

Department of Planning and Budget 2016 Fiscal Impact Statement

1. Bill Number: SB746

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Wagner

3. Committee: Courts of Justice

4. Title: Government entity; liability for certain inspections.

5. Summary: The enrolled bill provides that if an agency's action under the Administrative Process Act was in violation of the law or was for an improper purpose, a person contesting the agency's action through a civil case would be entitled to recover reasonable costs and attorney fees from that agency.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Potentially significant but indeterminate, See Item 8.

8. Fiscal Implications: The enroll bill provides that if an agency's action under the Administrative Process Act was in violation of the law or was for an improper purpose, a person contesting the agency's action through a civil case would be entitled to recover reasonable costs and attorney fees from that agency. The award of attorney fees shall not exceed \$25,000.

The existing law states that a person is entitled to recover reasonable costs and attorney fees that shall not exceed \$25,000 if the person substantially prevails on the merit of the case and when the agency's position is not substantially justified. The bill adds two additional conditions where the person contesting the agency's actions would prevail:

1. "The agency action was in violation of law," which could result in numerous appeals and court cases. There is no way to predict the number of appeals, court cases, the number of cases in which attorney fees would be awarded, or the amount of reasonable costs that could result.
2. "The agency action was for an improper purpose," which may result in an increase in the filing of nuisance appeals and lawsuits. There is no way to predict the number of appeals, court cases, the number of cases in which attorney fees would be awarded, or the amount of reasonable costs that would result.

9. Specific Agency or Political Subdivisions Affected: All state agencies that are not exempt from the Administrative Process Act.

10. Technical Amendment Necessary: No.

11. Other Comments: None.