

SENATE BILL REPORT

SHB 2699

As Reported By Senate Committee On:
Judiciary, February 26, 2002

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: House Committee on Judiciary (originally sponsored by Representatives Lantz, Ahern, Benson, Crouse, Morell, Miloscia, Schindler, Dunshee and Esser).

Brief History:

Committee Activity: Judiciary: 2/25/02, 2/26/02 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Hargrove, Long, McCaslin, Poulsen, Thibaudeau and Zarelli.

Staff: Lisa Ellis (786-7421)

Background: In 1989, the Legislature enacted a Strategic Lawsuit Against Public Participation (SLAPP) statute to help protect people who make complaints to government from civil suit regarding those complaints. A SLAPP suit is instituted as a means of retaliation or intimidation brought against individuals or organizations for speaking out on issues of public concern. Typically, a person who institutes a SLAPP suit claims damages for defamation or interference with a business relationship.

Summary of Amended Bill: An intent section clarifies the SLAPP suit definition, specifies that SLAPP suits are designed to intimidate the exercise of free speech, and identifies the purpose of the bill.

A person who communicates a complaint to: (1) any branch or federal, state, or local government agency or (2) any self-regulatory organization that regulates persons involved in the securities or futures business and that has been delegated authority by a federal, state, or local government agency and is subject to oversight by the delegating agency is immune from civil liability for any claim relating to that communication.

A prevailing defendant is entitled to expenses, reasonable attorneys' fees, and statutory damages of \$10,000 unless the complaint or information was communicated in bad faith.

Amended Bill Compared to Substitute Bill: An intent section is created to clarify the SLAPP suit definition, specify that SLAPP suits are designed to intimidate the exercise of

free speech, and identify the purpose of the bill. The requirement that the communication must be made in good faith is removed. Instead of "costs," a prevailing defendant may recover statutory damages of \$10,000 unless the complaint or information is communicated in bad faith.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (For Amendment) SLAPP suits involve the intention of intimidating individuals who speak out in front of public bodies. Existing law should be strengthened to protect individuals in SLAPP suits. The amendment would bring this bill into conformity with a recent U.S. Supreme Court opinion regarding petitioning government. The original bill is problematic because the "good faith" requirement is used as a defense in litigation.

(For the Bill) SLAPP suits can involve an elected official who is not acting within the scope of his or her elected duties. There is no immunity for elected officials if there is a question about the elected official's role. The "good faith" requirement is an important component to the bill. The award of costs, reasonable attorneys' fees, and expenses can prevent voices from being silenced.

Testimony Against: None.

Testified: PRO ORIGINAL BILL: Representative Patricia Lantz, prime sponsor; PRO STRIKING AMENDMENT: Shawn Newman, Citizens for Leaders with Ethics and Accountability Now (CLEAN); Steve Buckner, Metropolitan Mortgage and Securities Corporation; Phil Watkins, Taxpayers for Accountable Government.