

FINAL BILL REPORT

ESB 6407

C 171 L 92

SYNOPSIS AS ENACTED

Brief Description: Providing for awards in construction contract actions.

SPONSORS: Senators Madsen, Anderson, Matson and Vognild

SENATE COMMITTEE ON COMMERCE & LABOR

HOUSE COMMITTEE ON COMMERCE & LABOR

BACKGROUND:

In Washington, attorneys' fees are not awarded to the prevailing party in a lawsuit unless the award is specifically authorized by statute or contract or is awarded on equitable grounds. The "equitable grounds" exception is narrowly applied by the courts.

Washington statutes generally permit the award of the costs of a lawsuit and limited statutory attorneys' fees to the prevailing party. In addition, various statutes throughout the code authorize the award of reasonable attorneys' fees in specific kinds of cases, including cases involving claims for damages of \$10,000 or less and cases that are found to be frivolous and advanced without reasonable cause. Other than these general statutes, there are no statutory provisions authorizing the award of attorneys' fees in lawsuits arising out of public works contracts.

SUMMARY:

The statutory procedures for awarding attorneys' fees to the prevailing party in actions for damages of \$10,000 or less are made applicable to an action arising out of a public works contract in which a public body is a party. In using these provisions, the maximum amount of the claim is \$250,000, rather than \$10,000, and the parties are required to serve offers of settlement not less than 30 days and not more than 120 days after serving and filing the complaint, rather than at least 10 days before trial. The plaintiff is the prevailing party if awarded as much or more than their settlement offer. The defendant is the prevailing party if the plaintiff's eventual recovery does not exceed the defendant's settlement offer.

The parties may not waive these rights, but the waiver prohibition is not to be construed as prohibiting the parties from mutually agreeing to a contract clause that requires submission of a dispute to arbitration.

VOTES ON FINAL PASSAGE:

Senate	47	2	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	97	0
Senate	47	0

EFFECTIVE: June 11, 1992