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## Judiciary Committee

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### HB 2748

**Title:** An act relating to the payment of attorneys' fees to nongovernment parties under certain claims.

**Brief Description:** Concerning the payment of attorneys' fees to nongovernment parties under certain claims.

**Sponsors:** Representatives Griffey, Scott, Manweller, McCaslin, Young, Buys, Holy and Shea.

#### Brief Summary of Bill

- Provides that, in an action brought by a nongovernment party for judicial review of an administrative action, the court must award costs and attorneys' fees to the nongovernment party if there is proof beyond a reasonable doubt that a government party has knowingly acted contrary to law.

**Hearing Date:** 2/2/16

**Staff:** Omeara Harrington (786-7136).

#### Background:

##### Costs and Attorneys' Fees.

A prevailing party in a legal action may be awarded reimbursement for certain costs upon judgment, including costs associated with filing, service of process, and notary services, expenses related to obtaining records, statutory attorney and witness fees, and, in some cases, the expense of transcription of depositions. There is no general authority for a court to award attorneys' fees beyond the nominal fees identified in statute, but in certain statutorily identified situations reasonable attorneys' fees may be awarded to a prevailing party.

A court must award a qualified party that prevails in a judicial review of a state agency action fees and other expenses, including reasonable attorneys' fees, unless the court finds that the agency action was substantially justified or that circumstances make an award unjust. A

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*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.*

"qualified party" includes an individual with a net worth of less than one million dollars, a business or organization whose net worth does not exceed five million dollars, and certain nonprofit and cooperative organizations regardless net worth.

Judicial Review of Administrative Action.

The Administrative Procedure Act sets forth the procedures for judicial review of an agency action by persons aggrieved or adversely affected by the agency action. Generally, a person may file a petition for judicial review only after exhausting all available administrative remedies. Upon review, the court may affirm the agency action or it may order the agency to take certain action, set aside or enjoin the agency action, remand the matter for further proceedings, or enter a declaratory judgment order.

**Summary of Bill:**

In an action brought by a nongovernment party for judicial review of an administrative action or decision, when the nongovernment party proves beyond a reasonable doubt that a government party has knowingly acted contrary to law, the court must order the government party to pay costs and attorneys' fees to the nongovernment party. A "government party" includes: the state; all state agencies; counties; cities; special districts; municipal corporations; and their agencies.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.