

# Senate Bill 592

Sponsored by Senator ATKINSON

## 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 **as introduced**.

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. 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 or other**  
12 **judicial review of the decision in the proceeding, and does not expressly prohibit that award**  
13 **on an appeal or other judicial review, the statute shall be construed as authorizing or re-**  
14 **quiring the award of attorney fees on appeal or other judicial review of the decision in the**  
15 **proceeding.**

16 **(2) The provisions of this section apply to statutes that authorize or require the award**  
17 **of attorney fees in administrative proceedings in addition to statutes that authorize or re-**  
18 **quire the award of attorney fees in civil proceedings in courts.**

19 **SECTION 2.** (1) Except as provided in subsection (2) of this section, the amendments to  
20 **ORS 19.440 by section 1 of this 2011 Act apply only to judicial review proceedings commenced**  
21 **on or after the effective date of this 2011 Act.**

22 **(2) Subject to subsection (3) of this section, the amendments to ORS 19.440 by section 1**  
23 **of this 2011 Act apply to any judicial review proceedings commenced before the effective date**  
24 **of this 2011 Act in which an appellate judgment was entered on or after January 1, 2009, and**  
25 **in which attorney fees were denied based on ORS 19.440 as in effect immediately before the**  
26 **effective date of this 2011 Act.**

27 **(3) A party to a proceeding described in subsection (2) of this section who wishes to seek**  
28 **an award of attorney fees under ORS 19.440, as amended by section 1 of this 2011 Act, must**  
29 **file a motion for entry of a supplemental judgment in the proceeding within 90 days after the**  
30 **effective date of this 2011 Act.**

31  

---

**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.