



General Assembly

**Amendment**

February Session, 2008

LCO No. 6263

\*SB0044006263HR0\*

Offered by:

REP. HETHERINGTON, 125<sup>th</sup> Dist.

REP. MINER, 66<sup>th</sup> Dist.

To: Subst. Senate Bill No. 440

File No. 423

Cal. No. 522

(As Amended by Senate Amendment Schedule "A")

**"AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT."**

---

1 Strike section 503 in its entirety and insert the following in lieu  
2 thereof:

3 "Sec. 503. (NEW) (*Effective July 1, 2008*) (a) The Attorney General  
4 may investigate any violation of subsection (a) of section 502 of this  
5 act. Any information obtained pursuant to this investigation shall be  
6 exempt from disclosure under section 1-210 of the 2008 supplement to  
7 the general statutes, as amended by this act. If the Attorney General  
8 finds that a person has violated or is violating any provision of  
9 subsection (a) of section 502 of this act, the Attorney General may  
10 bring a civil action in the superior court for the judicial district of  
11 Hartford under this subsection in the name of the state against such  
12 person.

13 (b) Notwithstanding the provisions of subsection (a) of this section,  
14 no civil action shall be brought as a cross-complaint in any lawsuit,  
15 arbitration or administrative proceeding for breach of contract against  
16 the state or any political subdivision of the state, nor may the civil  
17 action be consolidated for any purpose for such lawsuit."

18 Strike subsection (e) of section 505 in its entirety and insert the  
19 following in lieu thereof:

20 "(e) If the court awards civil penalties or damages to the state or if  
21 the Attorney General settles with the defendant and receives civil  
22 penalties or damages, the person bringing such action shall receive  
23 from the proceeds not more than five per cent of such proceeds of the  
24 action or settlement of the claim, based upon the extent to which the  
25 person substantially contributed to the prosecution of the action. Any  
26 such person shall also receive an amount for reasonable expenses  
27 which the court finds to have been necessarily incurred, plus  
28 reasonable attorneys' fees and costs. All such expenses, fees and costs  
29 shall be awarded against the defendant. The court shall award to the  
30 defendant any reasonable attorneys' fees, costs and expenses in the  
31 event the action does not proceed to judgment in favor of the state. All  
32 such fees, costs and expenses shall be awarded against the plaintiff or  
33 plaintiffs."

34 Strike subsection (f) of section 505 in its entirety and insert the  
35 following in lieu thereof:

36 "(f) Notwithstanding the provisions of subsection (e) of this section,  
37 where the action is one that the court finds to be based primarily on  
38 disclosures of specific information relating to allegations or  
39 transactions (1) in a criminal, civil or administrative hearing, (2) in a  
40 report, hearing, audit or investigation conducted by the General  
41 Assembly, a committee of the General Assembly, the Auditors of  
42 Public Accounts, a state agency or a quasi-public agency, or (3) from  
43 the news media, the court may award from such proceeds to the  
44 person bringing the action such sums as it considers appropriate, but

45 in no case more than five per cent of the proceeds, taking into account  
46 the significance of the information and the role of the person bringing  
47 the action in advancing the case to litigation. Any such person shall  
48 also receive an amount for reasonable expenses that the court finds to  
49 have been necessarily incurred, plus reasonable attorneys' fees and  
50 costs. All such expenses, fees and costs shall be awarded against the  
51 defendant."

52 Strike subsection (b) of section 506 in its entirety and insert the  
53 following in lieu thereof:

54 "(b) A person bringing an action under this section or settling the  
55 claim shall receive an amount which the court decides is reasonable for  
56 collecting the civil penalty and damages. The amount shall be not more  
57 than five per cent of the proceeds of the action or settlement and shall  
58 be paid out of such proceeds. Such person shall also receive an amount  
59 for reasonable expenses that the court finds to have been necessarily  
60 incurred, plus reasonable attorneys' fees and costs. All such expenses,  
61 fees and costs shall be awarded against the defendant."

62 Strike subsection (c) of section 506 in its entirety and insert the  
63 following in lieu thereof:

64 "(c) If a defendant prevails in the action conducted under this  
65 section and the court finds that the claim of the person bringing the  
66 action was clearly frivolous, clearly vexatious or brought primarily for  
67 purposes of harassment, the court shall award attorneys' fees and  
68 expenses to the defendant."

69 Strike subsection (a) of section 509 in its entirety and insert the  
70 following in lieu thereof:

71 "(a) No court shall have jurisdiction over an action brought under  
72 section 504 of this act (1) against a member of the General Assembly or  
73 a member of the judiciary if the action is based on evidence or  
74 information known to the state when the action was brought; (2) that is  
75 based upon allegations or transactions that are the subject of a civil suit

76 or an administrative civil penalty proceeding in which the state is  
77 already a party; or (3) that is based upon the public disclosure of  
78 allegations or transactions (A) in a criminal, civil or administrative  
79 hearing, (B) in a report, hearing, audit or investigation, conducted by  
80 the General Assembly, a committee of the General Assembly, the  
81 Auditors of Public Accounts, a state agency or a quasi-public agency,  
82 or (C) from the news media, unless such action is brought by the  
83 Attorney General or the person bringing the action is an original  
84 source of the information. For the purposes of this subsection, "original  
85 source" means an individual who has direct and independent  
86 knowledge of the information on which the allegations are based and  
87 has voluntarily provided the information to the state before filing an  
88 action under section 504 of this act based on such information."

89 Strike section 512 in its entirety and insert the following in lieu  
90 thereof:

91 "Sec. 512 (NEW) (*Effective July 1, 2008*) A civil action under sections  
92 503 to 507, inclusive, of this act may not be brought: (1) More than four  
93 years after the date on which the violation of subsection (a) of section  
94 502 of this act is committed, or (2) more than two years after the date  
95 when facts material to the right of action are known or reasonably  
96 should have been known by the official of the state charged with  
97 responsibility to act in the circumstances, but in no event more than six  
98 years after the date on which the violation is committed, whichever  
99 last occurs."

100 After the last section, add the following and renumber sections and  
101 internal references accordingly:

102 "Sec. 518. (NEW) (*Effective July 1, 2008*) Whenever the state receives  
103 civil penalties or damages, whether by judgment, settlement or  
104 compromise settlement before or after judgment from any person  
105 under any action brought under sections 503 to 507, inclusive, of this  
106 act, the state agency or quasi-public agency defrauded is entitled to  
107 reimbursement from the state for the full amount paid pursuant to any

108 order for the payment of such penalties or damages."