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SENATE BILL 5242

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State of Washington

56th Legislature

1999 Regular Session

By Senators Kline, Winsley, Wojahn and Kohl-Welles

Read first time 01/18/1999. Referred to Committee on State & Local Government.

1 AN ACT Relating to damages for unlawful agency actions; and  
2 amending RCW 64.40.020.

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

4 **Sec. 1.** RCW 64.40.020 and 1982 c 232 s 2 are each amended to read  
5 as follows:

6 (1) Owners of a property interest who have filed an application for  
7 a permit, and other property owners or organizations with standing to  
8 oppose the granting of the permit and who have participated in  
9 administrative proceedings regarding the permit, have an action for  
10 damages to obtain relief from acts of an agency which are arbitrary,  
11 capricious, unlawful, or exceed lawful authority, or relief from a  
12 failure to act within time limits established by law: PROVIDED, That  
13 the action is unlawful or in excess of lawful authority only if the  
14 final decision of the agency was made with knowledge of its  
15 unlawfulness or that it was in excess of lawful authority, or it should  
16 reasonably have been known to have been unlawful or in excess of lawful  
17 authority.

18 (2) The prevailing party in an action brought pursuant to this  
19 chapter may be entitled to reasonable costs and attorney's fees.

1           (3) No cause of action is created for relief from unintentional  
2 procedural or ministerial errors of an agency.

3           (4) Invalidation of any regulation in effect prior to the date an  
4 application for a permit is filed with the agency shall not constitute  
5 a cause of action under this chapter.

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