
HOUSE BILL 3087

State of Washington

55th Legislature

1998 Regular Session

By Representative Cairnes

Read first time . Referred to Committee on .

1 AN ACT Relating to administrative appeals of tax assessments; and
2 amending RCW 4.84.340 and 4.84.350.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.84.340 and 1995 c 403 s 902 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout RCW 4.84.340 through 4.84.360.

8 (1) "Administrative appeals of tax assessments" means any appeal by
9 a qualified party, other than by judicial review, of a tax assessment
10 made by the department of labor and industries, the department of
11 revenue, or the employment security department. "Tax assessment"
12 includes any notice to a qualified party that a determination has been
13 made by the agency that taxes are due and owing or any demand for
14 payment of taxes.

15 (2) "Agency" means any state board, commission, department,
16 institution of higher education, or officer, authorized by law to make
17 rules or to conduct adjudicative proceedings, except those in the
18 legislative or judicial branches, the governor, or the attorney general
19 except to the extent otherwise required by law.

1 (~~(2)~~) (3) "Agency action" means agency action as defined by
2 chapter 34.05 RCW.

3 (~~(3)~~) (4) "Fees and other expenses" includes the reasonable
4 expenses of expert witnesses, the reasonable cost of a study, analysis,
5 engineering report, test, or project that is found by the court to be
6 necessary for the preparation of the party's case, and reasonable
7 attorneys' fees. Reasonable attorneys' fees shall be based on the
8 prevailing market rates for the kind and quality of services furnished,
9 except that (a) no expert witness shall be compensated at a rate in
10 excess of the highest rates of compensation for expert witnesses paid
11 by the state of Washington, and (b) attorneys' fees shall not be
12 awarded in excess of one hundred fifty dollars per hour unless the
13 court determines that an increase in the cost of living or a special
14 factor, such as the limited availability of qualified attorneys for the
15 proceedings involved, justifies a higher fee.

16 (~~(4)~~) (5) "Judicial review" means a judicial review as defined by
17 chapter 34.05 RCW.

18 (~~(5)~~) (6) "Qualified party" means (a) an individual whose net
19 worth did not exceed one million dollars at the time the initial
20 petition for an administrative appeal of a tax assessment or a judicial
21 review was filed or (b) a sole owner of an unincorporated business, or
22 a partnership, corporation, association, or organization whose net
23 worth did not exceed five million dollars at the time the initial
24 petition for an administrative appeal of a tax assessment or a judicial
25 review was filed, except that an organization described in section
26 501(c)(3) of the federal internal revenue code of 1954 as exempt from
27 taxation under section 501(a) of the code and a cooperative association
28 as defined in section 15(a) of the agricultural marketing act (12
29 U.S.C. 1141J(a)), may be a party regardless of the net worth of such
30 organization or cooperative association.

31 **Sec. 2.** RCW 4.84.350 and 1995 c 403 s 903 are each amended to read
32 as follows:

33 (1) Except as otherwise specifically provided by statute, a court
34 shall award a qualified party that prevails in a judicial review of an
35 agency action fees and other expenses, including reasonable attorneys'
36 fees, unless the court finds that the agency action was substantially
37 justified or that circumstances make an award unjust. A qualified
38 party shall be considered to have prevailed if the qualified party

1 obtained relief on a significant issue that achieves some benefit that
2 the qualified party sought.

3 (2) Except as otherwise specifically provided by statute, an agency
4 shall award, or a qualified party may apply to the superior court and
5 the court shall award a qualified party that prevails in a decision in
6 an administrative appeal of a tax assessment, fees and other expenses,
7 including reasonable attorneys' fees and fees and other expenses
8 incurred in the appeal to the superior court, unless the court finds
9 that the tax assessment was substantially justified or that
10 circumstances make an award unjust. A qualified party shall be
11 considered to have prevailed if upon appeal the tax assessment was
12 reduced by at least an amount equal to the fees and other expenses
13 requested by the qualified party, by at least fifty percent of the tax
14 assessment, or by at least five thousand dollars.

15 (3) The amount awarded a qualified party under subsection (1) or
16 (2) of this section shall not exceed twenty-five thousand dollars.
17 Subsection (1) or (2) of this section shall not apply unless all
18 parties challenging the agency action or making an administrative
19 appeal of a tax assessment are qualified parties. If two or more
20 qualified parties join in an action, the award in total shall not
21 exceed twenty-five thousand dollars. The court, in its discretion, may
22 reduce the amount to be awarded pursuant to subsection (1) of this
23 section, or deny any award, to the extent that a qualified party during
24 the course of the proceedings engaged in conduct that unduly or
25 unreasonably protracted the final resolution of the matter in
26 controversy.

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