

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 535

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

RELATING TO ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CERTAIN INSTANCES; AMENDING SECTION 12-117, IDAHO CODE, TO REVISE WHEN ATTORNEY'S FEES, WITNESS FEES AND EXPENSES MAY BE AWARDED.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 12-117, Idaho Code, be, and the same is hereby amended to read as follows:

12-117. ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CERTAIN INSTANCES. (1) Unless otherwise provided by statute, in any administrative or civil judicial proceeding involving as adverse parties a ~~state agency, a city, a county or other taxing district~~ governmental entity and a person or another governmental entity, the court shall award the prevailing party reasonable attorney's fees, witness fees and reasonable expenses, if the court finds that the party against whom the judgment is rendered acted without a reasonable basis in fact or law.

(2) If the prevailing party is awarded a partial judgment and the court finds the party against whom partial judgment is rendered acted without a reasonable basis in fact or law, the court shall allow the prevailing party's attorney's fees, witness fees and expenses in an amount which reflects the person's partial recovery.

(3) Expenses awarded against a state agency, city, county or other taxing district pursuant to this section shall be paid from funds in the regular operating budget of the state agency, the city, the county or the taxing district. If sufficient funds are not available in the budget of the state agency, the expenses shall be considered a claim governed by the provisions of section 67-2018, Idaho Code. If sufficient funds are not available in the budget of the city, county or taxing district, the expenses shall be considered a claim pursuant to chapter 9, title 6, Idaho Code. Every state agency, city, county or taxing district against which litigation expenses have been awarded under this act shall, at the time of submission of its proposed budget, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

(4) For the purposes of this section:

(a) "Governmental entity" means any state agency, city, county or other taxing district.

(b) "Person" shall means any individual, partnership, corporation, association or any other private organization~~+~~.

(c) "State agency" shall means any agency as defined in section 67-5201, Idaho Code.

(5) If the amount pleaded in an action by a person is two thousand five hundred dollars (\$2,500) or less, the person must satisfy the requirements

1 of section 12-120, Idaho Code, as well as the requirements of this section
2 before he or she may recover attorney's fees, witness fees or expenses
3 pursuant to this section.