
SENATE BILL 6249

State of Washington 52nd Legislature 1992 Regular Session

By Senators Anderson, Rasmussen and Newhouse

Read first time 01/22/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to fees and costs of the judicial review of agency
2 actions; adding new sections to chapter 4.84 RCW; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that certain
6 individuals, smaller partnerships, smaller corporations, and other
7 organizations may be deterred from seeking review of or defending
8 against an unreasonable agency action because of the expense involved
9 in securing the vindication of their rights in administrative
10 proceedings. The legislature further finds that because of the greater
11 resources and expertise of the state of Washington, individuals,
12 smaller partnerships, smaller corporations, and other organizations are
13 often deterred from seeking review of or defending against state agency
14 actions because of the costs for attorneys, expert witnesses, and other

1 costs. The legislature therefore adopts this equal access to justice
2 act to ensure that these parties have a greater opportunity to defend
3 themselves from inappropriate state agency actions and to protect their
4 rights.

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

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout sections 2 through 4 of this act.

9 (1) "Agency action" means agency action as defined by chapter 34.05
10 RCW.

11 (2) "Fees and other expenses" includes the reasonable expenses of
12 expert witnesses, the reasonable cost of any study, analysis,
13 engineering report, test, or project that is found by the court to be
14 necessary for the preparation of the party's case, and reasonable
15 attorney fees. Reasonable attorney fees shall be based on the
16 prevailing market rates for the kind and quality of services furnished,
17 except that (a) no expert witness shall be compensated at a rate in
18 excess of the highest rates of compensation for expert witnesses paid
19 by the state of Washington, and (b) attorney fees shall not be awarded
20 in excess of one hundred fifty dollars per hour unless the court
21 determines that an increase in the cost of living or a special factor,
22 such as the limited availability of qualified attorneys for the
23 proceedings involved, justifies a higher fee. In no single proceeding
24 under sections 2 through 4 of this act, shall the court award more than
25 ten thousand dollars for fees and other expenses.

26 (3) "Judicial review" means a judicial review as defined by chapter
27 34.05 RCW.

28 (4) "Party" means (a) an individual whose net worth did not exceed
29 one million dollars at the time the judicial review was filed, (b) a

1 sole owner of an unincorporated business, or a partnership,
2 corporation, association, or organization whose net worth did not
3 exceed five million dollars at the time the judicial review was filed,
4 except that an organization described in section 501(c)(3) of the
5 federal internal revenue code of 1954 as exempt from taxation under
6 section 501(a) of the code and a cooperative association as defined in
7 section 15(a) of the agricultural marketing act (12 U.S.C. 1141J(a)),
8 may be a party regardless of the net worth of such organization or
9 cooperative association, or (c) a sole owner of an unincorporated
10 business, or a partnership, corporation, association, or organization,
11 having not more than one hundred employees at the time the judicial
12 review was filed.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 4.84 RCW
14 to read as follows:

15 Any party that prevails in a judicial review of an agency action
16 shall be awarded by the court, fees and other expenses to the same
17 extent authorized in sections 2 through 4 of this act.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 4.84 RCW
19 to read as follows:

20 Fees and other expenses awarded under sections 2 through 4 of this
21 act shall be paid by the agency over which the party prevails from
22 operating funds appropriated to the agency. Agencies paying fees and
23 other expenses pursuant to sections 2 through 4 of this act shall
24 report all payments to the office of financial management within five
25 days of paying the fees and other expenses. Any fees and other
26 expenses awarded by the court shall be subject to the provisions of
27 chapter 39.76 RCW and shall be deemed payable on the date the court
28 announces the award.

1 NEW SECTION. **Sec. 5.** The office of financial management shall
2 report annually to the legislature on the amount of fees and other
3 expenses awarded during the preceding fiscal year pursuant to sections
4 2 through 4 of this act. The report shall describe the number, nature,
5 and amount of the awards, the claims involved in the controversy, and
6 any other relevant information which may aid the legislature in
7 evaluating the scope and impact of such awards.