
SECOND SUBSTITUTE HOUSE BILL 1044

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Appropriations (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 03/06/95.

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; adding a new section to chapter 43.41 RCW; creating
4 new sections; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the public
7 interest is served by encouraging private citizens and businesses to
8 defend their rights and pursue their legal remedies in the courts of
9 this state. The legislature further finds that it is in the public
10 interest for governmental entities to respect citizen rights and
11 entitlements and to facilitate lawful procedures by which these rights
12 and entitlements may be protected.

13 The legislature finds that certain individuals, smaller
14 partnerships, smaller corporations, and other organizations may be
15 deterred from seeking review of or defending against unreasonable
16 governmental action, including administrative proceedings, because of
17 the expense involved in securing the vindication of their rights. The
18 legislature further finds that because of the greater resources of

1 governmental entities, private citizens and businesses may be unable to
2 defend their rights, even when their positions are legally justified.

3 The legislature therefore declares that it is desirable to
4 encourage private citizens' and businesses' participation in legal
5 proceedings where a governmental entity is an adverse party. The
6 legislature therefore adopts this equal access to justice act to ensure
7 that these parties have a greater opportunity to protect their rights
8 and to defend themselves from inappropriate state agency actions.

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

11 (1) In a civil action, including proceedings for judicial review of
12 administrative actions, in which the state of Washington, any
13 department or agent of the state, any political subdivision, or any
14 municipal corporation is a party, the court shall award to the
15 nongovernmental prevailing party that party's reasonable attorneys'
16 fees, costs, and other expenses of litigation.

17 (2) Subsection (1) of this section does not apply to:

18 (a) Actions involving quasi-municipal corporations or special
19 purpose districts;

20 (b) Civil infraction actions; or

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

24 (3) To recover an award of attorneys' fees, costs, and expenses as
25 a prevailing party under this section, the prevailing party must be:

26 (a) An individual whose net worth did not exceed two million
27 dollars at the time the civil action was filed; or

28 (b) An owner of an unincorporated business, or a partnership,
29 corporation, limited liability company, association, or organization,
30 the net worth of which did not exceed seven million dollars at the time
31 the civil action was filed; except that an organization described in
32 section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Sec.
33 501 (c)(3)) exempt from taxation under section 501(a) of the Internal
34 Revenue Code of 1986 (26 U.S.C. Sec. 501(a)), or a cooperative
35 association as defined by section 15(a) of the agricultural marketing
36 act (12 U.S.C. Sec. 1141j(a)), may be a party regardless of the net
37 worth of the organization or cooperative association.

1 (4) A prevailing party seeking an award of fees and other expenses
2 shall, within thirty days of final judgment in the action, submit to
3 the court an application for fees and other expenses containing an
4 allegation that the party is a prevailing party and is eligible to
5 receive an award under this section, and a statement of the amount
6 sought, including an itemized statement from an attorney or expert
7 witness representing or appearing on behalf of the party stating the
8 actual time expended and the rate at which fees and other expenses were
9 computed.

10 (5) For the purposes of this section:

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

13 (b) "Prevailing party" means:

14 (i) A party in whose favor judgment is entered as against the
15 governmental entity; or

16 (ii) A party who substantially prevails as against the governmental
17 entity on the majority of issues.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.41 RCW
19 to read as follows:

20 The office of financial management shall report annually to the
21 legislature on the amount of fees and other expenses awarded during the
22 preceding fiscal year under section 2 of this act. The report shall
23 describe the number, nature, and amount of the awards, the claims
24 involved in the controversy, and other relevant information that may
25 aid the legislature in evaluating the scope and impact of the awards.

26 NEW SECTION. **Sec. 4.** This act applies to all actions pending on
27 or commenced after July 1, 1995.

28 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and shall take
31 effect July 1, 1995.

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