

---

## Judiciary Committee

---

### HB 2699

**Title:** An act relating to communications with government branches or agencies and self-regulatory organizations.

**Brief Description:** Providing immunity for communications with government agencies and self-regulatory organizations.

**Sponsors:** Representatives Lantz, Ahern, Benson, Crouse, Morell, Miloscia, Schindler, Dunshee and Esser.

#### Brief Summary of Bill

- Amends the law that gives immunity to persons who make communications to a governmental agency to remove the good faith requirement, include branches of the government, and allow recovery of expenses incurred in establishing the defense.

**Hearing Date:** 2/7/02

**Staff:** Edie Adams (786-7180).

#### Background:

In 1989, the Legislature passed a law to help protect people who make complaints to government from civil suit regarding those complaints. The law was a request from the Governor and Attorney General to address concerns that arose from a situation where a citizen reported a tax violation to a state agency, and the person who was in violation of the tax law sued the citizen for defamation. This type of suit is referred to as a SLAPP suit. SLAPP stands for "Strategic Lawsuit Against Public Participation." SLAPP suits are instituted as a means of retaliation or intimidation against citizens or activists for speaking out about a matter of public concern. Typically, a person who institutes a SLAPP suit claims damages for defamation or interference with a business relationship.

The anti-SLAPP law passed in 1989 provides that a person who in good faith communicates a complaint or information to any federal, state, or local governmental agency is immune from civil liability for any claim relating to that communication. An individual who prevails with the immunity defense is entitled to recover costs and attorneys' fees incurred in establishing the defense. This provision is also applicable to communications made to a

self-regulatory organization that regulates persons in the securities or futures business and that has been delegated authority by a government agency and is subject to oversight by that agency.

Under appellate court interpretation of this statute in cases involving defamation actions, the court has held that the plaintiff has the burden of showing that the communication was not made in good faith, by showing that the communication was made with knowledge that it was false or with reckless disregard for its truth. A recent appellate court case found that the statute's application to communications made to a government "agency" includes communications made to the courts.

**Summary of Bill:**

The anti-SLAPP law is amended to remove the requirement that the communication be made in good faith and to cover communications to a branch of the federal, state, or local government. In addition, the law is amended to allow the recovery of expenses incurred in establishing the defense.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

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