
SENATE CONCURRENT RESOLUTION 8411

State of Washington

56th Legislature

1999 Regular Session

By Senators Kline and Heavey

Read first time 04/24/99.

1 WHEREAS, As a part of regulatory reform, equal access to justice
2 provisions were enacted whereby qualified parties prevailing in court
3 may have their attorneys' fees paid by the state agency whose decision
4 had been appealed; and

5 WHEREAS, There are many instances where qualified parties do not
6 pursue administrative appeals due solely to the costs of attorneys'
7 fees, which may prove to be more than the award on appeal, and which
8 cannot be recovered even when the qualified party prevails; and

9 WHEREAS, The inability of qualified parties to access competent
10 legal counsel and pursue meritorious appeals through the administrative
11 hearings process raises questions of fairness and due process which the
12 legislature believes must be addressed;

13 NOW, THEREFORE, BE IT RESOLVED, By the Senate of the state of
14 Washington, the House of Representatives concurring, That a joint task
15 force on equal access to justice be established to study and review the
16 provision of attorneys' fees for qualified parties at administrative
17 hearings. The task force shall review and determine the type of
18 administrative hearings that require the presence of counsel to
19 preserve fundamental rights or entitlements. In addition, the task
20 force shall also review issues related to representation and adequate
21 due process where the qualified party has a substantial economic

1 interest in the outcome of the agency action. The task force may also
2 determine those cases at which payment of attorneys' fees would
3 encourage settlement prior to hearings or which would discourage
4 appeals of nonmeritorious claims. The task force may determine those
5 instances where it would be inappropriate to require payment of
6 attorneys' fees by a state agency because the agency is only a nominal
7 party to the action at the administrative hearing. The task force
8 shall also determine whether the qualifying net worth amount should be
9 lowered for qualified parties in administrative appeals and whether
10 nonattorney representatives should be compensated for their
11 representation at administrative hearings. The task force may
12 determine any other relevant matters that arise in connection with this
13 review and study; and

14 BE IT FURTHER RESOLVED, That the task force consist of eight
15 legislators, with four members of the Senate, two from each caucus, to
16 be appointed by the President of the Senate; and four members of the
17 House of Representatives, two from each caucus, to be appointed by the
18 Co-Speakers of the House of Representatives; and

19 BE IT FURTHER RESOLVED, That the task force shall establish a
20 technical advisory group, to be composed of at least two
21 representatives of organizations representing small businesses as
22 defined in RCW 19.85.020(1); the board of governors of the Washington
23 state bar association shall be invited to appoint two persons; the
24 chief justice of the Washington state supreme court shall be invited to
25 appoint two persons from the access to justice board; and the governor
26 of the state of Washington shall be invited to appoint a representative
27 from the department of labor and industries, the department of ecology,
28 the department of social and health services, and the office of
29 financial management; and

30 BE IT FURTHER RESOLVED, That the task force shall convene no later
31 than June 1, 1999; shall elect its own officers; the expenses of the
32 task force members shall be paid by the legislature under chapter 44.04
33 RCW; staff support for the task force shall be provided by Senate
34 committee services and the House of Representatives office of program
35 research as mutually agreed by the task force officers; and the task
36 force shall report to the appropriate standing committees of the

1 legislature prior to December 1, 1999. The task force shall terminate
2 January 1, 2001.

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