a general public funds claim, the award percentages are collective for all persons entitled to an award on the same recovery. The court shall allocate the award among them. Governmental participation solely for

monitoring or disposition is not conducting the action for purposes of Subsection (a). A local authority that conducts the action is governmental participation under Subsection (a). Apply the protected percentage for a declined case under Subsection (a-1), including later governmental intervention.

(f) For general public funds, calculate the award on proceeds actually collected as damages, penalties, and associated interest after reserving amounts required by federal law or grant conditions to be returned before distribution. Separately awarded fees, costs, and expenses are excluded from that base and assessed against the liable defendant as provided by Subsection (c). Section 36.157 governs the remaining allocation.

SECTION 13. Section 36.113, Human Resources Code, is amended by adding Subsections (d) through (g) to read as follows:

(d) For a general public funds claim, receipt, release, or availability of records under Chapter 552, Government Code, the federal Freedom of Information Act, or another public-records law does not by itself constitute public disclosure under Subsection (b). Use of those records alone does not disqualify a person. Independent analysis materially identifying previously undisclosed false billing, payment representations, prohibited allocation, or improper retention may qualify under Subsection (b). Mere repetition of allegations independently public earlier remains subject to that subsection.

(e) For a general public funds claim, a person's own first public disclosure, including that of officers, employees, or agents acting on its behalf, does not bar that person. This does not remove a bar arising from substantially the same allegations independently made public earlier by another source or authorize breach of a seal or confidentiality duty.

(f) For an entity bringing a general public funds action, the original-source requirements of Subsection (b) may be satisfied through qualifying information developed by its officers, employees, or agents acting on its behalf and voluntarily supplied to the attorney general as required by that subsection. Subsection (b)'s use of "individual" does not otherwise disqualify an entity meeting this requirement. For a general public funds claim, the public-disclosure bar is not jurisdictional and does not limit governmental enforcement. This subsection does not change original-source eligibility for a health care program claim.

(g) For a general public funds claim, prior receipt of an audit, complaint, public-information request, or evidence, or a decision not to investigate, does not alone establish a pending proceeding under Subsection (a). For a general public funds claim, a proceeding involving an affected entity is included under Subsection (a). A completed resolution has the preclusive effect otherwise provided by law and this chapter.

SECTION 14. Subchapter C, Chapter 36, Human Resources Code, is amended by adding Sections 36.1151, 36.118, and 36.119 to read as follows:

Sec. 36.1151. PUBLIC EMPLOYEE REPORTING AND RETALIATION. (a) A governmental entity may not retaliate against an employee for lawful internal reporting, reporting to an appropriate governmental authority, investigation, assistance, or efforts to stop a reasonably suspected unlawful act under this chapter, including misconduct by a private contractor. Lawful internal reporting and efforts to stop a suspected violation are protected under Section 36.115 for private employees, contractors, and agents as well. A filed or successful false claims action is not required.

(b) The public employee may sue the employing governmental entity. Sovereign and governmental immunity from suit and liability are expressly waived solely for this action and its authorized relief. Relief consists of reinstatement with equivalent seniority, actual lost back pay and interest, actual special damages caused by retaliation, reasonable fees, costs, and expenses, and necessary injunctive relief. No exemplary damages or multiplier is authorized against the governmental employer. No individual-official liability is created by this section. Section 36.115's private remedies remain available under their own requirements.

(c) The action must be brought within three years after retaliation and requires no relator action, governmental enforcement decision, or exhaustion under Chapter 554, Government Code. Existing remedies

remain available under their own requirements; duplicate compensation is prohibited. Relator eligibility bars and the mandatory seal do not apply to the retaliation claim.

Sec. 36.118. OFFICIAL ENFORCEMENT INFORMATION. A current or former governmental officer or employee whose general public funds relator claim relies substantially on information obtained through official audit, contract administration, investigation, or enforcement duties shall supply it to the attorney general and the entity's nonconflicted supervisory or legal authority at least 90 days before filing, unless conflict or retaliation risk makes the latter disclosure impracticable. The court may shorten the period on specific facts showing concealment, substantial retaliation risk, imminent limitations, or loss of evidence or assets. Limitations are not extended. Public employment or use of independently available records alone is not disqualifying. This section neither authorizes privileged or unlawful disclosure nor conditions retaliation relief. It does not add a filing condition to a health care program claim.

Sec. 36.119. PROTECTED REPORTING AND PROCEDURE. A predispute agreement may not prohibit lawful reporting or waive substantive retaliation protections under this chapter. Other procedures remain subject to applicable state and federal law. Chapter 27, Civil Practice and Remedies Code, does not apply to an action under this chapter, including relator and retaliation actions. Other applicable pleading and sanctions rules remain in effect.

SECTION 15. Section 36.116, Human Resources Code, is amended to read as follows:

Sec. 36.116. IMMUNITY. Except as provided by Sections 36.112 and 36.1151, this subchapter does not waive sovereign or governmental immunity. Section 36.010(e) governs general public funds defendants.

SECTION 16. Chapter 36, Human Resources Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. ADMINISTRATION OF GENERAL PUBLIC FUNDS CLAIMS

Sec. 36.151. SCOPE. This subchapter adapts the common procedures of Subchapters B and C for general public funds. It does not create a separate liability or reduced-remedy track. The definitions in Section 36.001, unlawful acts in Section 36.002, remedies in Section 36.052, and private-action framework in Subchapter C govern. Health-program-specific provisions, licensing consequences, and recovery restrictions continue to govern health care program claims under their terms; a finding involving unrelated procurement does not alone trigger a health-program suspension or licensing consequence.

Sec. 36.152. PUBLIC FINANCIAL INTEREST. The state has an independent statutory financial claim to enforce recovery of protected general public funds for allocation to affected entities. This authority does not make the attorney general a local entity's legal representative. References to the state's financial recovery and private-action interest include affected entities' general public funds interests as expressly provided by this subchapter. References to the attorney general are not generally substituted with a local authority; Sections 36.153–36.156 identify the particular authority conferred.

Sec. 36.153. GOVERNMENTAL ENFORCEMENT. (a) An authorized local prosecuting authority may bring, intervene in, and conduct an action concerning its entity's interest under the investigative and civil remedies framework of Subchapter B. Sections 36.051 and 36.052 remedies and Section 36.007 recoverable expenses are available to that authority. A local authority may use investigative powers otherwise provided by law and request the attorney general's assistance; Sections 36.053 and 36.054 compulsory investigative demands remain attorney general powers.

(b) For wholly local interests, the attorney general may bring an action or assume primary responsibility on an affected entity's request; after local declination or failure to elect within 60 days after receiving an adequately supported complaint or referral; or on a judicial finding that conflict materially impairs local enforcement or delay threatens evidence, recoverable assets, limitations, or comparable irreparable harm.

Investigation and preservation applications may proceed during that period. These conditions do not give a local entity a veto over an otherwise eligible private action.

Sec. 36.154. NOTICE AND INTERVENTION. (a) The 180-day periods and good-cause extension procedure under Section 36.102(b) through (d) apply. In a general public funds action, the petition shall remain under seal for at least 60 days after the attorney general receives both the petition and the material evidence and information, even if a governmental attorney intervenes earlier. This additional minimum does not shorten the 180-day election period or alter a health care program action's sealing procedure. The attorney general shall forward sealed materials promptly to a nonconflicted local authority for each affected entity, subject to the seal. Specific judicial findings may justify delayed or restricted notice to protect investigation, evidence, confidentiality, or against retaliation; each period of withholding may not exceed 60 days and requires a current showing for renewal. Forwarding does not restart Section 36.102's election period.

(b) A local authority may elect to conduct its entity's interest during the common election period and intervene later for good cause. The attorney general's leadership in a wholly local case remains subject to Section 36.153(b). The local authority has the litigation responsibilities and participation rights conferred on the state by Sections 36.104, 36.107–36.109, and 36.110 for that interest, subject to Section 36.156. Courts shall coordinate overlapping actions; no double recovery is permitted. No authority may release another government's unrepresented claim.

(c) In the absence of an eligible governmental election within the applicable period, the private plaintiff may proceed under Section 36.104 without a further consent requirement. Later intervention requires good cause. If multiple governmental attorneys conduct the action, the court shall designate a lead after consultation, subject to the attorney general's statutory authority.

Sec. 36.155. CONFLICTS. A representative with a financial, personal, or professional conflict materially impairing independent representation shall recuse under applicable law and rules. An entity may designate nonconflicted counsel. If it does not do so within 30 days after notice of a demonstrated conflict, the attorney general may seek relief under Section 36.153(b). Disagreement alone is not a conflict. A conflicted representative may not veto chapter enforcement or disposition.

Sec. 36.156. DISPOSITION AND JUDICIAL CONTROL. (a) A general public funds claim may not be dismissed, settled, waived, or released without court approval after notice to the attorney general, affected entities, and private plaintiff. Each has 30 days to object unless extended for good cause. An objection shall identify the affected financial interest and a specific public-interest ground. The court shall approve settlement only if fair, adequate, reasonable, free of collusion, and consistent with controlling fund restrictions and lawful awards. The court shall approve dismissal only if consistent with the public financial interest and preserved rights. Attorney general consent under Section 36.102(e) is not an additional requirement for this claim.

(b) A governmental attorney conducting the action may seek dismissal over the private plaintiff's objection. After notice and a hearing, dismissal requires a rational relationship to a legitimate governmental purpose and may not be fraudulent, arbitrary, or contrary to law. A local authority's requested disposition reaches only its entity's interest. Section 36.107 governs party participation subject to this section. A routine contract release or amendment does not extinguish an accrued chapter claim outside this process.

(c) The attorney general may move for dismissal or submit a proposed settlement of a general public funds claim at any stage, whether or not the state has intervened and without first establishing good cause for intervention. Section 36.153(b)'s conditions govern exercise of this authority for a wholly local financial interest. Governmental nonintervention alone does not defeat the motion. The court shall apply the notice, hearing, affected-interest, and substantive review requirements of this section. This authority does not confer an unrestricted veto over a private action or permit release of an affected entity's interest without judicial approval. A private plaintiff's dismissal or settlement remains subject to Subsection (a).

Sec. 36.157. ALLOCATION. (a) The court shall identify affected governmental interests, original losses, compensatory payments, awards, and fund restrictions. Reserve federal amounts required to be returned before distribution, then pay the lawful collective relator award from distributable proceeds, restore actual uncompensated losses among affected entities proportionately if necessary, and allocate residual proceeds in proportion to losses or, absent measurable losses, financial interests. An entity receives its allocation regardless of its participation or conflict.

(b) Local allocations remain payable to the affected local entity. Neither Section 36.117 nor state leadership authorizes a mandatory share of local allocations for the state. Separately recovered fees and expenses reimburse the office incurring them. State allocations return to the affected fund or the general revenue fund as applicable, subject to appropriation. No unrestricted distribution may override a controlling grant restriction. Distribution is due within 60 days after collection, subject to a stay, allocation dispute, or restriction.

Sec. 36.158. VENUE AND LIMITATIONS. (a) For a general public funds action, Sections 36.051(b) and 36.052(d) do not create automatic Travis County venue. Venue lies in an otherwise competent court in a county where a defendant resides, a substantial part of the unlawful act occurred, or an affected entity has its principal office. Otherwise applicable jurisdiction, appellate, and specialized-court requirements remain controlling. Investigative-demand review venue remains governed by Section 36.054.

(b) A general public funds action must be filed by the later of six years after the unlawful act or three years after facts material to the action were known or reasonably should have been known by a nonconflicted official responsible for investigation or enforcement, but no later than 10 years after the unlawful act. A relator and a routine contract administrator are not such an official solely by those roles. Continued retention does not restart the period daily. These limits apply regardless of intervention; governmental intervention relates back to the facts described or attempted in the private complaint. Section 36.104(b)'s limits continue to govern other declined actions.

Sec. 36.159. COLLECTION REPORT. By December 1 annually, the attorney general shall report the preceding fiscal year's filings, governmental elections, resolutions, amounts awarded and actually collected, relator awards, governmental allocations, expenses, appropriations, and time to resolution. Report health-program, general public funds, and federal recoveries separately, distinguish judgments from collections, and protect sealed and confidential information. An administrative rule may facilitate secure reporting and coordination but may not alter liability, awards, or the right to proceed.

SECTION 17. The general public funds expansion applies to unlawful acts occurring on or after the effective date. The new Section 36.009 obligation applies only to agreements made or renewed on or after that date and to future commitments added by a material amendment supported by additional consideration after that date. A renewal or amendment does not create liability under that section for performance due before it. Changes to existing health-program liability, remedies, and procedures apply prospectively to the affected act, action, or retaliation as applicable; pending actions and accrued liabilities remain governed by prior law. No existing health-program or federal right, remedy, repayment deadline, or distribution requirement is reduced by this Act.

SECTION 18. The provisions and applications of this Act are severable. An invalid application to general public funds does not by itself invalidate an independently operable health-program provision, and an invalid application to one class of claim does not invalidate another independently operable application.

SECTION 19. This Act takes effect September 1, 2027.