

# FINAL BILL REPORT

## SHB 1022

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Synopsis as Enacted

**Brief Description:** Modifying statutory cost provisions.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Williams, Warnick, Kelley, Rodne, Dickerson and Moeller).

**House Committee on Judiciary**  
**Senate Committee on Judiciary**

### **Background:**

Generally, in civil actions, each party is responsible for paying his or her own attorneys' fees and other expenses in the action. However, there are statutes that allow these expenses to be shifted to another party, including statutes that allow a prevailing party to recover his or her "statutory costs."

Statutory costs may include filing fees, service of process fees, reasonable expenses incurred in obtaining records, witness fees, and a statutory attorney fee. The statutory attorney fee is generally \$200. However, in district court cases, the prevailing party is not entitled to the statutory attorney fee if the judgment is for less than \$50. If the judgment is at least \$50 but less than \$200, the statutory attorney fee is \$125.

A defendant is entitled to costs if, before the action is commenced, the defendant offered to pay the full amount owed to the plaintiff and the plaintiff refused the offer. A defendant is also entitled to costs if, after an action is commenced, the defendant deposits with the court the amount the defendant believes is owed plus costs, and the plaintiff refuses to accept it and subsequently recovers a lesser amount than offered.

"Prevailing party" is defined in different ways for different purposes. For example, in actions involving \$10,000 or less, a plaintiff or party seeking relief is deemed a prevailing party when the recovery, excluding costs, is as much as or more than the amount offered in settlement. For actions regarding the enforcement of contract or lease provisions, prevailing party means the party in whose favor final judgment is rendered.

### **Summary:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A plaintiff is the prevailing party and is therefore entitled to costs if, after an action for the recovery of money is commenced, the defendant offers and the plaintiff accepts full or partial payment of the amount sued for, and the plaintiff had given the defendant prior written notice that the defendant could still be liable for costs regardless of full or partial payment. Upon application by the plaintiff who is the prevailing party, the court must enter a judgment for those costs, except those costs that are paid before entry of judgment.

The same provision applies to cases in district court. However, the plaintiff is not entitled to the statutory attorney fee portion of costs unless the amount asked for in the complaint, exclusive of costs, is \$50 or more. In a case where the amount asked for is at least \$50 but less than \$200, the statutory attorney fee is \$125.

Nothing prevents a party from demanding, offering, or accepting payment of statutory costs before entry of judgment. The act may not be interpreted to authorize an award of costs if the action is resolved by a negotiated settlement or to limit or bar statutory or judicial cost-shifting provisions.

**Votes on Final Passage:**

House	97	0
Senate	45	0

**Effective:** July 26, 2009