

Senate Bill 181

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs court to consider, in determining amount of award of attorney fees, whether attorney performed services on pro bono basis or award of attorney fees otherwise promotes access to justice.

A BILL FOR AN ACT

1
2 Relating to attorney fees; creating new provisions; and amending ORS 20.075.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 20.075 is amended to read:

5 20.075. (1) A court shall consider the following factors in determining whether to award attorney
6 fees in any case in which an award of attorney fees is authorized by statute and in which the court
7 has discretion to decide whether to award attorney fees:

8 (a) The conduct of the parties in the transactions or occurrences that gave rise to the litigation,
9 including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.

10 (b) The objective reasonableness of the claims and defenses asserted by the parties.

11 (c) The extent to which an award of an attorney fee in the case would deter others from as-
12 serting good faith claims or defenses in similar cases.

13 (d) The extent to which an award of an attorney fee in the case would deter others from as-
14 serting meritless claims and defenses.

15 (e) The objective reasonableness of the parties and the diligence of the parties and their attor-
16 neys during the proceedings.

17 (f) The objective reasonableness of the parties and the diligence of the parties in pursuing
18 settlement of the dispute.

19 (g) The amount that the court has awarded as a prevailing party fee under ORS 20.190.

20 (h) Such other factors as the court may consider appropriate under the circumstances of the
21 case.

22 (2) A court shall consider the factors specified in subsection (1) of this section in determining
23 the amount of an award of attorney fees in any case in which an award of attorney fees is author-
24 ized or required by statute. In addition, the court shall consider the following factors in determining
25 the amount of an award of attorney fees in those cases:

26 (a) The time and labor required in the proceeding, the novelty and difficulty of the questions
27 involved in the proceeding and the skill needed to properly perform the legal services.

28 (b) The likelihood, if apparent to the client, that the acceptance of the particular employment
29 by the attorney would preclude the attorney from taking other cases.

30 (c) The fee customarily charged in the locality for similar legal services.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (d) The amount involved in the controversy and the results obtained.

2 (e) The time limitations imposed by the client or the circumstances of the case.

3 (f) The nature and length of the attorney's professional relationship with the client.

4 (g) The experience, reputation and ability of the attorney performing the services.

5 (h) Whether the fee of the attorney is fixed or contingent.

6 (i) **Whether the attorney performed the services on a pro bono basis or the award of at-**
7 **torney fees otherwise promotes access to justice.**

8 (3) In any appeal from the award or denial of an attorney fee subject to this section, the court
9 reviewing the award may not modify the decision of the court in making or denying an award, or
10 the decision of the court as to the amount of the award, except upon a finding of an abuse of dis-
11 cretion.

12 (4) Nothing in this section authorizes the award of an attorney fee in excess of a reasonable
13 attorney fee.

14 **SECTION 2. The amendments to ORS 20.075 by section 1 of this 2021 Act apply to state-**
15 **ments seeking attorney fees filed on or after the effective date of this 2021 Act.**

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