

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:

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

Local:

<input type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	5. Types of Local Government Units Affected	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue		<input type="checkbox"/> Counties <input type="checkbox"/> Others
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<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 DOT/ Robert Kranz (608) 264-9968	Authorized Signature Stephanie LaSage (608) 267-3703	Date 9/30/2011
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Fiscal Estimate Narratives

DOT 9/30/2011

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Assumptions Used in Arriving at Fiscal Estimate

The bill eliminates all current law financial and entity size limitations for prevailing parties to be eligible to receive costs in administrative agency actions, unless the court finds the agency was substantially justified in taking its position or if such an award would be unjust under the circumstances.

The bill also eliminates the current law requirement that hearing examiners and courts rely on federal case law interpreting substantially similar provisions under the federal equal access to justice act when interpreting the provisions governing costs to prevailing parties.

Various entities and private individuals contest decisions made by DOT, for example: permitting decisions with regard to driveways, highway vegetation removal, and outdoor advertising signs; decisions relating to the denial, suspension, and revocation of motor vehicle dealer licenses, and motor vehicle bond claims. Also, decisions relating to title and registration issues, driver school and instructor licenses, oversize/overweight permits are sometimes contested.

Eliminating all eligibility criteria for reimbursement of costs increases the number of parties eligible for cost recovery and creates new opportunities for entities with significant resources to contest DOT decisions and seek costs. Because costs cannot be awarded against unsuccessful appellants, there is no corresponding "downside risk" to requesting a hearing. As such, there is a potential for increased costs to the agency due to a potential increase in volume of contested cases, and other variables that cannot be fully ascertained.

Alternatively, the prospect of awarding costs to all businesses and individuals who are able to successfully contest decisions could have a chilling effect on DOT decision-making and the number of permit denials, sign removal orders and other agency administrative actions.

Long-Range Fiscal Implications