
HOUSE BILL 1198

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Taylor, Short, McCune, and Harris

Read first time 01/14/11. Referred to Committee on Environment.

1 AN ACT Relating to creating a cause of action for persons who are
2 adversely affected by the judicial review of a decision made under the
3 state environmental policy act; and adding a new section to chapter
4 43.21C RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C RCW
7 to read as follows:

8 (1)(a) Any person or persons adversely affected by the commencement
9 of a judicial review of the adequacy of an environmental impact
10 statement prepared under RCW 43.21C.031 or of a threshold determination
11 made under RCW 43.21C.033 may bring an action in a court of competent
12 jurisdiction to recover any attorneys' fees, court costs, and actual
13 damages relating to the underlying project that were reasonably
14 incurred as a result of the judicial review, including any delay in
15 commencing or continuing the underlying project resulting from the
16 judicial review, from the person or persons who brought the judicial
17 review.

18 (b) An action under this section may only be commenced if the
19 ultimate result of the judicial review of the environmental impact

1 statement or threshold determination was either a dismissal by the
2 court or a finding by the court that the environmental impact statement
3 or threshold determination in question was adequate.

4 (2) In addition to actual damages recovered under subsection (1) of
5 this section, a party bringing an action under this section may recover
6 exemplary damages of up to fifty thousand dollars if a court finds that
7 the primary motivation of the original judicial review of an
8 environmental impact statement or threshold determination can
9 reasonably be identified as creating delay in the underlying project,
10 increasing expenses for the underlying project, or improving the
11 petitioning party's position in future negotiations regarding
12 mitigation and other protective measures.

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