

1 **2SHB 1032 - H AMDS 019 ADOPTED 2-7-97**

2 By Representative Huff____

3 On page 38, beginning on line 6, strike all of Section 501 and
4 insert the following:

5
6 "Sec. 501. RCW 4.84.350 and 1995 c 403 s 903 are each
7 amended to read as follows:

8 (1) Except as otherwise specifically provided by statute, a
9 court shall award a qualified party that prevails in a judicial
10 review of an agency action fees and other expenses, including
11 reasonable attorneys' fees, unless the court finds that the agency
12 action was substantially justified or that circumstances make an
13 award unjust. A qualified party shall be considered to have
14 prevailed if the qualified party obtained relief on a significant
15 issue that achieves some benefit that the qualified party sought.

16 (2) The amount awarded a qualified party under subsection (1)
17 of this section shall not exceed twenty-five thousand dollars for
18 the fees and other expenses incurred in superior court, and twenty-
19 five thousand dollars for the fees and other expenses incurred in
20 each court of appeal to a maximum of sixty thousand dollars.
21 Subsection (1) of this section shall not apply unless all parties
22 challenging the agency action are qualified parties. If two or
23 more qualified parties join in an action, the award in total shall
24 not exceed twenty-five thousand dollars in the superior court and
25 twenty-five thousand dollars in each court of appeal to a maximum
26 of sixty thousand dollars. The court, in its discretion, may
27 reduce the amount to be awarded pursuant to subsection (1) of this
28 section, or deny any award, to the extent that a qualified party
29 during the course of the proceedings engaged in conduct that unduly
30 or unreasonably protracted the final resolution of the matter in
31 controversy.

32 (3)A party who is awarded fees and other expenses by the
33 superior court or by any court of appeal shall be entitled to those
34 fees and expenses, regardless of whether the party ultimately
35 prevails in a final resolution of the matter."

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2 On page 38, line 16, after "RCW 4.84.340" strike "~~((and))~~,
3 4.84.350, or section 501 of this act" and insert "and 4.84.350"

4 On page 38, line 19, after "within" strike "sixty days" and
5 insert "~~((sixty days))~~thirty days of the decision of a superior
6 court or court of appeal. The fees and other expenses shall be
7 paid"

8 On page 38, beginning on line 32, after "4.84.360" strike "and
9 section 501 of this act"

10 On page 39, beginning on line 19, after "means" strike " a
11 judicial review as defined by chapter 34.05 RCW" and insert "~~((a~~
12 ~~judicial review as defined by chapter 34.05 RCW))~~review of an
13 agency action in the superior court and courts of appeal"

EFFECT: Prevailing private parties are entitled to attorney's fees and costs on appeal, up to \$25,000 at each appellate level. The total attorney's fees are not to exceed \$60,000. Agencies are required to pay any fees awarded at each level of appeal within 30 days, regardless of the outcome of a further appeal.