

HOUSE BILL REPORT

2SSB 5084

As Reported By House Committee On: Government Reform & Land Use

Title: An act relating to attorneys' fees, costs, and expenses awarded against the state.

Brief Description: Modifying the definition of a qualified party and the amount of attorneys' fees they may recover in an action appealing a state agency directive.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Roach, Schow, Benton, Swecker, Zarelli, Morton, Hochstatter, Johnson, McCaslin, Winsley, Stevens and Oke).

Brief History:

Committee Activity:

Government Reform & Land Use: 3/31/97 [DP].

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: Do pass. Signed by 11 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Bush; Fisher; Gardner; Mielke; Mulliken and Thompson.

Staff: Joan Elgee (786-7135).

Background: As part of 1995 regulatory reform legislation (ESHB 1010), the Legislature enacted the Equal Access to Justice Act. The act generally requires an award of attorneys' fees and expenses, not exceeding \$25,000, to qualified parties that successfully challenge an agency action.

Qualified parties include: a) individuals whose net worth does not exceed \$1 million, and b) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth does not exceed \$5 million.

Summary of Bill: The \$25,000 cap on attorneys' fees and other expenses awarded to a prevailing party in a successful challenge of an agency action is raised to \$50,000.

The net worth limits for a party to be qualified to receive an award of fees and costs are raised. Qualified parties include: a) individuals whose net worth does not exceed \$2

million, and b) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth does not exceed \$7 million.

The Office of Financial Management must report annually to the Legislature on the amount of fees and other expenses awarded.

Appropriation: None.

Fiscal Note: Requested on March 24, 1997.

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

Testimony For: Raising the caps makes the amounts more realistic. Small businesses incur costs in addition to attorneys' fees and costs. The current law has not been abused. The report to the Legislature will identify where there are problems.

Testimony Against: The Governor's office has concerns about doubling amounts based on the limited experience under the current law.

Testified: Amber Balch, Association of Washington Business (pro); Carolyn Logue, National Federation of Independent Business (pro); Tony Meinhardt, Independent Business Association (pro); and Fred Hellberg, Governor's office (concerns).