

AMENDED IN ASSEMBLY APRIL 17, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 456

Introduced by Assembly Member John Campbell

February 20, 2001

An act to add Section 1033.6 to the Code of Civil Procedure, relating to attorney's fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 456, as amended, John Campbell. Class actions: attorney's fees.

Existing law provides for class actions, as specified, *as well as actions under the common fund doctrine developed by the courts*. Existing law also provides for the award of attorney's fees to a prevailing plaintiff, as specified.

This bill would limit attorney's fees to attorneys for prevailing plaintiffs in a class action *or an action based on the common fund doctrine* against the state, any of its subdivisions, or a nonprofit organization or corporation, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to ensure that
2 class members in class actions *and actions based on the common*
3 *fund doctrine* are the true beneficiaries of a class action suit *or an*
4 *action based on the common fund doctrine*, and receive at least 85

1 percent or more of the judgment, arbitration award, or settlement
2 amount, and in extremely high-risk suits, no less than 85 percent.

3 SEC. 2. Section 1033.6 is added to the Code of Civil
4 Procedure, to read:

5 1033.6. In all class actions *and actions based on the common*
6 *fund doctrine, as described in Vincent v. Hughes Air West, Inc. (9th*
7 *Cir. 1977) 557 F.2d 759, brought against the state or any of its*
8 *subdivisions, or against any organization or corporation classified*
9 *as nonprofit pursuant to the Revenue and Taxation Code, the*
10 *amount of attorney’s fees awarded or assigned to the prevailing*
11 *plaintiff attorneys shall be limited, as follows:*

12 (a) Those attorney’s fees may not exceed one thousand dollars
13 (\$1,000) per hour, or 15 percent of the judgment, arbitration
14 award, or settlement amount, whichever is less.

15 (b) In deciding an appropriate amount, the judge, arbitrator, or
16 agreeing parties shall examine the attorney’s billable hours to
17 discern whether they are reasonable and necessary, and review any
18 prior settlement offers that may have been declined. If in the
19 judge’s or arbitrator’s opinion, the billable hours are not
20 reasonable or necessary, or if a reasonable settlement offer was
21 declined, the fee limit is a maximum of five hundred dollars (\$500)
22 per hour or 7.5 percent of the judgment, arbitration award, or
23 settlement, whichever is less.

