
SENATE BILL 6130

State of Washington

53rd Legislature

1994 Regular Session

By Senators Anderson, Amondson, McDonald, Nelson, Bluechel, Morton, Oke, Hochstatter, Erwin, Moyer, Schow, Roach, McAuliffe, Quigley, Cantu, A. Smith and Haugen

Read first time 01/13/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to fees and costs of the judicial review of agency
2 actions; adding new sections to chapter 4.84 RCW; adding a new section
3 to chapter 43.88 RCW; and creating a new section.

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
15 costs. The legislature therefore adopts this equal access to justice
16 act to ensure that these parties have a greater opportunity to defend
17 themselves from inappropriate state agency actions and to protect their
18 rights.

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

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

5 (1) "Agency action" means agency action as defined by chapter 34.05
6 RCW.

7 (2) "Fees and other expenses" includes the reasonable expenses of
8 expert witnesses, the reasonable cost of a study, analysis, engineering
9 report, test, or project that is found by the court to be necessary for
10 the preparation of the party's case, and reasonable attorneys' fees.
11 Reasonable attorneys' fees shall be based on the prevailing market
12 rates for the kind and quality of services furnished, except that (a)
13 no expert witness shall be compensated at a rate in excess of the
14 highest rates of compensation for expert witnesses paid by the state of
15 Washington, and (b) attorneys' fees shall not be awarded in excess of
16 one hundred fifty dollars per hour unless the court determines that an
17 increase in the cost of living or a special factor, such as the limited
18 availability of qualified attorneys for the proceedings involved,
19 justifies a higher fee.

20 (3) "Judicial review" means a judicial review as defined by chapter
21 34.05 RCW.

22 (4) "Party" means (a) an individual whose net worth did not exceed
23 one million dollars at the time the judicial review was filed, (b) a
24 sole owner of an unincorporated business, or a partnership,
25 corporation, association, or organization whose net worth did not
26 exceed five million dollars at the time the judicial review was filed,
27 except that an organization described in section 501(c)(3) of the
28 federal internal revenue code of 1954 as exempt from taxation under
29 section 501(a) of the code and a cooperative association as defined in
30 section 15(a) of the agricultural marketing act (12 U.S.C. 1141J(a)),
31 may be a party regardless of the net worth of such organization or
32 cooperative association, or (c) a sole owner of an unincorporated
33 business, or a partnership, corporation, association, or organization,
34 having not more than one hundred employees at the time the judicial
35 review was filed.

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

1 A party that prevails in a judicial review of an agency action
2 shall be awarded by the court, fees and other expenses not to exceed
3 ten thousand dollars. A party shall be considered to have prevailed if
4 the party obtained relief on a significant issue that achieves some
5 benefit that the party sought.

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

8 Fees and other expenses awarded under sections 2 through 4 of this
9 act shall be paid by the agency over which the party prevails from
10 operating funds appropriated to the agency within sixty days. Agencies
11 paying fees and other expenses pursuant to sections 2 through 4 of this
12 act shall report all payments to the office of financial management
13 within five days of paying the fees and other expenses. Fees and other
14 expenses awarded by the court shall be subject to the provisions of
15 chapter 39.76 RCW and shall be deemed payable on the date the court
16 announces the award.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.88 RCW
18 to read as follows:

19 The office of financial management shall report annually to the
20 legislature on the amount of fees and other expenses awarded during the
21 preceding fiscal year pursuant to sections 2 through 4 of this act.
22 The report shall describe the number, nature, and amount of the awards,
23 the claims involved in the controversy, and other relevant information
24 that may aid the legislature in evaluating the scope and impact of the
25 awards.

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