**South Carolina General Assembly**

118th Session, 2009-2010

**A125, R124, S186**

**STATUS INFORMATION**

General Bill

Sponsors: Senators McConnell and Campsen

Document Path: l:\s-jud\bills\mcconnell\jud0010.js.docx

Introduced in the Senate on January 13, 2009

Introduced in the House on March 24, 2009

Last Amended on January 20, 2010

Passed by the General Assembly on February 2, 2010

Governor's Action: February 24, 2010, Signed

Summary: Attorney fees

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/17/2008 Senate Prefiled

 12/17/2008 Senate Referred to Committee on **Judiciary**

 1/13/2009 Senate Introduced and read first time [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C01-13-09.docx)‑157

 1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C01-13-09.docx)‑157

 1/23/2009 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Bright, Davis

 3/4/2009 Senate Committee report: Favorable with amendment **Judiciary** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C03-04-09.docx)‑17

 3/10/2009 Senate Special order, set for March 10, 2009 [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C03-10-09.docx)‑23

 3/11/2009 Senate Committee Amendment Amended and Adopted [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C03-11-09.docx)‑43

 3/11/2009 Senate Amended [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C03-11-09.docx)‑43

 3/11/2009 Senate Read second time [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C03-11-09.docx)‑43

 3/17/2009 Senate Read third time and sent to House [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C03-17-09.docx)‑36

 3/24/2009 House Introduced and read first time [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C03-24-09.docx)‑19

 3/24/2009 House Referred to Committee on **Judiciary** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C03-24-09.docx)‑19

 5/20/2009 House Recalled from Committee on **Judiciary** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C05-20-09.docx)‑34

 5/21/2009 House Debate adjourned until Friday, May 22, 2009 [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C05-21-09.docx)‑17

 1/13/2010 House Requests for debate‑Rep(s). Hart, JE Smith, Sellers, Gunn, McLeod, Weeks, Govan, Hodges, King, Harrison, and GM Smith [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-13-10.docx)‑29

 1/13/2010 House Debate adjourned until Thursday, January 14, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-13-10.docx)‑39

 1/14/2010 House Debate adjourned until Tuesday, January 19, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-14-10.docx)‑549

 1/20/2010 House Amended [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-20-10.docx)‑20

 1/20/2010 House Read second time [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-20-10.docx)‑22

 1/20/2010 House Roll call Yeas‑95 Nays‑3 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-20-10.docx)‑22

 1/21/2010 House Read third time and returned to Senate with amendments [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-21-10.docx)‑33

 2/2/2010 Senate Concurred in House amendment and enrolled [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C02-02-10.docx)‑17

 2/18/2010 Ratified R 124

 2/24/2010 Signed By Governor

 3/3/2010 Effective date 02/24/10

 3/10/2010 Act No. 125

**VERSIONS OF THIS BILL**

[12/17/2008](file:///p%3A%5Cpprever%5C2009-10%5C186_20081217.docx)

[3/4/2009](file:///p%3A%5Cpprever%5C2009-10%5C186_20090304.docx)

[3/11/2009](file:///p%3A%5Cpprever%5C2009-10%5C186_20090311.docx)

[5/20/2009](file:///p%3A%5Cpprever%5C2009-10%5C186_20090520.docx)

[1/20/2010](file:///p%3A%5Cpprever%5C2009-10%5C186_20100120.docx)

(A125, R124, S186)

**AN ACT TO AMEND SECTION 15‑77‑300, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALLOWANCE OF ATTORNEY’S FEES IN STATE‑INITIATED ACTIONS, SO AS TO LIMIT ATTORNEY’S FEES TO A REASONABLE TIME EXPENDED AT A REASONABLE RATE AND TO PROVIDE FACTORS THAT MUST BE CONSIDERED IN MAKING THIS DETERMINATION.**

Be it enacted by the General Assembly of the State of South Carolina:

**Attorney’s fees, state-initiated actions**

SECTION 1. Section 15‑77‑300 of the 1976 Code is amended to read:

 “Section 15‑77‑300. (A) In any civil action brought by the State, any political subdivision of the State or any party who is contesting state action, unless the prevailing party is the State or any political subdivision of the State, the court may allow the prevailing party to recover reasonable attorney’s fees to be taxed as court costs against the appropriate agency if:

 (1) the court finds that the agency acted without substantial justification in pressing its claim against the party; and

 (2) the court finds that there are no special circumstances that would make the award of attorney’s fees unjust.

 The agency is presumed to be substantially justified in pressing its claim against the party if the agency follows a statutory or constitutional mandate that has not been invalidated by a court of competent jurisdiction.

 (B) Attorney’s fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate. Factors to be applied in determining a reasonable rate include:

 (1) the nature, extent, and difficulty of the case;

 (2) the time devoted;

 (3) the professional standing of counsel;

 (4) the beneficial results obtained; and

 (5) the customary legal fees for similar services.

 The judge must make specific written findings regarding each factor listed above in making the award of attorney’s fees. However, in no event shall a prevailing party be allowed to shift attorney’s fees pursuant to this section that exceed the fees the party has contracted to pay counsel personally for work on the litigation.

 (C) The provisions of this section do not apply to civil actions relating to the establishment of public utility rates, disciplinary actions by state licensing boards, habeas corpus or post conviction relief actions, child support actions, except as otherwise provided for herein, and child abuse and neglect actions.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 18th day of February, 2010.

Approved the 24th day of February, 2010.

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