

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-1062/2	Introduction Number AB-0223
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Description
 Awarding costs in administrative agency actions

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate

<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local:

No Local Government Costs
 Indeterminate

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By DHS/ Elaine Velez (608) 266-9363	Authorized Signature Andy Forsaith (608) 266-7684	Date 9/30/2011
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Fiscal Estimate Narratives

DHS 9/30/2011

LRB Number 11-1062/2	Introduction Number AB-0223	Estimate Type Original
Description Awarding costs in administrative agency actions		

Assumptions Used in Arriving at Fiscal Estimate

Under current law, individuals, small nonprofit corporations, or small businesses who are the prevailing party in an administrative agency contested case, in an action brought by an agency, or in a judicial review proceeding under s. 227.485(6,) are entitled to an award of costs unless the court finds the agency was substantially justified in taking its position or if such an award would be unjust under the circumstances. It also requires hearing examiners and courts in this state to be guided by federal case law as of November 20, 1985, when interpreting these provisions governing costs to prevailing parties.

This bill would change current law by eliminating the financial and entity size limitations for any trust or person other than the state that is a prevailing party in administrative agency contested cases, actions by a state agency, and judicial review proceedings under Wis. Stat. § 227.485(6), thus allowing an award of costs unless the hearing examiner or court finds that the agency was substantially justified in taking its position. The bill also eliminates the requirement that hearing examiners and courts rely on federal case law as of November 20, 1985, when interpreting these provisions governing costs to prevailing parties.

The Department of Health Services assumes this bill would increase the number of parties eligible to petition for costs. However, this number cannot be predicted so the monetary amount associated with it cannot be calculated.

Long-Range Fiscal Implications

Indeterminate.