

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 724

Short Title: Open Records Attorneys' Fees. (Public)

Sponsors: Representatives Cleveland, Blackwood (Primary Sponsors); Blust, Brown, Brubaker, Burr, Gulley, Hurley, McCormick, McGee, Neumann, Starnes, and Tillis.

Referred to: State Government/State Personnel, if favorable, Judiciary I.

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PREVAILING PLAINTIFF IN A SUIT UNDER THE
OPEN MEETINGS LAW IS ENTITLED TO REASONABLE ATTORNEYS' FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-9(c) reads as rewritten:

"(c) In any action brought pursuant to this section in which a party successfully compels the disclosure of public records, the court shall allow the prevailing party to recover its reasonable attorneys' fees if attributed to those public records, ~~unless the court finds the agency acted with substantial justification in denying access to the public records or the court finds circumstances that would make the award of attorneys' fees unjust records.~~

Any attorneys' fees assessed against a public agency under this section shall be charged against the operating expenses of the agency; provided, however, that the court may order that all or any portion of any attorneys' fees so assessed be paid personally by any public employee or public official found by the court to have knowingly or intentionally committed, caused, permitted, suborned, or participated in a violation of this Article. No order against any public employee or public official shall issue in any case where the public employee or public official seeks the advice of an attorney and such advice is followed."

SECTION 2. This act becomes effective July 1, 2009.

