

**UTAH'S SMALL BUSINESS EQUAL ACCESS
TO JUSTICE ACT AMENDMENTS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ross I. Romero

Senate Sponsor: _____

LONG TITLE

General Description:

This bill increases the amount of litigation expenses a small business can collect when a court finds that a state action was undertaken without substantial justification.

Highlighted Provisions:

This bill:

- ▶ increases the maximum amount of litigation expenses that a small business can collect from the state when the state undertakes legal action against a small business without substantial justification; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78-27a-3, as enacted by Chapter 298, Laws of Utah 1983

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-27a-3** is amended to read:



78-27a-3. Definitions.

As used in this [act] chapter:

(1) "Prevail" means to obtain favorable final judgment, the right to all appeals having been exhausted, on the merits, on substantially all counts or charges in the action and with respect to the most significant issue or set of issues presented, but does not include the settlement of any action, either by stipulation, consent decree or otherwise, whether or not settlement occurs before or after any hearing or trial.

(2) "Reasonable litigation expenses" means court costs, administrative hearing costs, attorney's fees, and witness fees of all necessary witnesses, not in excess of [~~\$10,000~~] \$35,000, which a court finds were reasonably incurred in opposing action covered under this [act] chapter.

(3) "Small business" means a commercial or business entity, including a sole proprietorship, which does not have more than 250 employees, but does not include an entity which is a subsidiary or affiliate of another entity which is not a small business.

(4) "State" means any department, board, institution, hospital, college, or university of the state of Utah or any political subdivision thereof, except with respect to antitrust actions brought under Title 76, Chapter 10, Part 9, Trade and Commerce.

Legislative Review Note

as of 1-19-06 10:07 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note**Utah's Small Business Equal Access to Justice Act Amendments***26-Jan-06***Bill Number HB0307***11:36 AM*

State Impact

This bill may create additional cost to the state at a maximum of \$35,000 per case for reasonable litigation expenses. Any fiscal impact will be dependent on the results of individual cases.

Individual and Business Impact

Fiscal impact would vary by case. Passage of this bill increases the amount of expenses successful litigants can recover from the state.

Office of the Legislative Fiscal Analyst