

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: 2/18/98, 2/26/98 [DP].

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: Do pass. Signed by 6 members: Representatives Reams, Chairman; Sherstad, Vice Chairman; Bush; Mielke; Mulliken and Thompson.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Fisher and Gardner.

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 prevail in a judicial review of an agency action.

A qualified party is: a) an individual whose net worth does not exceed \$1 million; or 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.

Language is added to clarify that the fees and expenses are those incurred in the judicial review.

The net worth limits for a party to be qualified to receive an award of fees and costs are raised. A qualified party is: a) an individual 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: Available.

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

Testimony For: This bill reflects the realities of litigation and doing business. It has been scaled back from earlier versions. The underlying concept is to keep the state from using its considerable resources to keep people from challenging the state. The fiscal impact will be negligible but for those who need it, moving the ceiling is fair and reasonable.

Testimony Against: None.

Testified: Senator Roach, prime sponsor; Amber Balch, Association of Washington Business (pro); Gary Smith, Independent Business Association (pro); and Tony Meinhardt, Independent Business Association (pro).