

B-Engrossed
Senate Bill 592

Ordered by the House June 2
Including Senate Amendments dated March 15 and House Amendments
dated June 2

Sponsored by Senator ATKINSON; Representative GARRETT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies law that requires that statutes authorizing or mandating award of attorney fees to parties in civil proceeding be construed as authorizing or mandating that award on appeal. **Includes denial of petition for review by Supreme Court and mandamus proceeding arising out of original proceeding.** Extends law to statutes that authorize or require award of attorney fees in administrative proceedings.

A BILL FOR AN ACT

1
2 Relating to attorney fees; creating new provisions; and amending ORS 19.440.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 19.440 is amended to read:

5 19.440. [*Any statute law of this state that authorizes or requires the award or allowance of attorney*
6 *fees to a party in a civil action or proceeding, but does not expressly authorize or require that award*
7 *or allowance on an appeal in the action or proceeding and does not expressly prohibit that award or*
8 *allowance on an appeal, shall be construed as authorizing or requiring that award or allowance on*
9 *an appeal in the action or proceeding.*]

10 **(1) If a statute of this state authorizes or requires an award of attorney fees to a party**
11 **to a proceeding, but does not expressly authorize or require that award on appeal, judicial**
12 **review or other appellate review of the decision in the proceeding, and does not expressly**
13 **prohibit that award on an appeal, judicial review or other appellate review, the statute shall**
14 **be construed as authorizing or requiring the award of attorney fees on appeal, judicial review**
15 **or other appellate review of the decision in the proceeding, including any denial of a petition**
16 **for review by the Supreme Court in the proceeding.**

17 **(2) If a statute of this state authorizes or requires an award of attorney fees to a party**
18 **to a proceeding, but does not expressly authorize or require an award of attorney fees in a**
19 **mandamus proceeding arising out of the original proceeding, the statute shall be construed**
20 **as authorizing or requiring the award of attorney fees in the mandamus proceeding.**

21 **(3) The provisions of this section apply to statutes that authorize or require the award**
22 **of attorney fees in administrative proceedings in addition to statutes that authorize or re-**
23 **quire the award of attorney fees in civil proceedings in courts.**

24 **SECTION 2.** The amendments to ORS 19.440 by section 1 of this 2011 Act apply only to
25 **judicial review proceedings commenced on or after the effective date of this 2011 Act.**
26

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.