

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1600  
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State Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In Texas, a state agency is regularly required to defend itself against an action brought by a plaintiff. It is also common for an action against a state agency to include a claim under the Uniform Declaratory Judgments Act (UDJA). The UDJA allows a court to award "reasonable and necessary attorney's fees as are equitable and just."

Often in such cases, a state agency will prevail, but may still be required to pay attorney's fees to the losing plaintiff. The awarding of attorney's fees is left to the discretion of the court, and there is no requirement that a party must prevail in order to be awarded attorney's fees. Currently, there is no cap on the total amount of attorney's fees that a court may award.

S.B. 1600 limits the amount of attorney's fees that may be awarded under the Uniform Declaratory Judgments Act to \$250,000. Such a cap would limit a trial court's discretion to award fees, but still leave the court a considerable amount of leeway to grant fees that are reasonable, necessary, equitable, and just.

As proposed, S.B. 1600 amends current law relating to a limit on the award of attorney's fees in certain actions brought against a governmental entity.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 37.009, Civil Practice and Remedies Code, as follows:

Sec. 37.009. COSTS. (a) Authorizes the court, except as provided by Subsection (b), in a proceeding under this chapter, to award costs and reasonable attorney's fees as are equitable and just.

(b) Authorizes the court, in a proceeding under this chapter where declaratory relief is sought against a governmental entity, to award attorney's fees in an amount not to exceed \$250,000.

(c) Defines "governmental entity" for purposes of this section.

SECTION 2. Effective date: upon passage or September 1, 2015.