
Introduced by Senator Ducheny

February 23, 2006

An act to repeal and add Section 1021.8 of the Code of Civil Procedure, relating to attorney’s fees.

LEGISLATIVE COUNSEL’S DIGEST

SB 1489, as introduced, Ducheny. Attorney’s fees: Attorney General.

Under existing law, whenever the Attorney General prevails in a civil action to enforce specified types of actions, the court is required to award the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney’s fees, and costs.

This bill would revise and recast this provision to clarify its application to specified actions. The bill also would provide that this provision does not authorize recovery of fees and costs from a city, county, or city and county.

This bill would declare the Legislature’s intent with respect to certain provisions of the bill regarding recovery of attorney’s fees.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1021.8 of the Code of Civil Procedure
- 2 is repealed.
- 3 1021.8. (a) ~~Whenever the Attorney General prevails in a civil~~
- 4 ~~action to enforce Section 17537.3, 22445, 22446.5, 22958,~~
- 5 ~~22962, or 22963 of the Business and Professions Code, Section~~
- 6 ~~52, 52.1, 55.1, or 3494 of the Civil Code, the Corporate~~

1 Securities Law of 1968 (Division 1 (commencing with Section
 2 25000) of Title 4 of the Corporations Code or the California
 3 Commodity Law of 1990 (Division 4.5 (commencing with
 4 Section 29500) of Title 4 of the Corporations Code), Section
 5 1615, 2014, or 5650.1 of the Fish and Game Code, Section 4458,
 6 12606, 12607, 12598, 12989.3, 16147, 66640, 66641, or 66641.7
 7 of the Government Code, Section 13009, 13009.1, 19958.5,
 8 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3,
 9 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health
 10 and Safety Code, Section 308.1 or 308.3 of the Penal Code,
 11 Section 2774.1, 4601.1, 4603, 4605, 30820, 30821.6, 30822,
 12 42847, or 48023 of the Public Resources Code, Section 30101.7
 13 of the Revenue and Taxation Code, or Section 275, 1052, 1845,
 14 13261, 13262, 13264, 13265, 13268, 13304, 13331, 13350, or
 15 13385 of the Water Code, the court shall award to the Attorney
 16 General all costs of investigating and prosecuting the action,
 17 including expert fees, reasonable attorney’s fees, and costs.
 18 Awards under this section shall be paid to the Public Rights Law
 19 Enforcement Special Fund established by Section 12530 of the
 20 Government Code.

21 (b) This section applies to any action pending on the effective
 22 date of this section and to any actions filed thereafter.

23 (c) The amendments made to this section by the act adding
 24 this subdivision shall apply to any action pending on the effective
 25 date of these amendments and to any actions filed thereafter.

26 SEC. 2. Section 1021.8 is added to the Code of Civil
 27 Procedure, to read:

28 1021.8. (a) Except as provided in subdivision (b), whenever
 29 the Attorney General prevails in a civil action to enforce a
 30 section set forth in paragraph (1), (2), or (3), the court shall
 31 award to the Attorney General all costs of investigating and
 32 prosecuting the civil action, including expert fees, reasonable
 33 attorney’s fees, and costs. Awards under this section shall be paid
 34 to the Public Rights Law Enforcement Special Fund established
 35 by Section 12530 of the Government Code. This section does not
 36 authorize recovery of fees and costs for private counsel unless
 37 the requirements of Section 12520 of the Government Code are
 38 met.

1 (1) This subdivision applies to any action pending on or after
2 August 2, 2003, and to any actions filed thereafter, enforcing any
3 of the following provisions:

4 (A) Section 22445, 22446.5, 22958, or 22962 of the Business
5 and Professions Code.

6 (B) Section 52 or 52.1 of the Civil Code.

7 (C) Section 2014 or 5650.1 of the Fish and Game Code.

8 (D) Section 4458, 12598, 12606, 12607, 12989.3, 66640,
9 66641, or 66641.7 of the Government Code.

10 (E) Section 13009, 13009.1, 19958.5, 25299, or 118950 of the
11 Health and Safety Code.

12 (F) Section 308.1 or 308.3 of the Penal Code.

13 (G) Section 30820, 30821.6, or 30822 of the Public Resources
14 Code.

15 (H) Section 275, 1052, 1845, 13350, or 13385 of the Water
16 Code.

17 (2) This subdivision applies to any action pending on or after
18 August 16, 2004, and to any actions filed thereafter, enforcing
19 any of the following provisions:

20 (A) Section 17537.3 or 22963 of the Business and Professions
21 Code.

22 (B) Section 55.1 or 3494 of the Civil Code.

23 (C) The Corporate Securities Law of 1968 (Division 1
24 commencing with Section 25000) of Title 4 of the Corporations
25 Code or the California Commodity Law of 1990 (Division 4.5
26 commencing with Section 29500) of Title 4 of the Corporations
27 Code).

28 (D) Section 1615 of the Fish and Game Code.

29 (E) Section 16147 of the Government Code.

30 (F) Section 39674, 41513, 42402, 42402.1, 42402.2, 42402.3,
31 42402.4, 43016, 43017, 43154, or 104557 of the Health and
32 Safety Code.

33 (G) Section 2774.1, 4601.1, 4603, or 4605 of the Public
34 Resources Code.

35 (H) Section 30101.7 of the Revenue and Taxation Code.

36 (I) Section 13261, 13262, 13264, 13265, 13268, 13304, or
37 13331 of the Water Code.

38 (3) This subdivision applies to any action pending on or after
39 September 23, 2004, and to any actions filed thereafter, enforcing
40 Section 42847 or 48023 of the Public Resources Code.

1 (b) This section does not authorize recovery of fees and costs
2 from a city, county, or city and county.
3 SEC. 3. It is not the intent of the Legislature, in enacting
4 subdivision (b) of Section 1021.8 of the Code of Civil Procedure,
5 to limit the ability of the Attorney General to recover attorney's
6 fees pursuant to Section 1021.5 of the Code of Civil Procedure.

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