

1 **2SHB 1032 - H AMDS 021 FAILED 2-7-97**

2 By Representative Lantz

3 On page 38, after line 5, insert the following:

4 "Sec. 501. RCW 4.84.350 and 1995 c 403 s 903 are each amended
5 to read as follows:

6 (1) Except as otherwise specifically provided by statute, a
7 court shall award a qualified party that prevails in a judicial
8 review of an agency action fees and other expenses, including
9 reasonable attorneys' fees, unless the court finds that the agency
10 action was substantially justified or that circumstances make an
11 award unjust. A qualified party shall be considered to have
12 prevailed if the qualified party obtained relief on a significant
13 issue that achieves some benefit that the qualified party sought.

14 (2) The amount awarded a qualified party under subsection (1)
15 of this section shall not exceed twenty-five thousand dollars for
16 the fees and other expenses incurred in superior court, and twenty-
17 five thousand dollars for the fees and other expenses incurred in
18 the courts of appeal. Subsection (1) of this section shall not
19 apply unless all parties challenging the agency action are
20 qualified parties. If two or more qualified parties join in an
21 action, the award in total shall not exceed twenty-five thousand
22 dollars in the superior court and twenty-five thousand dollars in
23 the courts of appeal. The court, in its discretion, may reduce the
24 amount to be awarded pursuant to subsection (1) of this section, or
25 deny any award, to the extent that a qualified party during the
26 course of the proceedings engaged in conduct that unduly or
27 unreasonably protracted the final resolution of the matter in
28 controversy.

29 (3) No final decision on an award of fees and other expenses
30 under this section shall be rendered until a final and unreviewable
31 decision is rendered on the merits."

32 On page 38, beginning on line 6, strike all of Section 501
33

1 On page 38, line 16, after "RCW 4.84.340" strike "~~((and))~~,
2 4.84.350, or section 501 of this act" and insert "and 4.84.350"

3 On page 38, beginning on line 32, after "4.84.360" strike "and
4 section 501 of this act"

5 On page 39, beginning on line 19, after "means" strike " a
6 judicial review as defined by chapter 34.05 RCW" and insert "~~((a
7 judicial review as defined by chapter 34.05 RCW))~~review of an
8 agency action in the superior court and courts of appeal"

EFFECT: The provisions for payment of attorney's fees and costs on appeal are modified. A party must be the prevailing party to receive fees and costs. The court may deny or reduce the award on appeal for the same reasons the award may be denied in superior court. A determination of whether fees and costs are awarded is made after final resolution of the matter in court.