

HOUSE No. 8

So much of the recommendations of the Inspector General (House, No. 3) as relates to public employee time fraud. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to public employee time fraud.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 231 of the General Laws is hereby amended by inserting after
2 section 85AA, as so appearing, the following section:-

3 Section 85BB. (a) For purposes of this section, “county agency,” “county employee,
4 “municipal agency,” “municipal employee,” “state agency” and “state employee” shall have the
5 same meaning as those terms are defined in section 1 of chapter 268A.

6 (b) Notwithstanding any general or special law to the contrary, any county, municipal or
7 state employee who: (i) knowingly submits to a county, municipal or state agency a false or
8 fraudulent claim of hours worked for payment and receives payment therefor; or (ii) knowingly
9 makes, uses or causes to be made or used a false record or statement material to such a false or
10 fraudulent claim of hours worked for payment that results in any county, municipal or state
11 employee receiving payment therefor; or any person who conspires to commit a violation of this

12 section, shall be liable to that county, municipal or state agency for a civil penalty of 3 times the
13 amount of damages that the county, municipal or state agency sustains because of such violation.

14 (c) A civil action for damages under this section may be brought in the superior court.

15 (d) A civil action for damages under this section may not be brought (i) more than 4 years
16 after the date on which the violation occurred; or (ii) more than 4 years after the date when facts
17 material to the right of action are known or reasonably should have been known by an official of
18 the county, municipal or state agency who is authorized to approve the initiation of an action for
19 damages, but in no event more than 6 years after the date on which the violation is committed,
20 whichever occurs last. A civil action for damages under this section may be brought for acts that
21 occurred prior to the effective date of this section, subject to the limitations period set forth in
22 this section.

23 (e) Notwithstanding any other general or special law, rule of procedure or rule of
24 evidence to the contrary, a final judgment rendered in favor of the commonwealth in a criminal
25 proceeding charging fraud or false statements, whether upon a verdict after trial, or upon a plea
26 of guilty, or a continuance without a finding following the defendant's admission to sufficient
27 facts to support a conviction, shall estop the defendant from denying the essential elements of the
28 offense in any action which involves the same act, transaction or occurrence as in the criminal
29 proceedings and which is brought under this section.

30 (f) In any action brought pursuant to this section, the party bringing the action shall be
31 required to prove all essential elements of the cause of action, including damages, by a
32 preponderance of the evidence.