

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 918
HOUSE BILL 457

AN ACT TO PERMIT A SUCCESSFUL APPELLANT OF AN AGENCY DECISION
TO RECOVER ATTORNEY'S FEES FROM THE AGENCY IN CERTAIN
CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 6 of the General Statutes is amended by adding new sections to read:

"§ 6-19.1. Attorney's fees to parties appealing or defending against agency decision.—In any civil action, other than an adjudication for the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a party who is contesting State action pursuant to G.S. 150A-43 or any other appropriate provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

- (1) the court finds that the agency acted without substantial justification in pressing its claim against the party; and
- (2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.

Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

Any attorney's fees assessed against an agency under this act shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source.

"§ 6-19.2. Attorney's fees to parties who compel disclosure of public records.—In any civil action in which a party successfully compels the disclosure of public records pursuant to G.S. 132-9 or other appropriate provisions of law, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

- (1) the court finds that the agency acted without substantial justification in denying access to the public records; and
- (2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.

Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

Any attorney's fees assessed against an agency under this act shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source."

Sec. 2. This act shall become effective October 1, 1983, and applies to actions commenced on or after that date.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.