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**SENATE BILL 5370**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Dansel, Honeyford, and Roach

AN ACT Relating to the payment of interim attorneys' fees to nongovernment parties under certain claims; and amending RCW 4.84.010.

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

**Sec.**  RCW 4.84.010 and 2009 c 240 s 1 are each amended to read as follows:

(1) The measure and mode of compensation of attorneys and counselors((~~,~~)) shall, unless otherwise specified in law, be left to the agreement, expressed or implied, of the parties, but there shall be allowed to the prevailing party upon the judgment certain sums for the prevailing party's expenses in the action, which allowances are termed costs, including, in addition to costs otherwise authorized by law, the following expenses:

((~~(1)~~)) (a) Filing fees;

((~~(2)~~)) (b) Fees for the service of process by a public officer, registered process server, or other means, as follows:

((~~(a)~~)) (i) When service is by a public officer, the recoverable cost is the fee authorized by law at the time of service.

((~~(b)~~)) (ii) If service is by a process server registered pursuant to chapter 18.180 RCW or a person exempt from registration, the recoverable cost is the amount actually charged and incurred in effecting service;

((~~(3)~~)) (c) Fees for service by publication;

((~~(4)~~)) (d) Notary fees, but only to the extent the fees are for services that are expressly required by law and only to the extent they represent actual costs incurred by the prevailing party;

((~~(5)~~)) (e) Reasonable expenses, exclusive of attorneys' fees, incurred in obtaining reports and records, which are admitted into evidence at trial or in mandatory arbitration in superior or district court, including but not limited to medical records, tax records, personnel records, insurance reports, employment and wage records, police reports, school records, bank records, and legal files;

((~~(6)~~)) (f) Statutory attorney and witness fees; and

((~~(7)~~)) (g) To the extent that the court or arbitrator finds that it was necessary to achieve the successful result, the reasonable expense of the transcription of depositions used at trial or at the mandatory arbitration hearing: PROVIDED, That the expenses of depositions shall be allowed on a pro rata basis for those portions of the depositions introduced into evidence or used for purposes of impeachment.

(2)(a) In an action or suit in any court in this state, including actions for judicial review of administrative actions or decisions, when a nongovernment party claims or counterclaims for legal or equitable relief, or both, against a government party upon grounds alleging that the government party has knowingly acted contrary to law, the nongovernment party may move the court for interim attorneys' fees, which motion must be heard and decided before any other proceedings in the case.

(b) If the nongovernment party proves beyond a reasonable doubt that a government party has knowingly acted contrary to law, the court shall order the government party to pay costs and interim attorneys' fees to the nongovernment party in an amount adequate to finance the nongovernment party's claim against the government party and structured as the court deems appropriate.

(c) The court's order of interim attorneys' fees is enforceable by the contempt power of the court and is deemed a final order for the purposes of appeal.

(d) For purposes of this subsection (2), "government party" includes the state and all state agencies, counties, cities, special districts, municipal corporations, and their agencies.

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