

ASSEMBLY BILL

No. 559

Introduced by Assembly Member Swanson

February 16, 2011

An act to amend Section 1033 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 559, as introduced, Swanson. Civil actions: costs.

Existing law provides that a prevailing party is entitled as a matter of right to recover costs in any action or proceeding, and specifies those items allowable as costs. Existing law provides that costs, or any portion of claimed costs, shall be as determined by the court, in its discretion, in a case other than a limited civil case, if the prevailing party recovers a judgment that could have been rendered in a limited civil case.

This bill would exempt from that latter provision an action brought under a specified provision of the Fair Employment and Housing Act alleging an unlawful practice.

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 1033 of the Code of Civil Procedure is
2 amended to read:
3 1033. (a) Costs or any portion of claimed costs shall be as
4 determined by the court in its discretion in a case other than a
5 limited civil case in accordance with Section 1034 ~~where~~ *if* the
6 prevailing party recovers a judgment that could have been rendered

1 in a limited civil case. *This subdivision shall not apply to any*
2 *action brought under Section 12965 of the Government Code.*

3 (b) ~~When~~ *If a prevailing plaintiff in a limited civil case recovers*
4 *less than the amount prescribed by law as the maximum limitation*
5 *upon the jurisdiction of the small claims court, the following shall*
6 *apply:*

7 (1) ~~When~~ *If the party could have brought the action in the small*
8 *claims division but did not do so, the court may, in its discretion,*
9 *allow or deny costs to the prevailing party, or may allow costs in*
10 *part in any amount as it deems proper.*

11 (2) ~~When~~ *If the party could not have brought the action in the*
12 *small claims court, costs and necessary disbursements shall be*
13 *limited to the actual cost of the filing fee, the actual cost of service*
14 *of process, and, ~~when~~ if otherwise specifically allowed by law,*
15 *reasonable ~~attorneys'~~ attorney's fees. However, those costs shall*
16 *only be awarded to the plaintiff only if the court is satisfied that*
17 *prior to the commencement of the action, the plaintiff informed*
18 *the defendant in writing of the intended legal action against the*
19 *defendant and that legal action could result in a judgment against*
20 *the defendant that would include the costs and necessary*
21 *disbursements allowed by this paragraph.*