

February 1, 2022

TO: The Honorable Maggie McIntosh, Chair
Appropriations Committee

FROM: Shelly Marie Martin
Assistant Attorney General and
Director, False Claims Unit

Re: HB0391 - False Claims - Civil Penalties or Damages - Exceptions to General Fund
Deposit by Comptroller (Support)

The Office of the Attorney General supports House Bill 391, which creates exceptions to the current requirement that all funds recovered under the Maryland False Claims Act be deposited into the General Fund.

The Maryland False Claims Act (Gen. Prov. §§ 8-101 through 8-111) and its companion statute the Maryland False Health Claims Act (Health Gen. §§ 2-601 through 2-611) prohibit contractors, grantees, and others who directly or indirectly receive government funds from making false or fraudulent claims for payment. Those who do so are subject to fines of up to \$10,000 per violation and up to three times the loss suffered by the government agency. The Acts currently require that all funds recovered by the State be deposited to the General Fund. Gen. Prov. § 8-109(c); Health Gen. § 2-610(c). While this is an appropriate disposition of the recovery in many cases, in other instances, we believe that it would be more appropriate to allow a specially-funded agency to retain the recovered funds.

The State has created trust funds and other special programs that receive funds from places other than the General Fund or hold funds in trust for specific purposes. The various State Pension Plans and the State Employee and Retiree Health and Welfare Benefits Program are funded, in part, by employee contributions to their pension and health insurance benefits. Both programs operate for the purpose of providing current and future benefits to employees, retirees, and their dependents. Both K-12 schools and institutions of higher education receive substantial funding from local taxes, federal programs, student tuition, and other sources in addition to any funds appropriated to them from the General Fund. Should one of these programs be the victim of fraud by a contractor or other person, we believe that the best use of any recovered funds is to return them to these programs.

HB 391 accomplishes this goal by providing that, while recoveries under the False Claims Act will generally be deposited to the General Fund, funds will not be sent to the General Fund when a case involves the State Retirement and Pension System, the State Employee and Retiree

Health and Welfare Benefits Program, or other funds not subject to the general requirement that excess funds revert to the General Fund.

The Office of the Attorney General urges the Committee to vote favorably on HB 391. Thank you for your attention to this matter.

cc: The Honorable Sandy Bartlett
Members, Appropriations Committee