Expand Texas False Claims Law

Lance McNeill | Chapter 36 expansion proposal

Suppose a city pays a contractor $100,000 for defined services. The contractor materially fails to provide $40,000 of those services, knows that amount is unearned, and knowingly and improperly keeps it. Taxpayers should have an effective way to recover that money and hold the contractor accountable.

I am proposing an expansion of Human Resources Code Chapter 36, currently the Health Care Program Fraud Prevention Act. The bill would extend its enforcement framework to general state, county, city, school district, special district, and regional expenditures, including wholly state and local funds outside the federal False Claims Act's financial reach.

The proposal establishes an explicit repayment obligation for materially undelivered binding work or measurable outcomes. The written agreement supplies the commitment, deadline, and allocation of performance risk. Actual knowledge of the failure and identifiable unearned amount is required. Knowing and improper avoidance would be enforced through the existing reverse-false-claim provision, with ordinary Chapter 36 remedies. False billing and fraudulent inducement remain independently actionable.

The bill adds no statutory cure period or repayment-only tier. Prompt repayment is relevant evidence; repayment after a violation does not erase accrued liability. General-funds remedies combine the proved loss with an additional two times that amount, applicable penalties, interest, and fees, with a narrow disclosure and cooperation reduction and explicit repayment credits.

Individuals and organizations could bring supported cases through counsel, supply evidence under seal, and proceed when government declines. Local enforcement and an Attorney General backstop would operate with court review of dismissals and settlements. Lawful public-records research, original analysis, and whistleblower reporting receive express protection.

The proposal preserves existing health-program claim definitions, review periods, and cooperation relief. The Novartis litigation raises constitutional questions about private enforcement. Express assignment of a financial claim, governmental supervision, and severability are designed to address those concerns. The Texas Supreme Court has scheduled argument in case 26-0467 for 9 a.m. on February 11, 2027. The severability clause is designed to preserve independently operable AG and local enforcement if private-relator provisions are invalidated.

I am asking legislators to develop House and Senate legislation expanding Chapter 36 so taxpayers have a practical civil enforcement path when public money is obtained through false claims or knowingly and improperly kept despite an established repayment obligation.