

SENATE BILL REPORT

SB 6379

As of January 14, 2000

Title: An act relating to attorneys' fees.

Brief Description: Disallowing financial awards against administrative tribunals.

Sponsors: Senator Heavey; by request of Environmental Hearings Office.

Brief History:

Committee Activity: Judiciary: 1/19/2000.

SENATE COMMITTEE ON JUDICIARY

Staff: Dick Armstrong (786-7460)

Background: Under the Equal Access to Justice Act, qualified parties who seek judicial review of an agency's actions and who prevail in such challenges may be awarded attorney's fees and expenses not exceeding \$25,000 unless the court finds that the agency action was substantially justified or that circumstances make an award unjust. A party is considered to have prevailed— if the party obtains relief on a significant issue that achieves a benefit sought by the party. Attorney's fees and expenses paid under the act are to be paid from the operating funds of the agency.

In general, qualified parties are individuals whose net worth does not exceed \$1 million or businesses whose net worth does not exceed \$5 million. Nonprofit organizations and agricultural cooperatives are eligible regardless of net worth.

Some agencies function as independent administrative tribunals and their duties are similar to a trial court. These types of tribunals consider the arguments of advocates in a case and then render a decision on the merits.

Some parties who have prevailed on judicial review of an agency action have sought to recover attorney fees and expenses against such administrative tribunals. A recent Court of Appeals case has rejected such claims finding that such hearing board tribunals were nominal parties to the proceedings and were acting as adjudicative bodies.

Summary of Bill: The Equal Access to Justice Act is amended to provide that attorney fees and expenses cannot be awarded against an administrative tribunal for actions taken solely as an adjudicative body.

Appropriation: None.

Fiscal Note: Not requested.

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

