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**SUBSTITUTE HOUSE BILL 1044**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives Hickel, Delvin, Smith, Crouse, Padden, Dyer, Costa, Schoesler, Johnson, Thompson, Beeksma, Radcliff, Cairnes, Mastin, Carrell, Chappell, Foreman, Fuhrman, Campbell, Morris and Casada)

Read first time 02/08/95.

1 AN ACT Relating to attorneys' fees, costs, and expenses awarded  
2 against state and other units of government; adding a new section to  
3 chapter 4.84 RCW; creating new sections; providing an effective date;  
4 and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds the public interest is  
7 served by encouraging private citizens to defend their rights and  
8 pursue their legal remedies in the courts of this state. The  
9 legislature further finds that it is in the public interest for  
10 governmental entities to respect citizen rights and entitlements and to  
11 facilitate lawful procedures whereby the rights and entitlements may be  
12 protected. The legislature further finds that litigation expenses  
13 incurred by private citizens, even for the pursuit of just claims  
14 against the government or the defense of lawful interests against  
15 improper governmental intrusion, unjustly burden the citizens and chill  
16 the citizens' access to an appropriate legal remedy. The legislature  
17 finds discriminatory public funding of governmental litigation expenses  
18 in actions determined to violate the legal rights and entitlements of

1 private citizens defeats justice and encourages government abuse. The  
2 legislature therefore declares encouragement and facilitation of  
3 citizen participation in legal proceedings where a governmental entity  
4 is an adverse party is desirable.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.84 RCW  
6 to read as follows:

7 In a civil action in which the state of Washington, a political  
8 subdivision, or a municipal corporation, or any department or agent of  
9 the state, political subdivision, or municipal corporation is a party,  
10 if the nongovernmental party prevails, the governmental party shall pay  
11 the nongovernmental party's reasonable attorneys' fees, costs, and  
12 other expenses of litigation.

13 (2) This section does not apply to:

14 (a) Actions involving quasi-municipal corporations or special  
15 purpose districts;

16 (b) Civil infraction actions; or

17 (c) Vehicle impoundment hearings and driver's license actions under  
18 Title 46 RCW where the governmental entity is not represented by  
19 counsel.

20 (3) For the purposes of this section:

21 (a) "Municipal corporation" means any city or town with a  
22 population of seven thousand five hundred or greater.

23 (b) "Prevailing party" means a party in whose favor judgment is  
24 entered or a party who substantially prevails on the majority of  
25 issues.

26 (4) A prevailing party seeking an award of fees and other expenses  
27 shall, within thirty days of final judgment in the action, submit to  
28 the court an application for fees and other expenses containing an  
29 allegation that the party is a prevailing party and is eligible to  
30 receive an award under this section, and a statement of the amount  
31 sought, including an itemized statement from an attorney or expert  
32 witness representing or appearing on behalf of the party stating the  
33 actual time expended and the rate at which fees and other expenses were  
34 computed.

35 NEW SECTION. **Sec. 3.** This act applies to all actions pending on  
36 or commenced after July 1, 1995.

1        NEW SECTION.    **Sec. 4.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and shall take  
4    effect July 1, 1995.

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