CHAPTER 127
[Engrossed Senate Bill No. 3130]
ATTORNEYS' FEES——FRIVOLOUS CIVIL ACTIONS

AN ACT Relating to attorneys' fees for prevailing parties in frivolous actions or defenses and for certain other prevailing parties; adding new sections to chapter 4.84 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. There is added to chapter 4.84 RCW a new section to read as follows:

In any civil action, the court having jurisdiction may, upon final judgment and written findings by the trial judge that the action, counterclaim, cross-claim, third party claim, or defense was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including fees of attorneys, incurred in opposing such action, counterclaim, cross-claim, third party claim, or defense. This determination shall be made upon post-trial motion, and the trial judge shall consider the action, counterclaim, cross-claim, third party claim, or defense as a whole.

The provisions of this section apply unless otherwise specifically provided by statute.

NEW SECTION. Sec. 2. The law revision commission shall conduct a study to analyze and evaluate the issues involved in enacting legislation to allow attorneys' fees to a prevailing party who acts as a private attorney general. The commission shall report its findings and recommendations, including proposed legislation, to the legislature prior to January 1, 1984.

Passed the Senate March 7, 1983.
Passed the House April 18, 1983.
Approved by the Governor April 23, 1983.
Filed in Office of Secretary of State April 23, 1983.

CHAPTER 128
[Senate Bill No. 3140]
MAYOR-COUNCIL CODE CITIES——POPULATION FLUXES—— COUNCILMANIC VACANCY PROCEDURE

AN ACT Relating to code cities; amending section 35A.12.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 19, chapter 18, Laws of 1979 ex. sess. and RCW 35A-.12.010; and amending section 35A.13.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 24, chapter 18, Laws of 1979 ex. sess. and RCW 35A.13.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35A.12.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 19, chapter 18, Laws of 1979 ex. sess. and RCW 35A-.12.010 are each amended to read as follows:

The government of any noncharter code city or charter code city electing to adopt the mayor–council plan of government authorized by this chapter shall be vested in an elected mayor and an elected council. The council of a noncharter code city having less than twenty–five hundred inhabitants shall consist of five members; when there are twenty–five hundred or more inhabitants, the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from twenty–five hundred or more to less than twenty–five hundred, it shall continue to have a seven member council. If, after a city has become a mayor–council code city, its population increases to twenty–five hundred or more inhabitants, the number of councilmanic offices in such ((a)) city ((shall)) may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a mayor–council code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. In ((that)) the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.12.050, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two–year term and one person shall be elected for a four–year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the mayor–council plan of government set forth in this chapter, may provide for an uneven number of councilmen not exceeding eleven.

Sec. 2. Section 35A.13.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 24, chapter 18, Laws of 1979 ex. sess. and RCW 35A-.13.010 are each amended to read as follows:

The councilmen shall be the only elective officers of a code city electing to adopt the council–manager plan of government authorized by this chapter, except where statutes provide for an elective police judge. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of the city government. The city manager shall be responsible to the council for the proper administration of all affairs of the code city. The council of a noncharter code city having less than twenty–five hundred inhabitants shall consist of five members; when there are twenty–five hundred or more inhabitants the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from

twenty–five hundred or more to less than twenty–five hundred, it shall continue to have a seven member council. If, after a city has become a council–manager code city its population increases to twenty–five hundred or more inhabitants, the number of councilmanic offices in such ((a)) city ((shall)) may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a council–manager code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. ((It [In] that)) In the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two–year term and one person shall be elected for a four–year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the council–manager plan of government set forth in this chapter may provide for an uneven number of councilmen not exceeding eleven.

Passed the Senate March 15, 1983.
Passed the House April 18, 1983.
Approved by the Governor April 23, 1983.
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CHAPTER 129
[Substitute Senate Bill No. 3151]
ATTORNEYS HIRED TEMPORARILY BY CITIES AND TOWNS FOR
PROSECUTOR DUTIES——CONTRACT DURATION

AN ACT Relating to counties; and amending section 36.32.200, chapter 4, Laws of 1963 and RCW 36.32.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 36.32.200, chapter 4, Laws of 1963 and RCW 36.32.200 are each amended to read as follows:

It shall be unlawful for ((the board of)) a county ((commissioners)) legislative authority to employ(((;)) or contract with((, or pay)) any ((special)) attorney or counsel to perform any duty which ((the attorney general or)) any prosecuting attorney is authorized or required by law to perform, unless the contract of employment of such ((special)) attorney or counsel has been first reduced to writing and approved by the presiding superior court judge of the county ((or a majority of the judges)) in writing endorsed thereon. This section shall not prohibit the appointment of deputy prosecuting attorneys in the manner provided by law.