

SENATE BILL REPORT

SB 6350

As of February 5, 2014

Title: An act relating to damages for persons injured by violations of the state Constitution.

Brief Description: Securing damages for persons injured by violations of the state Constitution.

Sponsors: Senators Roach, Padden and Kline.

Brief History:

Committee Activity: Governmental Operations: 2/06/14.

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Staff: Karen Epps (786-7424)

Background: The federal Civil Rights Act of 1871, 42 U.S.C. 1983, provides that:

Every person who, under color of any statute, ordinance, regulation, custom or usage of any state or territory, subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in any action at law, suit in equity, or other proceedings.

Attorneys' fees are available under 42 U.S.C. 1988 to successful plaintiffs and, under limited circumstances, successful defendants. The state itself cannot be sued in the federal court under the 11th Amendment; however, that provision does not protect local governments, nor state officers or agents acting in their individual capacity, but under color of law. Several categories of officials are immune from suit under federal case law.

Summary of Bill: A governmental entity that, under any statute, ordinance, regulation, custom, or usage, deprives any person of any right, privilege, or immunity secured by the state Constitution, is liable to the injured person.

All damages and remedies available under the federal Civil Rights Act are available. The prevailing party may recover reasonable attorney's fees and costs, including expert witness fees.

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.

In a proceeding to enforce this act, a court may not impose or levy as a remedy a general or special tax, assessment, fee, toll, charge, or other monetary obligation on the citizens of the state. The act applies to causes of action arising after the effective date of the act.

Appropriation: None.

Fiscal Note: Requested on February 5, 2014.

Committee/Commission/Task Force Created: No.

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