

1-1 By: Duncan S.B. No. 1207
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Jurisprudence; May 2, 2003,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 5, Nays 0; May 2, 2003, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1207 By: Duncan

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to state liability for costs and attorney's fees in
1-10 certain actions seeking declaratory judgment.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 37.009, Civil Practice and Remedies
1-13 Code, is amended to read as follows:

1-14 Sec. 37.009. COSTS. (a) Except as provided by Subsection
1-15 (b), in [In] any proceeding under this chapter, the court may award
1-16 costs and reasonable and necessary attorney's fees as are equitable
1-17 and just.

1-18 (b) The court may not award costs and attorney's fees
1-19 against the state, a state agency, or a state official in an action
1-20 under this chapter if:

1-21 (1) the action seeks a declaratory judgment regarding
1-22 construction of a statute under which an agency exercises powers or
1-23 duties; and

1-24 (2) the party seeking relief has an opportunity under
1-25 Chapter 2001, Government Code, or another statute to obtain
1-26 judicial review of an order, rule, or other decision of the agency
1-27 involving the construction of the statute that is the subject of the
1-28 action under this chapter.

1-29 (c) Subsection (b) does not limit the authority of a court
1-30 to award attorney's fees under Chapter 105 or 106 or any other
1-31 statute that expressly authorizes the award of attorney's fees
1-32 against the state, a state agency, or a state official.

1-33 SECTION 2. This Act takes effect September 1, 2003, and
1-34 applies only to an action filed on or after the effective date of
1-35 this Act. An action filed before the effective date of this Act is
1-36 governed by the law in effect immediately before the effective date
1-37 of this Act, and that law is continued in effect for that purpose.

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