

HOUSE BILL REPORT

ESSB 5157

As Reported By House Committee On:
Judiciary

Title: An act relating to attorneys' fees.

Brief Description: Increasing statutory attorneys' fees.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Hargrove and Nelson).

Brief History:

Reported by House Committee on:
Judiciary, March 30, 1993, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: Generally in this state, each party to a legal action bears the cost of his or her own expenses, including any attorney's fees. There are, however, certain "costs" that the prevailing party in an action may recover from the other party. The losing party must pay these costs in addition to paying the judgment.

These costs which are recoverable by the prevailing party include:

- (1) filing fees;
- (2) fees for the service of process;
- (3) fees for service by publication;
- (4) required notary fees;
- (5) reasonable expenses incurred in obtaining records;
- (6) reasonable expenses of transcription of depositions;
- (7) statutory witness fees; and
- (8) **statutory attorney's fees.**

The "statutory attorney's fees" allowed as costs are relatively modest dollar amounts set by statute. These

dollar amounts may or may not bear any relationship to the fees a party actually pays his or her attorney. In most cases of any size or complexity, the attorney's fees actually incurred will far exceed the statutory fees. In some simple and routine matters, however, the statutory fees might approximate the actual fees.

The amount of these statutory attorney's fees varies depending on the level of court in which the legal action has taken place. In Superior Court, the Court of Appeals and the Supreme Court, the amount is \$125. In District Court the amount is \$50. (This District Court amount was raised in 1985 from \$25 to the current \$50.)

In District Court actions, this \$50 prevailing party attorney's fees is recoverable only if the prevailing party is in fact represented by an attorney and only if the amount of the judgment is \$25 or more. (This \$25 threshold judgment amount was raised in 1985 from \$5 to the current \$25.)

The monetary jurisdictional limit for cases in District Court is \$25,000. Cases involving more than that must be brought in Superior Court.

Summary of Amended Bill: The statutory attorney's fee in a District Court case in which the prevailing party was represented by an attorney is raised from \$50 to \$125. The minimum judgment required to trigger this attorney's fee provision is raised from \$25 to \$50.

Amended Bill Compared to Engrossed Substitute Bill: The amendment changes the fee amount from the lesser of \$100 or the judgment amount to \$125. The amendment restores the current law's minimum judgment requirement, but raises that minimum amount to \$50. The Engrossed Substitute Senate Bill would eliminate this minimum judgment amount.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The District Court attorneys' fee is out of line with the fees in the superior and appellate courts. The amount has not been raised in several years.

Testimony Against: None.

Witnesses: Bonita McCormick and Harold Knox, Washington Collectors Association (pro); and Gary Ramey, Washington State Process Servers Association (pro).