



## Fiscal Estimate Narratives

DCF 1/25/2012

LRB Number	11-1560/2	Introduction Number	SB-191	Estimate Type	Original
<b>Description</b> Awarding costs in administrative agency actions					

### Assumptions Used in Arriving at Fiscal Estimate

Under current law, individuals, small businesses or small nonprofit corporations who prevail in an administrative agency contested case, an action brought by an agency or in a judicial review proceeding are entitled to an award of costs unless the court finds the agency was substantially justified in taking the action or if such an award would be unjust under the circumstances. Courts and hearing examiners are required to use federal case law when interpreting costs to prevailing parties.

This bill eliminates financial and entity size limitations for prevailing parties to be eligible to receive costs in administrative agency actions, allowing an award of costs to any trust or person, other than the state, that is a prevailing party unless the court finds the agency was substantially justified in taking its position or if such an award would be unjust under the circumstances. This 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.

It is anticipated that this bill will increase the number of entities potentially eligible for an award of costs in actions by the Department. However, the extent of this increase and the number of instances where the court or hearing examiner finds that the Department was not substantially justified in taking its position cannot be determined. Therefore, the fiscal effect of this bill is indeterminate.

### Long-Range Fiscal Implications