

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 553

Session of
1987

INTRODUCED BY CLYMER, TRELLO, WILSON, NOYE, BELARDI, LANGTRY,
ROBBINS, J. L. WRIGHT, PRESSMANN, BURNS, BOWSER, MERRY,
BELFANTI, RAYMOND, FARGO, BARLEY, DISTLER, BATTISTO, SCHEETZ,
HALUSKA, SEMMEL AND FOX, MARCH 2, 1987

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 2, 1987

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for the
3 recovery of certain costs by municipalities.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 1726 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 1726. Establishment of taxable costs.

9 (a) General rule.--The governing authority shall prescribe
10 by general rule the standards governing the imposition and
11 taxation of costs, including the items which constitute taxable
12 costs, the litigants who shall bear such costs, and the
13 discretion vested in the courts to modify the amount and
14 responsibility for costs in specific matters. All system and
15 related personnel shall be bound by such general rules. In
16 prescribing such general rules, the governing authority shall be
17 guided by the following considerations, among others:

1 (1) Attorney's fees are not an item of taxable costs
2 except to the extent authorized by section 2503 (relating to
3 right of participants to receive counsel fees).

4 (2) The prevailing party should recover his costs from
5 the unsuccessful litigant except where the:

6 (i) Costs relate to the existence, possession or
7 disposition of a fund and the costs should be borne by
8 the fund.

9 (ii) Question involved is a public question or where
10 the applicable law is uncertain and the purpose of the
11 litigants is primarily to clarify the law.

12 (iii) Application of the rule would work substantial
13 injustice.

14 (3) The imposition of actual costs or a multiple thereof
15 may be used as a penalty for violation of general rules or
16 rules of court.

17 (b) Municipalities.--Municipalities may recover from the
18 plaintiff or the attorney who initiated an action all costs,
19 expenses and fees arising from any action in which the
20 municipality was a defendant when:

21 (1) the action was terminated in favor of the
22 municipality;

23 (2) there was a judicial determination that the
24 municipality is immune from suit;

25 (3) there was a judicial determination that the
26 plaintiff or his attorney did not reasonably believe that the
27 municipality was exempt from governmental immunity;

28 (4) there was a judicial determination that the
29 plaintiff or his attorney did not reasonably believe in the
30 existence of facts and circumstances upon which a claim may

1 be made against a municipality within the exceptions provided
2 for in section 8542 (relating to exceptions to governmental
3 immunity); and

4 (5) there was a judicial determination that the action
5 was commenced for a purpose other than that of securing the
6 proper discovery, joinder of parties or adjudication of a
7 claim for which a municipality has no governmental immunity.

8 Section 2. This act shall take effect in 90 days.