

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1600
By: Kolkhorst
State Affairs
4/28/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, a state agency is regularly required to defend itself against an action brought by a plaintiff. It is also common for an action against a state agency to include a claim under the Uniform Declaratory Judgments Act (UDJA). The UDJA allows a court to award “reasonable and necessary attorney’s fees as are equitable and just.”

Often in such cases, a state agency will prevail, but may still be required to pay attorney’s fees to the losing plaintiff. The awarding of attorney’s fees is left to the discretion of the court, and there is no requirement that a party must prevail in order to be awarded attorney’s fees. Currently, there is no cap on the total amount of attorney’s fees that a court may award.

C.S.S.B. 1600 limits the amount of attorney’s fees that may be awarded under the UDJA to \$250,000. Such a cap would limit a trial court’s discretion to award fees, but still leave the court a considerable amount of leeway to grant fees that are reasonable, necessary, equitable, and just.

The committee substitute is a Legislative Council version but makes no substantive changes to the bill as filed.

C.S.S.B. 1600 amends current law relating to a limit on the award of attorney's fees in certain proceedings brought against the state or an agency of the state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 37.009, Civil Practice and Remedies Code, as follows:

Sec. 37.009. COSTS. (a) Authorizes the court, subject to Subsection (b), in a proceeding under this chapter, to award costs and reasonable and necessary attorney's fees as are equitable and just.

(b) Prohibits the amount of attorney's fees awarded from exceeding \$250,000 in a proceeding under this chapter in which declaratory relief is sought against the state or an agency of the state.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.