
HOUSE CONCURRENT RESOLUTION 4413

State of Washington

56th Legislature

1999 Regular Session

By Representatives Carrell, Constantine, Kastama, McDonald, Lantz, Schindler, Lambert, Dickerson, Lovick, Cox, Hurst and Esser

Read first time . Referred to Committee on Judiciary.

1 WHEREAS, As a part of regulatory reform, equal access to justice
2 provisions were enacted whereby qualified parties prevailing in court
3 may have their attorneys' fees paid by the state agency whose decision
4 had been appealed; and

5 WHEREAS, There are many instances where qualified parties do not
6 pursue administrative appeals due solely to the costs of attorneys'
7 fees, which may prove to be more than the award on appeal, and which
8 cannot be recovered even when the qualified party prevails; and

9 WHEREAS, The inability of qualified parties to access competent
10 legal counsel and pursue meritorious appeals through the administrative
11 hearings process raises questions of fairness and due process which the
12 legislature believes must be addressed;

13 NOW, THEREFORE, BE IT RESOLVED, By the House of Representatives of
14 the state of Washington, the Senate concurring, That a joint task force
15 on equal access to justice be established to study and review the
16 provision of attorneys' fees for qualified parties at administrative
17 hearings. The task force shall review and determine the type of
18 administrative hearings that require the presence of counsel to
19 preserve fundamental rights or entitlements. In addition, the task
20 force shall also review issues related to representation and adequate
21 due process where the qualified party has a substantial economic

1 interest in the outcome of the agency action. The task force may also
2 determine those cases at which payment of attorneys' fees would
3 encourage settlement prior to hearings or which would discourage
4 appeals of nonmeritorious claims. The task force may determine those
5 instances where it would be inappropriate to require payment of
6 attorneys' fees by a state agency because the agency is only a nominal
7 party to the action at the administrative hearing. The task force
8 shall also determine whether the qualifying net worth amount should be
9 lowered for qualified parties in administrative appeals and whether
10 nonattorney representatives should be compensated for their
11 representation at administrative hearings. The task force may
12 determine any other relevant matters that arise in connection with this
13 review and study; and

14 BE IT FURTHER RESOLVED, That the task force consist of eight
15 legislators, with four members of the House of Representatives, two
16 from each caucus, to be appointed by the Co-Speakers of the House of
17 Representatives; and four members of the Senate, two from each caucus,
18 to be appointed by the President of the Senate; and

19 BE IT FURTHER RESOLVED, That the task force shall establish a
20 technical advisory group, to be composed of at least two
21 representatives of organizations representing small businesses as
22 defined in RCW 19.85.020(1); the board of governors of the Washington
23 state bar association shall be invited to appoint two persons; the
24 chief justice of the Washington state supreme court shall be invited to
25 appoint two persons from the access to justice board; and the governor
26 of the state of Washington shall be invited to appoint a representative
27 from the department of labor and industries, the department of ecology,
28 the department of social and health services, and the office of
29 financial management; and

30 BE IT FURTHER RESOLVED, That the task force shall convene no later
31 than June 1, 1999; shall elect its own officers; the expenses of the
32 task force members shall be paid by the legislature under chapter 44.04
33 RCW; staff support for the task force shall be provided by the House of
34 Representatives office of program research and Senate committee
35 services as mutually agreed by the task force officers; and the task
36 force shall report to the appropriate standing committees of the

1 legislature prior to December 1, 1999. The task force shall terminate
2 January 1, 2001.

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