

AMENDED IN SENATE APRIL 19, 2001

AMENDED IN SENATE MARCH 28, 2001

**SENATE BILL**

**No. 691**

---

---

**Introduced by Senator McPherson**  
*(Coauthors: Senators Morrow and O'Connell)*  
*(Coauthors: Assembly Members Keeley and Nation)*

February 23, 2001

---

---

An act to amend Sections 1021.5 and 1036 of the Code of Civil Procedure, and to amend Section 800 of, ~~and to add Section 814.4 to,~~ the Government Code, relating to attorney's fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 691, as amended, McPherson. Governmental liability: attorney's fees.

Existing law permits a court to award attorney's fees to a successful party in an action that has resulted in the enforcement of an important right affecting public interest, but does not allow an award of attorney's fees in favor of public entities, except in limited specified circumstances. Existing law requires the court to determine and award or allow to a successful plaintiff in an inverse condemnation proceeding, certain costs, disbursements, expenses, and fees, as provided. Existing law permits a complainant to collect specified attorney's fees in a civil action to appeal or review any administrative proceeding where the proceeding was the result of arbitrary or capricious action or conduct by the public entity or officer.

This bill additionally would permit, in the actions described above, when brought by the owner of a mobilehome park, the award of attorney's fees, and, in some cases, other litigation expenses to a local

governmental entity, if the local governmental entity is determined to be the prevailing party unless the court finds that the park owner had reasonable grounds to bring the litigation.

~~Existing law provides for civil actions against a state or local entity according to specified procedures.~~

~~This bill would require a court to award reasonable attorney’s fees to the prevailing party in such an action brought with respect to an ordinance or other law regarding mobilehomes, manufactured homes, mobilehome parks, or manufactured housing communities.~~

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. Section 1021.5 of the Code of Civil Procedure  
2 is amended to read:

3 1021.5. (a) Upon motion, a court may award attorney’s fees  
4 to a successful party against one or more opposing parties in any  
5 action which has resulted in the enforcement of an important right  
6 affecting the public interest if: (1) a significant benefit, whether  
7 pecuniary or nonpecuniary, has been conferred on the general  
8 public or a large class of persons, (2) the necessity and financial  
9 burden of private enforcement, or of enforcement by one public  
10 entity against another public entity, are such as to make the award  
11 appropriate, and (3) the fees should not in the interest of justice be  
12 paid out of the recovery, if any. Except as provided in subdivision  
13 (b), with respect to actions involving public entities, this section  
14 applies to allowances against, but not in favor of, public entities,  
15 and no claim shall be required to be filed therefor, unless one or  
16 more successful parties and one or more opposing parties are  
17 public entities, in which case no claim shall be required to be filed  
18 therefor under Part 3 (commencing with Section 900) of Division  
19 3.6 of Title 1 of the Government Code.

20 Attorneys’ fees awarded to a public entity pursuant to this  
21 section shall not be increased or decreased by a multiplier based  
22 upon extrinsic circumstances, as discussed in *Serrano v. Priest*, 20  
23 Cal. 3d 25, 49.

24 (b) In an action brought by the owner of a mobilehome park,  
25 as defined in Section 798.4 of the Civil Code, to challenge the  
26 validity or application of an ordinance, rule, regulation, or



1 initiative measure adopted by any local governmental entity which  
2 regulates space rent or is otherwise intended to benefit or protect  
3 residents in the park, if the local governmental entity is determined  
4 to be the prevailing party, and the action meets the criteria of  
5 subdivision (a), the court shall award attorney's fees to the local  
6 governmental entity unless the court finds that the park owner had  
7 reasonable grounds to bring the litigation.

8 SEC. 2. Section 1036 of the Code of Civil Procedure is  
9 amended to read:

10 1036. (a) In any inverse condemnation proceeding, the court  
11 rendering judgment for the plaintiff by awarding compensation, or  
12 the attorney representing the public entity who effects a settlement  
13 of that proceeding, shall determine and award or allow to the  
14 plaintiff, as a part of that judgment or settlement, a sum that will,  
15 in the opinion of the court, reimburse the plaintiff's reasonable  
16 costs, disbursements, and expenses, including reasonable attorney,  
17 appraisal, and engineering fees, actually incurred because of that  
18 proceeding in the trial court or in any appellate proceeding in  
19 which the plaintiff prevails on any issue in that proceeding.

20 (b) In an inverse condemnation proceeding brought by the  
21 owner of a mobilehome park, as defined in Section 798.4 of the  
22 Civil Code, to challenge the validity or application of an  
23 ordinance, rule, regulation, or initiative measure adopted by any  
24 local governmental entity which regulates space rent or is  
25 otherwise intended to benefit or protect residents in the park, if the  
26 local governmental entity is determined to be the prevailing party,  
27 the court shall award attorney's fees to the local governmental  
28 entity unless the court finds that the park owner had reasonable  
29 grounds to bring the litigation.

30 SEC. 3. Section 800 of the Government Code is amended to  
31 read:

32 800. (a) In any civil action to appeal or review the award,  
33 finding, or other determination of any administrative proceeding  
34 under this code or under any other provision of state law, except  
35 actions resulting from actions of the State Board of Control, where  
36 it is shown that the award, finding, or other determination of the  
37 proceeding was the result of arbitrary or capricious action or  
38 conduct by a public entity or an officer thereof in his or her official  
39 capacity, the complainant if he or she prevails in the civil action  
40 may collect reasonable attorney's fees, computed at one hundred



1 dollars (\$100) per hour, but not to exceed seven thousand five  
2 hundred dollars (\$7,500), where he or she is personally obligated  
3 to pay the fees, from the public entity, in addition to any other relief  
4 granted or other costs awarded.

5 This section is ancillary only, and shall not be construed to  
6 create a new cause of action.

7 (b) Refusal by a public entity or officer thereof to admit  
8 liability pursuant to a contract of insurance shall not be considered  
9 arbitrary or capricious action or conduct within the meaning of this  
10 section.

11 (c) In any civil action brought by the owner of a mobilehome  
12 park, as defined in Section 798.4 of the Civil Code, pursuant to this  
13 section, to challenge the validity or application of an ordinance,  
14 rule, regulation, or initiative measure adopted by any local  
15 governmental entity which regulates space rent or is otherwise  
16 intended to benefit or protect residents in the park, if the local  
17 governmental entity is determined to be the prevailing party, the  
18 court shall award attorney’s fees and other litigation expenses to  
19 the local governmental entity unless the court finds that the park  
20 owner had reasonable grounds to bring the litigation.

21 ~~SEC. 4. Section 814.4 is added to the Government Code, to~~  
22 ~~read:~~

23 ~~814.4. The court shall award reasonable attorney’s fees to the~~  
24 ~~prevailing party in any action brought pursuant to this division~~  
25 ~~with respect to an ordinance or other law regarding mobilehomes,~~  
26 ~~manufactured homes, mobilehome parks, or manufactured~~  
27 ~~housing communities.~~

