



ATTORNEY GENERAL WILLIAM TONG  
STATE OF CONNECTICUT

**Testimony in Support of House Bill No. 6826:  
*An Act Concerning Liability For False And Fraudulent Claims*  
Government Administration and Elections Committee**

**Monday, March 6, 2023**

Chairman Blumenthal, Chairwoman Flexer, Ranking Member Sampson, Ranking Member Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee, thank you for the opportunity to testify before you today on H.B. 6826, *An Act Concerning Liability For False And Fraudulent Claims*.

Like many Connecticut residents, I am concerned about fraudulent spending of the State's CARES Act funds in West Haven and the FBI investigation of the State's school construction projects.

**To address these issues, it is clear that we need to expand the Connecticut False Claims Act.**

The Office of the Attorney General ("Office") strongly supports this legislation, which seeks to expand the scope of Connecticut's False Claims Act by removing provisions that limit application of these statutes to state-administered health or human services programs. Just a few deletions from the text of Conn. Gen. Stat. §§ 4-274 and 4-275 that currently limit this law to health and human services programs would allow my Office to pursue fraud and abuse of tax dollars anywhere in State government. Equally important, these amendments will protect and encourage insiders to blow the whistle when fraud and abuse occurs in any State spending.

The federal False Claims Act (31 U.S.C. §§ 3729 – 3733) is a Civil War-era statute passed in response to concerns that contractors and suppliers were regularly defrauding the Union Army by selling items such as moth-eaten blankets, injured cavalry horses, and boxes of sawdust instead of guns. In 1863, at President Lincoln's urging, Congress passed the federal False Claims Act, known as "Lincoln's Law." Today, the majority of states, the District of Columbia, the territory of Puerto Rico, and many municipalities have enacted their own False Claims Act modeled on the federal law.

The federal False Claims Act, as well as the majority of other states' False Claims Acts, establish liability for anyone who submits a "false or fraudulent" claim for payment to the government regardless of the agency or program paying the claim. All of the states bordering Connecticut -- New York (NY CLS St Fin § 189), Massachusetts (ALM GL ch. 12, § 5B), and Rhode Island (R.I. Gen. Laws § 9-1.1-3), as well as New Jersey (N.J. Stat. § 2A:32C-3) and Vermont (32 V.S.A. § 631) -- have broad False Claims Acts resembling the federal law. In stark contrast, however, the Connecticut False Claims Act only covers fraud occurring in a "state-administered health or human services program."

**Unfortunately, when it comes to this important and effective anti-fraud law, Connecticut is stuck in the bottom third of states.**



ATTORNEY GENERAL WILLIAM TONG  
STATE OF CONNECTICUT

More than one hundred different agencies, offices, and quasi-public agencies spend tax dollars on behalf of the government of the State of Connecticut. The current Connecticut False Claims Act covers programs at just nine agencies. This leaves billions of tax dollars vulnerable to fraud and abuse in programs administered at all the other State agencies, including the state departments of Transportation and Administrative Services where spending has quickly and substantially increased as a result of Connecticut's \$6 billion share of the Infrastructure Investment and Jobs Act.<sup>1</sup>

I understand that some in Connecticut's construction industry believe this bill singles them out. This bill does not target the construction industry or any other industry or business. All it does is make the False Claims Act apply to everybody doing business with Connecticut, not just health and human services contractors. The vast majority of government contractors are responsible, honest and trustworthy. Still, False Claims Act enforcement activity in other states demonstrates there are outliers across every type of industry and business who will try to defraud the government.

**For example, in Massachusetts, New York, and New Jersey, recent False Claims Act cases have involved businesses:**

- charging a state for N95 masks needed for the pandemic that were never provided<sup>2</sup>,
- delivering substandard fuel that clogged heating systems in state buildings<sup>3</sup>,
- selling defective software for a state's security cameras<sup>4</sup>,
- delivering unreliable environmental testing results<sup>5</sup>,
- overstating bus trips made<sup>6</sup>,
- concealing late deliveries to avoid paying refunds<sup>7</sup>,
- falsely certifying the safety and substantial completion of the "Big Dig" tunnel that later collapsed<sup>8</sup>, and

---

<sup>1</sup> [CT to get \\$6 billion for infrastructure under President Biden's Bipartisan Infrastructure Law. Where is the money going? – Hartford Courant](#)

<sup>2</sup> <https://www.mass.gov/news/salem-company-to-pay-35-million-for-false-claims-about-its-ability-to-refund-the-state-for-masks-not-delivered-during-covid-19-pandemic>

<sup>3</sup> <https://www.mass.gov/news/worcester-fuel-company-resolves-claims-it-knowingly-sold-noncompliant-heating-oil-that-violated-state-contracts>

<sup>4</sup> <https://ag.ny.gov/press-release/2019/attorney-general-james-secures-6-million-cisco-systems-multistate-settlement>

<sup>5</sup> <https://www.njoag.gov/acting-attorney-general-hoffman-announces-2-million-settlement-of-false-claims-act-litigation-with-environmental-testing-firm-2/>

<sup>6</sup> <https://www.njoag.gov/acting-ag-bruck-announces-20-5-million-settlement-over-allegations-academy-bus-fraudulently-billed-nj-transit/>

<sup>7</sup> <https://www.njoag.gov/acting-attorney-general-hoffman-announces-740000-settlement-of-false-claims-act-litigation-with-united-parcel-service/>

<sup>8</sup> <https://docslib.org/doc/677789/big-dig-458-2-million-global-agreement>



ATTORNEY GENERAL WILLIAM TONG  
STATE OF CONNECTICUT

- delivering hand sanitizer with no alcohol to school children in the midst of the COVID-19 pandemic<sup>9</sup>.

No government program is immune from fraud and abuse.

**Connecticut state contracts should uphold Connecticut's values, which include ensuring fair wages and safe workplaces for all workers, and making job opportunities more inclusive, equitable, and diverse.**

The majority of state contractors uphold those values. When, however, some unscrupulous contractors try to profit by violating wage laws, allowing unsafe work conditions, or lying about being a women- and minority-owned businesses, an expanded False Claims Act will be an effective tool for investigating and remedying such misconduct. Other states and federal authorities have successfully pursued cases involving wage theft and wage violations<sup>10</sup>, false claims regarding minority contracting requirements<sup>11</sup>, defective and shoddy equipment, false safety certifications regarding dangerous construction conditions<sup>12</sup>, and more.

---

<sup>9</sup> <https://www.mass.gov/news/ag-healey-sues-distributor-for-falsely-marketing-and-selling-fake-hand-sanitizer-to-local-schools#:~:text=BOSTON%20%E2%80%94%20Attorney%20General%20Maura%20Healey,with%20the%20need%20for%20reapplication.>

<sup>10</sup> [Framingham Construction Company to Pay Over \\$540,000 for Failing to Pay Prevailing Wages to Workers During Middleborough and Westport Projects | Mass.gov](#); [A.G. Schneiderman Announces \\$255,000 Settlement With General Contractor And Developer For Failure To Pay Workers Required Prevailing Wage | New York State Attorney General \(ny.gov\)](#); [Acting AG Bruck Announces \\$175,000 False Claims Act Settlement with Telecommunications Contractor Accused of Failing to Pay Prevailing Wages - New Jersey Office of Attorney General \(njoag.gov\)](#); [Home Healthcare Agencies Settle Fraud Claims for \\$5.4 Million and Agree to Pay Wages and Benefits to Underpaid Aides | USAO-EDNY | Department of Justice](#)

<sup>11</sup> [Connecticut Companies Pay \\$5.2 Million to Resolve Allegations of False Claims Act Violations Concerning Fraudulently Obtained Small Business Contracts | USAO-CT | Department of Justice](#); [Attorney General James Secures \\$200,000 From Contractor Who Faked Diversity Metrics for a Billion-Dollar Public Works Project | New York State Attorney General \(ny.gov\)](#); [Connecticut Employment Contractor Pays \\$600K to Resolve Federal False Claims Act Allegations involving AbilityOne Program for the blind and disabled | USAO-CT | Department of Justice](#); [Polar Park Construction Manager Agrees To Pay \\$1.9 Million Over False Claims Regarding Women & Minority-Owned Business Subcontracting | Mass.gov](#)

<sup>12</sup> [Virginia Company Pays \\$137,500 to Resolve False Claims Act Allegations For False OSHA Inspection Certificates | USAO-CT | Department of Justice](#); [Attorney General Investigating Broken Bolts on Mario Cuomo Bridge - The New York Times \(nytimes.com\)](#); [USDOJ: US](#)



ATTORNEY GENERAL WILLIAM TONG  
STATE OF CONNECTICUT

**As it has been used in other states, an expanded Connecticut False Claims Act will be an additional tool for holding absentee landlords and real estate investors accountable when they violate state housing subsidy rules and defraud taxpayers.<sup>13</sup>**

Connecticut wants to make certain there is an equitable benefit from its \$6 billion share of the Infrastructure Investment and Jobs Act funds. An expanded Connecticut False Claims Act is needed to investigate and take action if unscrupulous contractors violate prevailing wage laws or cheat legitimate Small Business Enterprise (SBE) and Minority Businesses Enterprise (MBE) firms out of contracting opportunities.

And although some object to the False Claims Act applying to public works projects, there is no rational basis for carving out public works from Connecticut's anti-fraud laws. Such a carve out would be different from federal law, the laws of all Connecticut's neighbor states, and the laws of the majority of states with False Claims Acts. Below, I briefly respond to the some of the common objections:

**The Connecticut False Claims Act would not be overly broad and overreaching.**

All of the provisions of the federal False Claims Act have been litigated extensively in the federal courts. There is a very large body of case law interpreting False Claims Acts. This bill will make the text of the Connecticut False Claims Act identical to the federal law except for a few Connecticut specific references. The federal courts have upheld as lawful and proper the procedures, causes of action, and remedies established by the same statutory text proposed here.

The Connecticut False Claims Acts is not a "catch all" or "dragnet" law. The elements of the causes of action are clearly set out in the statute. The elements must be proven by a preponderance of the evidence, which is the standard applicable to most civil actions, including statutory theft claims. To be "false," a claim for payment must not be payable, although the party requesting the payment passes off the claim as though it is. In addition, the statute specifically defines the meaning of the terms "knowledge," "claim," "state," "obligation," and "material." Conn. Gen. Stat. § 4-275. The knowledge of the defendant must be proven.

---

[Attorney's Office - District of Massachusetts Big Dig Contractor to Plead Guilty and Make \\$50 Million in Cash Payments and Provide up to \\$75 Million Insurance Coverage \(justice.gov\); Attorney General Cuomo Announces \\$20 Million Settlement With Sodexo Food Services Company For Overcharging New York Schools | New York State Attorney General](#)

<sup>13</sup> [A tool to help level the playing field for low-income tenants - The Boston Globe; District of Massachusetts | Holyoke Landlord Agrees to \\$15,000 Settlement for False Claims Act Violations | United States Department of Justice; District of Massachusetts | Chelsea Landlord and Property Manager Agree to \\$80,000 Settlement for False Claims Act Violations | United States Department of Justice](#)



ATTORNEY GENERAL WILLIAM TONG  
STATE OF CONNECTICUT

Contrary to assertions, materiality is defined in the statute and proof of materiality is required in False Claims Act cases. What this means is that not every falsehood or false statement is actionable under the False Claims Act. Materiality requires that the falsehood or fraud alleged relate to the essence of that for which the State agreed to pay. The falsehood must be so significant that had the State known the truth it would not have paid the claim. Minor technicalities, innocent mistakes, or acts of mere negligence are not False Claims Act violations.

**False Claims Acts are not a threat to jobs or reputable contractors.**

**The current Connecticut False Claims Act has been in effect for more than thirteen years (2009 – 2023).** The original law, enacted in 2009, applied only to Connecticut Medicaid. Conn. Gen. Stat. § 17b-301b (repealed 2014). The current version enacted in 2014 reaches all state-administered health and human services programs. As a result, the current Connecticut False Claims Act applies to over 30,000 Connecticut Medicaid providers and, through the Comptroller's healthcare programs, virtually every other medical provider in Connecticut. This is a very large group of State contractors that includes hospitals, nursing homes, pharmacies, medical supply companies, home health agencies, physicians, dentists, and behavioral health clinicians.

The last 13 years conclusively demonstrate that a False Claims Act does not cause an increase in meritless lawsuits. There has been no False Claims Act crisis in the health and human services sector. Innocent medical providers have not lost their jobs. Innocent businesses have not shut down or fled Connecticut. The health and human services providers have not called for the repeal of the False Claims Act. The health and human services providers have not complained about abuse or overreach related to the False Claims Act. This is because like all State contractors, the vast majority of health and human services contractors are responsible, honest, and trustworthy. And they benefit from a level playing field without unfair competition from fraudsters.

**An expanded Connecticut False Claims Act is not a threat to responsible public works contractors. Many Connecticut construction businesses already operate subject to state False Claims Acts because they do work in Massachusetts, New York, or Rhode Island.** Federal Highway Association and the Federal Transit Administration often fund up to 80% of our DOT's public works projects. This means many—if not all—of Connecticut public works contractors have already worked on projects in Connecticut subject to a False Claims Act.

Simply put, the False Claims Act is not an issue for responsible contractors. The vast majority of Connecticut's public works contractors have complied with False Claims Acts for years with no issue. Outliers who try to defraud the State in any business or industry should be investigated and prosecuted.

**Private plaintiffs will not take advantage of innocent businesses.**

Some claim that whistleblowers—called relators in this context—are going to flood the courts with frivolous private lawsuits, but that has not been Connecticut's experience in the last 13 years. Protecting and encouraging insiders to blow the whistle on fraud and abuse *works*. Of the \$2.2



ATTORNEY GENERAL WILLIAM TONG  
STATE OF CONNECTICUT

billion in federal False Claims Act settlements and judgments reported by the United States in fiscal year 2022, over \$1.9 billion arose from lawsuits that were filed under the relator provisions of federal law.<sup>14</sup> The relator provision is an important anti-fraud measure that should apply to all State spending. There is no reason for a public works carve out.

The proposed version of the Connecticut False Claims Act protects innocent people and reputable businesses. The law contains a process for weeding out cases lacking merit and punishing private plaintiffs who make frivolous charges. A relator must first file his or her complaint under seal and disclose all evidence to the State. Defendants are not served and are not burdened with responding to or defending against the complaint during this phase. Thereafter, the State investigates the legal and factual merits of the relator's complaint. The State can intervene and civilly prosecute cases that have merit. The law also authorizes the State to withdraw (dismiss) complaints notwithstanding the objections of relators. If my Office determines that we will not intervene or dismiss a complaint, the relator may litigate the complaint. These relators' cases often benefits Connecticut taxpayers. For example, in 2022, the pharmaceutical company Biogen Inc. paid \$900 million to resolve allegations doggedly pursued by a relator that the company offered and paid kickbacks to physicians in connection with multiple sclerosis drugs.<sup>15</sup> Connecticut Medicaid's portion of the Biogen settlement was over \$8.8 million.

On the other hand, in such cases if the court finds the relator's complaint was frivolous, the court can award reasonable attorneys' fees and expenses to the defendant.

**A few deletions from the text of Conn. Gen. Stat. §§ 4-274 and 4-275 that currently limit this law to health and human services programs would allow my Office to pursue fraud and abuse of tax dollars anywhere in State government. It will enable my Office to summon witnesses and require the production of documents for the purpose of an investigation. In those cases where the investigation establishes a solid factual and legal foundation for a False Claims Act violation, it will enable my Office to seek recovery of the costs of the investigation and prosecution, three times the amount of damages sustained by the State, and civil penalties.**

I appreciate the opportunity to weigh in on this important bill and urge its passage. I look forward to working with the Committee as the bill progresses.

For additional information, please contact Cara Passaro, Chief of Staff to the Attorney General at [cara.passaro@ct.gov](mailto:cara.passaro@ct.gov).

---

<sup>14</sup> [False Claims Act Settlements and Judgments Exceed \\$2 Billion in Fiscal Year 2022 | OPA | Department of Justice](#)

<sup>15</sup> [District of Massachusetts | Biogen Inc. Agrees to Pay \\$900 Million to Settle False Claims Act Allegations Related to Improper Physician Payments | United States Department of Justice](#)