

By: Duncan

S.B. No. 1207

A BILL TO BE ENTITLED

AN ACT

relating to state liability for costs and attorney's fees in certain actions seeking declaratory judgment.

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

SECTION 1. Section 37.009, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 37.009. COSTS. (a) Except as provided by Subsection (b), in [In] any proceeding under this chapter, the court may award costs and reasonable and necessary attorney's fees as are equitable and just.

(b) The court may not award costs and attorney's fees against the state, a state agency, or a state official in an action under this chapter if:

(1) the action seeks a declaratory judgment regarding construction of a statute under which an agency exercises powers or duties; and

(2) the party seeking relief has an opportunity under Chapter 2001, Government Code, or another statute to obtain judicial review of an order, rule, or other decision of the agency involving the construction of the statute that is the subject of the action under this chapter.

(c) Subsection (b) does not limit the authority of a court to award attorney's fees under Chapter 105 or 106 or any other statute that expressly authorizes the award of attorney's fees

1 against the state, a state agency, or a state official.

2 SECTION 2. This Act takes effect September 1, 2003, and
3 applies only to an action filed on or after the effective date of
4 this Act. An action filed before the effective date of this Act is
5 governed by the law in effect immediately before the effective date
6 of this Act, and that law is continued in effect for that purpose.