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SENATE BILL 6379

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State of Washington                      56th Legislature                      2000 Regular Session

By Senator Heavey; by request of Environmental Hearings Office

Read first time . Referred to Committee on .

1            AN ACT Relating to attorneys' fees; amending RCW 4.84.340; and  
2 adding a new section to chapter 4.84 RCW.

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 tribunal" means an independent agency that  
9 conducts adjudicative proceedings, as defined in RCW 34.05.010, as its  
10 sole or principal duty to: (a) Review decisions of another agency or  
11 governmental unit; or (b) resolve disputes in which the tribunal is not  
12 a party.

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

18            ((+2+)) (3) "Agency action" means agency action as defined by  
19 chapter 34.05 RCW.

1       (~~(3)~~) (4) "Fees and other expenses" includes the reasonable  
2 expenses of expert witnesses, the reasonable cost of a study, analysis,  
3 engineering report, test, or project that is found by the court to be  
4 necessary for the preparation of the party's case, and reasonable  
5 attorneys' fees. Reasonable attorneys' fees shall be based on the  
6 prevailing market rates for the kind and quality of services furnished,  
7 except that (a) no expert witness shall be compensated at a rate in  
8 excess of the highest rates of compensation for expert witnesses paid  
9 by the state of Washington, and (b) attorneys' fees shall not be  
10 awarded in excess of one hundred fifty dollars per hour unless the  
11 court determines that an increase in the cost of living or a special  
12 factor, such as the limited availability of qualified attorneys for the  
13 proceedings involved, justifies a higher fee.

14       (~~(4)~~) (5) "Judicial review" means a judicial review as defined by  
15 chapter 34.05 RCW.

16       (~~(5)~~) (6) "Qualified party" means (a) an individual whose net  
17 worth did not exceed one million dollars at the time the initial  
18 petition for judicial review was filed or (b) a sole owner of an  
19 unincorporated business, or a partnership, corporation, association, or  
20 organization whose net worth did not exceed five million dollars at the  
21 time the initial petition for judicial review was filed, except that an  
22 organization described in section 501(c)(3) of the federal internal  
23 revenue code of 1954 as exempt from taxation under section 501(a) of  
24 the code and a cooperative association as defined in section 15(a) of  
25 the agricultural marketing act (12 U.S.C. 1141J(a)), may be a party  
26 regardless of the net worth of such organization or cooperative  
27 association.

28       NEW SECTION. Sec. 2. A new section is added to chapter 4.84 RCW  
29 to read as follows:

30       Notwithstanding the provisions of RCW 4.84.350, no fees or other  
31 expenses shall be awarded against an administrative tribunal for  
32 actions taken solely as an adjudicative body.

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