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**Introduced by Senator Harman**

February 24, 2009

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An act to amend Section 1021.5 of the Code of Civil Procedure, relating to attorney's fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 269, as introduced, Harman. Attorney's fees.

Existing law authorizes a court, upon motion, to award attorney's fees to a successful party against one or more opposing parties in any action that has resulted in the enforcement of an important right affecting the public interest, if certain conditions are met.

This bill would provide for the award of attorney's fees pursuant to that provision only if judgment has been entered in favor of the successful party against one or more opposing parties in the action.

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 ~~attorneys'~~  
4     ~~attorney's~~ fees to a successful party *for which judgment is entered*  
5     *in favor of that party* against one or more opposing parties in any  
6     action ~~which~~ *that* has resulted in the enforcement of an important  
7     right affecting the public interest, if: ~~(a)~~ *a all of the following are*  
8     *met:*

1 (1) A significant benefit, whether pecuniary or nonpecuniary,  
2 has been conferred on the general public or a large class of persons;  
3 ~~(b) the.~~

4 (2) The necessity and financial burden of private enforcement,  
5 or of enforcement by one public entity against another public entity,  
6 are such as to make the award appropriate, ~~and (c) such.~~

7 (3) Those fees should not in the interest of justice be paid out  
8 of the recovery, if any. ~~With~~

9 (b) With respect to actions involving public entities, this section  
10 applies to allowances against, but not in favor of, public entities,  
11 and no claim shall be required to be filed therefor, unless one or  
12 more successful parties and one or more opposing parties are public  
13 entities, in which case no claim shall be required to be filed therefor  
14 under Part 3 (commencing with Section 900) of Division 3.6 of  
15 Title 1 of the Government Code.

16 ~~Attorneys'~~

17 (c) Attorney's fees awarded to a public entity pursuant to this  
18 section shall not be increased or decreased by a multiplier based  
19 upon extrinsic circumstances, as discussed in *Serrano v. Priest*, 20  
20 ~~Cal.3d (1977) 20 Cal.3d 25, 49.~~