

SB3873



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3873

Introduced 1/21/2022, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

5 ILCS 100/10-55

from Ch. 127, par. 1010-55

Amends the Illinois Administrative Procedure Act. Defines the term "invalidated" for purposes of provisions concerning expenses and attorney's fees. Effective immediately.

LRB102 22502 RJF 31643 b

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 10-55 as follows:

6 (5 ILCS 100/10-55) (from Ch. 127, par. 1010-55)

7 Sec. 10-55. Expenses and attorney's fees.

8 (a) In any contested case initiated by any agency that
9 does not proceed to court for judicial review and on any issue
10 where a court does not have jurisdiction to make an award of
11 litigation expenses under Section 2-611 of the Civil Practice
12 Law, any allegation made by the agency without reasonable
13 cause and found to be untrue shall subject the agency making
14 the allegation to the payment of the reasonable expenses,
15 including reasonable attorney's fees, actually incurred in
16 defending against that allegation by the party against whom
17 the case was initiated. A claimant may not recover litigation
18 expenses when the parties have executed a settlement agreement
19 that, while not stipulating liability or violation, requires
20 the claimant to take correction action or pay a monetary sum.

21 (b) The claimant shall make a demand for litigation
22 expenses to the agency. If the claimant is dissatisfied
23 because of the agency's failure to make any award or because of

1 the insufficiency of the agency's award, the claimant may
2 petition the Court of Claims for the amount deemed owed. If
3 allowed any recovery by the Court of Claims, the claimant
4 shall also be entitled to reasonable attorney's fees and the
5 reasonable expenses incurred in making a claim for the
6 expenses incurred in the administrative action. The Court of
7 Claims may reduce the amount of the litigation expenses to be
8 awarded under this Section, or deny an award, to the extent
9 that the claimant engaged in conduct during the course of the
10 proceeding that unduly and unreasonably protracted the final
11 resolution of the matter in controversy.

12 (c) In any case in which a party has any administrative
13 rule invalidated by a court for any reason, including but not
14 limited to the agency's exceeding its statutory authority or
15 the agency's failure to follow statutory procedures in the
16 adoption of the rule, the court shall award the party bringing
17 the action the reasonable expenses of the litigation,
18 including reasonable attorney's fees.

19 For purposes of this subsection (c), "invalidated" means
20 any action by a court of competent jurisdiction that declares
21 or renders an administrative rule unenforceable or without
22 legal effect for any period of time, whether pursuant to a
23 temporary restraining order, preliminary injunction, permanent
24 injunction, or final decision on the merits. The changes made
25 by this amendatory Act of the 102nd General Assembly are
26 declarative of existing law.

1 (Source: P.A. 87-823.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.