

# HOUSE BILL ANALYSIS

## HB 3087

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**Title:** An act relating to administrative appeals of tax assessments.

**Brief Description:** Prescribing procedures for administrative appeals of tax assessments.

**Sponsors:** Representative Cairnes.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Staff:** Trudes Hutcheson (786-7384).

**Background:** Administrative agencies perform numerous functions, such as making rules, administering programs, and generally regulating various industries throughout the state. Certain agencies also administer the collection of different taxes.

The Employment Security Department imposes on employers taxes for the unemployment compensation program. The contribution rate for each employer is determined by a schedule contained in statute. The Department of Labor and Industries imposes taxes for workers' compensation (industrial insurance). The actual rates that apply to particular businesses vary widely, based on the risk associated with the business's activity and the business's actual accident record. The Department of Revenue is responsible for administering various state tax programs, including the business and occupation tax. There are numerous exemptions and deductions for specific types of business activities.

When an agency takes certain types of action, an aggrieved party may generally appeal the agency decision. Usually, the party must first appeal through the administrative process before seeking judicial review. The Administrative Procedure Act establishes the procedures and standards that apply to administrative appeals, and when a party may seek judicial review.

In Washington, a prevailing party in an action ordinarily does not recover its attorney fees. Attorney fees are recoverable only if specifically authorized by statute, by contract, or upon a recognized equitable ground.

Qualified parties who prevail in a judicial review of an agency action are entitled to fees and expenses, not to exceed \$25,000, unless the court finds that the agency action was substantially justified or that circumstances make an award unjust. Qualified parties include an individual whose net worth does not exceed \$1 million, and a sole owner of an unincorporated business or organization whose net worth does

not exceed \$5 million. Certain nonprofit organizations are eligible regardless of net worth.

One is considered the prevailing party if one obtains relief on a significant issue that achieves some benefit that the party sought. Fees and expenses to be awarded include reasonable attorney fees, generally limited to \$150 per hour, expert witness expenses, and other costs.

**Summary of Bill:** Qualified parties who prevail in administrative appeals of tax assessments made by the Department of Labor and Industries, the Department of Revenue, or the Employment Security Department will be awarded fees and expenses, including reasonable attorney fees, unless the court finds that the tax assessment was substantially justified or that circumstances make an award unjust.

A qualified party shall be considered the prevailing party if the tax assessment was reduced by at least: (a) an amount equal to the fees and other expenses requested by the qualified party; (b) 50 percent of the tax assessment; or (c) \$5,000. Tax assessment– includes any notice to a qualified party that the agency has made a determination that taxes are due and owing.

**Fiscal Note:** Not requested.

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

Office of Program Research