

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1950

By: Jordan

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 2011, Section 696.4, as amended by Section 1, Chapter 278, O.S.L. 2012 (12 O.S. Supp. 2016, Section 696.4), which relates to costs and attorney fees; providing for recovery of costs and attorney fees by the state if the state is the prevailing party; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 2011, Section 696.4, as amended by Section 1, Chapter 278, O.S.L. 2012 (12 O.S. Supp. 2016, Section 696.4), is amended to read as follows:

Section 696.4 A. A judgment, decree or appealable order may provide for costs, attorney fees, or both of these items, but it need not include them; provided however, if the state is the prevailing party the state shall be awarded attorney fees and costs. The preparation and filing of the judgment, decree, or appealable order shall not be delayed pending the determination of these items.

1 Such items may be determined by the court if a timely request is  
2 made, regardless of whether a petition in error has been filed.

3 B. If attorney fees or costs, including the amount of such  
4 attorney fees or costs have not been included in the judgment,  
5 decree or appealable order, a party seeking any of these items must  
6 file an application with the court clerk along with the proof of  
7 service of the application on all affected parties in accordance  
8 with Section 2005 of this title. The application must set forth the  
9 amount requested and include information which supports that amount.  
10 The application must be filed within thirty (30) days after the  
11 filing of the judgment, decree or appealable order unless a  
12 posttrial motion pursuant to subsection A of Section 990.2 of this  
13 title has been filed within ten (10) days after the filing of the  
14 judgment, decree, or appealable order. If such a motion is filed  
15 within that time, the application for attorney fees, costs, or  
16 interest shall be filed within thirty (30) days after the date an  
17 order disposing of the posttrial motion is filed. If the party  
18 filing the application did not prepare the judgment, decree, or  
19 appealable order, and Section 696.2 of this title required a copy of  
20 the judgment, decree, or appealable order to be mailed to the party  
21 filing application, and the court records do not reflect the mailing  
22 of a copy of the judgment, decree, or appealable order to the party  
23 filing the application within three (3) days, exclusive of weekends  
24 and holidays, after the filing of the judgment, decree, or

1 appealable order, the application may be filed no later than thirty  
2 (30) days after the earliest date on which the court records show  
3 that a copy of the judgment, decree, appealable order, or order  
4 disposing of the posttrial motion was mailed to the party filing the  
5 application. For good cause shown, the court may extend the time  
6 for filing the application upon motion filed within the time that  
7 the application could be filed. Within fifteen (15) days after the  
8 application is filed with the court, any party may file written  
9 objections to it, with a copy to the moving party.

10 C. Except as provided in ~~Subsection~~ subsection D of this  
11 section, an application for attorney fees for services performed on  
12 appeal shall be made to the appellate court by separate motion filed  
13 any time before issuance of mandate. The application shall cite  
14 authority for awarding attorney fees but shall not include  
15 evidentiary material concerning their amount. The appellate court  
16 shall decide whether to award attorney fees for services on appeal,  
17 and if fees are awarded, it shall remand the case to the trial court  
18 for a determination of their amount. The trial court's order  
19 determining the amount of fees is an appealable order.

20 D. If the right of a party to recover attorney fees depends  
21 upon a determination that the party has prevailed in an action, and  
22 if the prevailing party in the action cannot be determined from the  
23 decision of the appellate court, an application for attorney fees  
24 for services performed on appeal shall be made to the trial court in

1 the manner and within the time provided in subsection B of this  
2 section.

3 SECTION 2. This act shall become effective November 1, 2017.

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