ASSEMBLY, No. 718

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

SYNOPSIS

Establishes award of attorney's fees to prevailing party in municipal services dispute.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning enforcement of requirement to provide municipal services and supplementing P.L.1989, c.299 (C.40:67-23.2 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. In an action brought in the Superior Court for a violation of the provisions of P.L.1989, c.299 (40:67-23.2 et seq.), the court, in its discretion, may award attorney's fees to the prevailing party. If the prevailing party is a qualified private community, the court, in its discretion, may impose civil penalties against a municipality of not less than $2,500 or more than $10,000 for each violation of P.L.1989, c.299 (40:67-23.2 et seq.). If the parties settle the action, neither shall be deemed the prevailing party for the purposes of this section.

b. A qualified private community or municipality seeking an award under this section shall make application to the court which heard the matter. The application shall be supported by an affidavit stating in detail:

(1) The nature of the legal services rendered, the responsibility assumed, the results obtained, the amount of time spent by the attorney, any particular novelty or difficulty, the time spent and services rendered by secretaries and staff, other factors pertinent in the evaluation of the services rendered, the amount of the allowance applied for, an itemization of the disbursements for which reimbursement is sought, and any other factors relevant in evaluating fees and costs; and

(2) How much has been paid to the attorney and what provision, if any, has been made for the payment of these fees in the future.

2. This act shall take effect immediately.

STATEMENT

This bill would establish that attorney’s fees may be awarded to the prevailing party in a legal dispute involving the failure of a municipality to provide services, or to pay in lieu of providing services, to qualified private communities under current law. This bill would serve as incentive to settle these costly disputes prior to litigation, and would protect both qualified private communities and municipalities against potentially unnecessary legal conflict.