

LEGISLATIVE BILL 781

Approved by the Governor May 4, 1993

Introduced by Lindsay, 9

AN ACT relating to the state; to authorize the award of fees and expenses in legal actions and proceedings involving state agencies, boards, commissions, and constitutional officers and the Legislature; to create a fund and provide for its use; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Notwithstanding sections 25-1803, 25-21,210, 81-8,228, and 84-216, whenever a state agency, board, commission, or constitutional officer, any person acting in behalf of the agency, board, commission, or constitutional officer, or the Legislature brings a legal action or proceeding against another agency, board, commission, or constitutional officer or the Legislature, and fails to substantially prevail in the action or proceeding, as determined by the court, the party against whom the action is brought shall be awarded fees and other expenses incident to the action or proceeding by the court. Fees and expenses that shall be awarded include reasonable attorney's fees, reasonable expert witness fees, and court costs. If the Attorney General represented the agency, board, commission, constitutional officer, or Legislature, he or she shall prepare a billing of the services provided by his or her office, and the amount billed less any reduction made by the court shall be paid to the Legal Services Fund. The agency, board, commission, constitutional officer, or Legislature responsible for the payment of fees and expenses pursuant to this section shall make payment from funds appropriated to the agency, board, commission, constitutional officer, or Legislature unless a special fund or appropriation has been made for such purpose by the Legislature.

Sec. 2. There is hereby created the Legal Services Fund to be administered by the Director of Administrative Services. All money received by the Attorney General or directed to be deposited in the fund by any state agency, board, commission, or constitutional officer or the Legislature pursuant to section 1 of this act shall be deposited into the fund. At the end of each fiscal year, the director shall transfer from the fund into the budget of the appropriate state agency, board, commission, or constitutional office or the Legislature those fees and expenses that have been awarded by the court. In those instances when the Attorney General has billed a state agency, board, commission, or constitutional officer or the Legislature, the money awarded shall be appropriated to the budget of the Attorney General. The director shall report a summary of such transfers to the Legislature at the end of each fiscal year.

Sec. 3. Since an emergency exists, this act shall be in full

force and take effect, from and after its passage and approval, according to law.