

**Introduced by Senator Ducheny**

February 23, 2006

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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 amended, 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 require the court to award the Attorney General all reasonable costs of investigating and prosecuting the civil action, and* 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- 2 is repealed.

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

3 1021.8. (a) Except as provided in subdivision (b), whenever  
4 the Attorney General prevails in a civil action to enforce a  
5 section set forth in paragraph (1), (2), or (3), the court shall  
6 award to the Attorney General all *reasonable* costs of  
7 investigating and prosecuting the civil action, including expert  
8 fees, ~~reasonable~~ attorney's fees, and costs. Awards under this  
9 section shall be paid to the Public Rights Law Enforcement  
10 Special Fund established by Section 12530 of the Government  
11 Code. This section does not authorize recovery of fees and costs  
12 for private counsel unless the requirements of Section 12520 of  
13 the Government Code are met.

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

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

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

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

21 (D) Section 4458, 12598, 12606, 12607, 12989.3, 66640,  
22 66641, or 66641.7 of the Government Code.

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

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

26 (G) Section 30820, 30821.6, or 30822 of the Public Resources  
27 Code.

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

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

33 (A) Section 17537.3 or 22963 of the Business and Professions  
34 Code.

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

36 (C) The Corporate Securities Law of 1968 (Division 1  
37 (commencing with Section 25000) of Title 4 of the Corporations  
38 Code or the California Commodity Law of 1990 (Division 4.5  
39 (commencing with Section 29500) of Title 4 of the Corporations  
40 Code).

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

2 (E) Section 16147 of the Government Code.

3 (F) Section 39674, 41513, 42402, 42402.1, 42402.2, 42402.3,  
4 42402.4, 43016, 43017, 43154, or 104557 of the Health and  
5 Safety Code.

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

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

9 (I) Section 13261, 13262, 13264, 13265, 13268, 13304, or  
10 13331 of the Water Code.

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

14 (b) This section does not authorize recovery of fees and costs  
15 from a city, county, or city and county.

16 SEC. 3. It is not the intent of the Legislature, in enacting  
17 subdivision (b) of Section 1021.8 of the Code of Civil Procedure,  
18 to ~~limit~~ *affect* the ability of the Attorney General to ~~recover~~  
19 *pursue recovery of attorney's fees pursuant to Section 1021.5 of*  
20 ~~the Code of Civil Procedure~~ *any other statute, rule, or law.*