STATE OF NEW YORK

10853

IN ASSEMBLY

April 8, 2026

Introduced by M. of A. LASHER -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, the state finance law and the executive law, in relation to monopoly and anti-trust whistleblower incentives and protections

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 344 to read as follows:

§ 344. Monopoly and anti-trust whistleblower incentives and protections. Definitions. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Covered enforcement action" shall mean:

(i) any one or more enforcement actions brought by the attorney general under this article that results in monetary sanctions exceeding one million dollars in the aggregate; or

(ii) any investigations, inquiries, settlements, or any other action brought or made by the attorney general in relation to a violation of this article that results in monetary sanctions exceeding one million dollars in the aggregate.

(b) "Monetary sanctions" shall mean:

(i) any monies ordered to be paid, or that are otherwise paid or forfeited as a result of a covered enforcement action or related action, including any monies ordered to be paid under section three hundred forty-seven-a of this article; or

(ii) any monies deposited into a disgorgement fund or public benefit fund because of a covered enforcement action or related action.

(c) (i) "Original information" shall mean information that:

(1) is derived from the independent knowledge or analysis of a whistleblower;

(2) is not known to the attorney general from any other source, unless the whistleblower is the original source of such information; and

(3) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit or

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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investigation or from the news media, unless the whistleblower is a source of such information.

(ii) For purposes of this paragraph, an allegation is not made in (1) a governmental report or investigation because it was disclosed or provided pursuant to article six of the public officers law, or under any other federal, state or local law, rule or program enabling the public to request, receive or view documents or information in the possession of public officials or public agencies; and (2) the news media merely because information of allegations or transactions have been posted on the internet or on a computer network.

(d) "Related action" shall mean any judicial or administrative action brought by a state or local agency or entity based upon the original information provided by a whistleblower to the attorney general pursuant to this section that results in monetary sanctions exceeding one million dollars in the aggregate.

(e) "Whistleblower" shall mean any individual or entity who provides or two or more individuals or entities acting jointly who provide information to the attorney general relating to a violation of this article.

2. Whistleblower awards. (a) One or more whistleblowers who voluntarily provide original information to the attorney general that was the basis for a successful covered enforcement action, or a related action, shall, in accordance with the provisions of this section, be entitled to receive between ten and thirty percent of the monetary sanctions. Any payment to a person pursuant to this subdivision shall be made from the monetary sanctions of the covered enforcement action or related action. For the purposes of this subdivision, monetary sanctions shall not include:

(i) damages recovered in actions brought under section three hundred forty-two-b of this article, except for those payable to the state; and

(ii) fines payable to the office of victim services pursuant to section three hundred forty-seven-a of this article.

(b) A whistleblower who provides the attorney general with information related to information previously reported to the attorney general by a whistleblower who is eligible for an award under this section shall not be entitled to an award, unless the information provided by the second whistleblower materially adds to the information reported to the attorney general by the first whistleblower.

(c) The determination of the amount of an award made within the range established by this section shall be solely in the discretion of the attorney general. In determining the amount of an award made within the range established by this section, the attorney general shall take into consideration the following factors:

(i) the significance of the information provided by the whistleblower to the success of the covered enforcement action or related action;

(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in the covered enforcement action or related action;

(iii) the interest of the state in deterring violations of this article and promoting reporting by whistleblowers of information relating to such violations; and

(iv) any additional relevant factors the attorney general may establish by rule or regulation.

(d) No award shall be made to any whistleblower if the attorney general shall determine the whistleblower:

(i) is, or was at the time the whistleblower acquired the original information submitted to the attorney general, a member, officer or

employee of a federal, state or local law enforcement agency that regulates trade or competition, or that prosecutes trade or competition violations;

(ii) was convicted of a criminal violation related to the covered enforcement action for which the whistleblower otherwise could receive an award under this section;

(iii) materially failed to submit information to the attorney general in such form as the attorney general may require; or

(iv) (1) knowingly and willfully makes false, fictitious or fraudulent statements or representations to the attorney general when submitting information under this section; or

(2) uses any false writing or document knowing the writing or document contains any false, fictitious or fraudulent statement or entry when submitting information under this section.

(e) (i) Any determination made under this subdivision, including whether, to whom, or in what amount to make awards, shall be in the discretion of the attorney general; provided that such amount shall conform to the range established by paragraph (a) of this subdivision, and shall consider the factors listed in paragraph (c) of this subdivision.

(ii) Any such determination may be challenged in accordance with article seventy-eight of the civil practice law and rules, provided that any such challenge shall be brought within forty-five days of the date of any such determination.

(f) No contract with the department of law or any other agency shall be necessary for any whistleblower to receive an award under this section.

(g) (i) Any whistleblower who makes a claim for an award under this section may be represented by counsel.

(ii) Any whistleblower who anonymously makes a claim for an award under this section shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based. Prior to the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the attorney general may require, directly or through counsel for the whistleblower.

(h) (i) The attorney general shall not disclose any information which could reasonably be expected to reveal the identity of a whistleblower, unless and until such information is required to be disclosed to a party in connection with an action or proceeding brought by the attorney general, a lawfully issued subpoena by a federal or state law enforcement authority, or otherwise by a court order. Such information shall be deemed information exempted from disclosure under article six of the public officers law.

(ii) Notwithstanding subparagraph (i) of this paragraph, without the loss of its status as confidential in the hands of the attorney general, all information referred to in this subdivision may, when determined by the attorney general to be necessary to accomplish the purposes of this article, be made available to the appropriate regulatory and law enforcement authorities of this state, another state, the federal government, foreign governments, or self-regulatory organizations. Each regulatory or law enforcement authority to which the attorney general makes available the information referred to in subparagraph (i) of this paragraph shall agree to maintain such information in accordance with such assurances of confidentiality as the attorney general deems appropriate.

3. Retaliation. (a) (i) It shall be unlawful for any current or prospective employer, contractor or agent to discharge, demote, suspend, threaten or harass, directly or indirectly, or in any other manner discriminate against any person in hiring or in the terms and conditions of employment or contracting because of any lawful act done by such person: (1) in providing information to the attorney general pursuant to this section; (2) in initiating, testifying in or assisting in any investigation or covered enforcement action under this article, or any related action; or (3) in reporting any violation of this article to another government entity, to a direct supervisor or to a compliance officer of such employer, contractor or agent.

(ii) Any person who is discharged, demoted, suspended, threatened or harassed or in any other manner discriminated against in the terms and conditions of employment, or otherwise harmed or penalized by an employer, or a prospective employer, because of lawful acts done by such person or associated others in furtherance of any covered enforcement action or related action or other efforts to stop one or more violations of this article, including but not limited to reporting such violations to any government entity, to a direct supervisor or to a compliance officer of such employer or prospective employer, shall be entitled to all relief necessary to make such person whole. Such relief shall include, but not be limited to:

(1) an injunction to restrain continued discrimination;

(2) hiring, contracting or reinstatement to the position such person would have had but for the discrimination or to an equivalent position;

(3) reinstatement of full fringe benefits and seniority rights;

(4) payment of two times back pay, plus interest; and

(5) compensation for any special damages sustained because of the discrimination, including litigation costs and reasonable attorneys' fees.

(b) For purposes of this subdivision, a "lawful act" shall include, but not be limited to, obtaining or transmitting to the attorney general or private counsel employed to investigate or potentially file with the attorney general information relating to a violation of this article, even though such act may violate a contract, severance agreement, employment term, or duty owed to the employer or contractor.

(c) Any person seeking relief pursuant to subparagraph (ii) of paragraph (a) of this subdivision may bring an action in the appropriate supreme court for the relief provided in this subdivision. A civil action under this subdivision shall not be brought:

(i) more than six years after the date on which the violation of paragraph (a) of this subdivision occurred; or

(ii) more than three years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of paragraph (a) of this subdivision, but not in any circumstances more than ten years after the date on which such violation occurs.

4. No waiver or preemption. (a) This section shall not: (i) preempt, limit or restrict the authority or discretion of the attorney general to investigate or enforce violations of this article; (ii) limit any powers granted elsewhere in this chapter and other laws to the attorney general, state agencies or local governments to investigate or enforce possible violations of this article; (iii) authorize a private right of action involving fraudulent practices in connection with the securities; (iv) prevent or prohibit a person from voluntarily disclosing any information concerning a violation of this article to any law enforcement

agency or self-regulatory organization; or (v) preempt, limit, restrict or otherwise affect the rights and rewards provided to qui tam plaintiffs under article thirteen of the state finance law.

(b) The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment. No salary or wages earned by the whistleblower during such whistleblower's employment, nor any consideration provided to the whistleblower in connection with such whistleblower's severance from such employment, related to original information or the covered enforcement action or related action may be recouped by any right of action brought by the employer.

(c) Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any federal or state law, or under any collective bargaining agreement.

5. Regulations. The attorney general is authorized to adopt such rules and regulations as are necessary to effectuate the purposes of this section.

§ 2. Paragraph (b) of subdivision 11 of section 4 of the state finance law, as amended by chapter 171 of the laws of 2022, is amended to read as follows:

(b) Paragraph (a) of this subdivision shall not apply to (1) moneys to be distributed to the federal government, to a local government, or to any holder of a bond or other debt instrument issued by the state, any public authority, or any public benefit corporation; (2) moneys to be distributed to a whistleblower pursuant to section three hundred forty-four of the general business law, or to be distributed solely or exclusively as a payment of damages or restitution to individuals or entities that were specifically injured or harmed by the defendant's or settling party's conduct and that are identified in, or can be identified by the terms of, the relevant judgment, agreement to settle, assurance of discontinuance, or relevant instrument resolving the claim or cause of action; (3) moneys recovered or obtained by a state agency or a state official or employee acting in their official capacity where application of paragraph (a) of this subdivision is prohibited by federal law, rule, or regulation, or would result in the reduction or loss of federal funds or eligibility for federal benefits pursuant to federal law, rule, or regulation; (4) moneys recovered or obtained by or on behalf of a public authority, a public benefit corporation, the department of taxation and finance, the workers' compensation board, the New York state higher education services corporation, the tobacco settlement financing corporation, a state or local retirement system, an employee health benefit program administered by the New York state department of civil service, the Title IV-D child support fund, the lottery prize fund, the abandoned property fund, or an endowment of the state university of New York or any unit thereof or any state agency, provided that all of the moneys received or recovered are immediately transferred to the relevant public authority, public benefit corporation, department, fund, program, or endowment; (5) moneys to be refunded to an individual or entity as (i) an overpayment of a tax, fine, penalty, fee, insurance premium, loan payment, charge or surcharge; (ii) a return of seized assets, or (iii) a payment made in error; (6) moneys to be used to prevent, abate, restore, mitigate, or control any identifiable instance of prior or ongoing water, land or air pollution; and (7) moneys deposited to the opioid settlement fund established in section ninety-nine-nn of this chapter.

§ 3. Paragraph (b) of subdivision 16 of section 63 of the executive law, as amended by chapter 171 of the laws of 2022, is amended to read as follows:

(b) Paragraph (a) of this subdivision shall not apply to any provision in the resolution of a claim or cause of action providing (1) moneys to be distributed to the federal government, to a local government, or to any holder of a bond or other debt instrument issued by the state, any public authority, or any public benefit corporation; (2) moneys **to be distributed to a whistleblower pursuant to section three hundred forty-four of the general business law, or** to be distributed solely or exclusively as a payment of damages or restitution to individuals or entities that were specifically injured or harmed by the defendant's or settling party's conduct and that are identified in, or can be identified by the terms of, the relevant judgment, stipulation, decree, agreement to settle, assurance of discontinuance, or relevant instrument resolving the claim or cause of action; (3) moneys recovered or obtained by the attorney general where application of paragraph (a) of this subdivision is prohibited by federal law, rule, or regulation, or would result in the reduction or loss of federal funds or eligibility for federal benefits pursuant to federal law, rule, or regulation; (4) moneys recovered or obtained by or on behalf of a public authority, a public benefit corporation, the department of taxation and finance, the workers' compensation board, the New York state higher education services corporation, the tobacco settlement financing corporation, a state or local retirement system, an employee health benefit program administered by the New York state department of civil service, the Title IV-D child support fund, the lottery prize fund, the abandoned property fund, or an endowment of the state university of New York or any unit thereof or any state agency, provided that all of the moneys received or recovered are immediately transferred to the relevant public authority, public benefit corporation, department, fund, program, or endowment; (5) moneys to be refunded to an individual or entity as (i) an overpayment of a tax, fine, penalty, fee, insurance premium, loan payment, charge or surcharge; (ii) a return of seized assets; or (iii) a payment made in error; (6) moneys to be used to prevent, abate, restore, mitigate or control any identifiable instance of prior or ongoing water, land or air pollution; and/or (7) state moneys received as part of any statewide opioid settlement agreements as defined in section 25.18 of the mental hygiene law, to be spent on eligible expenditures as defined in section 25.18 of the mental hygiene law.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.