

By: Harrison

H.B. No. 5050

A BILL TO BE ENTITLED

AN ACT

relating to the award of reasonable attorney's fees and costs in connection with certain contested cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 2001, Government Code, is amended by adding Section 2001.1765 to read as follows:

Sec. 2001.1765. STATE AGENCY PAYMENT OF ATTORNEY'S FEES AND COSTS IN CONTESTED CASES UNDER JUDICIAL REVIEW. (a) Except as provided by Subsection (b), a court reviewing a decision in a contested case shall award a nongovernmental party to the case under review, in addition to all other costs allowed by law or rule, reasonable attorney's fees and costs incurred in defending the case if the nongovernmental party prevails under judicial review.

(b) A reviewing court may not order a state agency to pay the reasonable attorney's fees and costs of a prevailing nongovernmental party in a contested case if:

(1) the agency's only involvement in the case is to serve as an arbiter of the legal rights, duties, or privileges of two or more parties; or

(2) the agency's position as a party to the case is no longer authorized as a result of an intervening amendment to applicable law.

SECTION 2. Section 2001.903, Government Code, is amended to

1 read as follows:

2 Sec. 2001.903. RECOVERY OF ATTORNEY'S FEES AND COSTS IN
3 CONTESTED CASES INVOLVING [~~FRIVOLOUS~~] REGULATORY ACTION. The
4 administrative law judge in a contested case shall [~~may~~] award a
5 person, in addition to all other costs allowed by law or rule, an
6 amount not to exceed \$1 million for reasonable attorney's fees and
7 costs incurred in defending against a [~~frivolous~~] regulatory action
8 during the case if there is no judicial review of the decision in
9 the case and:

10 (1) the person prevails in the case; and

11 (2) there is a final determination that:

12 (A) the regulatory action is frivolous or
13 groundless;

14 (B) the state agency pursued the regulatory
15 action in bad faith;

16 (C) the regulatory action is not authorized by a
17 state or federal statute or rule; or

18 (D) the agency failed to demonstrate the action
19 is within the authority granted to the agency under state or
20 federal law.

21 SECTION 3. The change in law made by this Act applies only
22 to an action commenced on or after the effective date of this Act.
23 An action commenced before the effective date of this Act is
24 governed by the law in effect on the date the action was commenced,
25 and the former law is continued in effect for that purpose.

26 SECTION 4. This Act takes effect September 1, 2025.