

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-1062/2	Introduction Number AB-0223
-----------------------------	---

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
--	--	---

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
--	--	--

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 DOJ/ Mark Rinehart (608) 264-9463	Authorized Signature Mark Rinehart (608) 264-9463	Date 9/29/2011
--	---	--------------------------

Fiscal Estimate Narratives

DOJ 9/29/2011

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 s. 227.485, an individual whose federal adjusted gross income is less than \$150,000 in each of the last three years, a small business (a business entity that employs 25 or fewer full-time employees or has less than \$5 million dollars in gross annual sales), or a small nonprofit corporation (a nonprofit corporation which employs fewer than 25 full-time employees) to recover costs (including attorney fees and expert witness fees) when the individual or entity is the prevailing party over a state agency in a contested case, unless the hearing examiner finds that the state agency which is the losing party was substantially justified in taking its position or that special circumstances exist that would make the award unjust. On judicial review of such a decision, if the individual or entity is the prevailing party in the judicial review, the circuit court also may award costs under s. 814.245, unless the court finds that the state agency was substantially justified in taking its position or that special circumstances exist that would make the award unjust.

2011 AB 223 amends current law to remove the restrictions on entities and individuals who can seek to recover costs. Any trust or person other than the state would be permitted to seek costs. This means that any individual regardless of income and entities regardless of size would be able to seek to recover costs.

Assistant Attorneys General at the Department of Justice represent state agencies in administrative and judicial review cases. While DOJ can't accurately estimate how many more individuals will attempt to recover costs, how many of those individuals will successfully recover costs, or what the amount of the successful cost awards will be under the expansive provisions of AB 223, DOJ does anticipate an increase in attorney time defending additional motions for cost recovery, regardless of their outcome. If the increase in attorney time is significant, DOJ will require additional resources.

Long-Range Fiscal Implications