

2A:35A-10

LEGISLATIVE HISTORY CHECKLIST

NJSA 2A:35A-10 (Environmental Rights Act--increase allowable fees for attorneys and expert witnesses)  
LAWS 1981 CHAPTER 339

Bill No. A2029

Sponsor(s) Dalton, Riley & Stewart

Date Introduced Sept. 22, 1980

Committee: Assembly Agriculture & Environment

Senate Energy & Environment

Amended during passage Yes ~~XX~~ Amendments denoted by asterisks:  
according to Governor's recommendations:

Date of Passage: Assembly Oct. 6, 1980 Re-enacted 12-7-81

Senate March 23, 1981 Re-enacted 12-14-81

Date of approval Dec. 16, 1981

Following statements are attached if available:

Sponsor statement Yes ~~XX~~ (Below)

Committee Statement: Assembly ~~XXX~~ No

Senate ~~XXX~~ No

Fiscal Note ~~XXX~~ No

Veto Message Yes ~~XX~~

Message on signing Yes ~~XX~~

Following were printed:

Reports ~~XXX~~ No

Hearings ~~XXX~~ No

Sponsors' statement:

This bill removes the cap on awards which the court is authorized to award for counsel and expert fees to prevailing parties in suits brought under the "Environmental Rights Act". The \$2,500.00 limit, in light of inflation, is no longer realistic. The law, as amended by this bill, would permit the court to set a reasonable figure.

6/22/81

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CHAPTER 339 LAWS OF N. J. 1980  
APPROVED 12-16-81

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ASSEMBLY, No. 2029

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 22, 1980

By Assemblymen DALTON, RILEY and STEWART

Referred to Committee on Agriculture and Environment

AN ACT to amend the "Environmental Rights Act," approved  
December 9, 1974 (P. L. 1974, c. 169).

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

1 1. Section 10 of P. L. 1974, c. 169 (C. 2A:35A-10) is amended to  
2 read as follows:

3 10. a. In any action under this act the court may in appropriate  
4 cases award to the prevailing party reasonable counsel and expert  
5 witness fees **[**, but not exceeding a total of \$2,500.00**]**\*, *but not*  
5A *exceeding a total of \$5,000.00\**.

6 b. The doctrines of collateral estoppel and res judicata may be  
7 applied by the court to prevent multiplicity of suits.

8 c. An action commenced pursuant to the provisions of this act  
9 may not be dismissed without the express consent of the court in  
10 which the action was filed.

1 2. This act shall take effect immediately.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

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STATE OF NEW JERSEY

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STATEMENT

This bill removes the cap on awards which the court is authorized to award for counsel and expert witness fees to prevailing parties in suits brought under the "Environmental Rights Act." The \$2,500.00 limit, in light of inflation, is no longer realistic. The law, as amended by this bill, would permit the court to set a reasonable figure.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

ASSEMBLY AMENDMENT TO  
**ASSEMBLY, No. 2029**

**STATE OF NEW JERSEY**

ADOPTED NOVEMBER 30, 1981

Amend page 1, section 1, line 5, after "\$2,500.00]", insert ", but not exceeding a total of \$5,000.00".

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

November 30, 1981

ASSEMBLY BILL NO. 2029

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 2029 with my objections.

This bill would remove the cap on awards which the court is authorized to award for counsel and expert witness fees to prevailing parties in suits brought under the "Environmental Rights Act," P.L. 1974, c. 169. The \$2,500 limit, in light of inflation, is no longer realistic.

This bill would eliminate any cap whatsoever. I am concerned that the possibility of unlimited awards could encourage harassment of businesses honestly trying to comply with environmental regulations.

Accordingly, I am returning this bill with the following recommendation for amendment:

Page 1, Section 1, Line 5: After "\$2,500.00]" insert ", but not exceeding a total of \$5,000.00"

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

DECEMBER 16, 1981

DAVID DE MAIO

Governor Brendan Byrne today signed the following bills into law:

A-1709, sponsored by Assemblyman Martin A. Herman (D-Salem), mandating that the court costs of a plaintiff who successfully sues for access to an official public record be returned to the plaintiff.

The bill also requires the court to reimburse a successful plaintiff for his attorney's fees. Successful defendants in civil actions are entitled to receive reimbursement for their costs.

~~Governor Byrne conditionally vetoed this legislation on November 16, 1981, suggesting that the Legislature place a \$500 ceiling on reimbursements for attorney's fees. The Legislature adopted his recommendations.~~

A-2029, sponsored by Assemblyman Daniel J. Dalton (D-Gloucester), increasing from \$2,500 to \$5,000 the ceiling on court reimbursements for attorney's and witness fees in civil actions filed under the "Environmental Rights Act." The Act gives all private citizens the right to sue for violations of environmental laws.

Governor Byrne conditionally vetoed the original bill, which eliminated the ceiling altogether, and suggested the \$5,000 cap later adopted by the Legislature.

A-292, sponsored by Assemblyman Frederic Remington (R-Essex), requiring that names and addresses of co-signers of loans obtained by candidates, political committees or organizations be included in financial reports filed with the Election Law Enforcement Commission (ELEC). Such information is currently required only of the primary signer of a loan.

The bill is intended to close a loophole in present election laws whereby a wealthy individual can arrange for a number of individuals to take loans out for a candidate which he would co-sign and alone repay, thus allowing him to contribute to his candidate far more than appears on financial disclosure papers.