

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: No revenue impact**FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Channa Newell, Counsel**Meeting Dates:** 2/8

WHAT THE MEASURE DOES: Allows appeal of agency imposed civil penalty through petition for judicial review in appropriate circuit court or small claims court. Specifies if civil penalty is \$10,000 or greater, circuit court review may be requested and petitioner has right to jury trial. Specifies if civil penalty is less than \$10,000, action may be commenced in small claims court. Requires notice of civil penalty to include statement of right to contested case hearing or judicial review. Allows circuit court to review validity of rule underlying order for civil penalty, if judicial review requested. Provides conforming amendments.

ISSUES DISCUSSED:**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

BACKGROUND: Agencies may impose civil penalties for violations of statute or rules. For example, the Department of Human Services may issue investigate and issue a civil penalty for violation of licensing conditions. The person against whom the civil penalty is imposed receives notice of the penalty and has twenty days to ask for a hearing. Contested case hearings are overseen by officers, parties may be represented by counsel, and witnesses are placed under oath. A person may petition the Court of Appeals for judicial review of a contested case, but there is no mechanism for circuit court review.

House Bill 4118 allows for local circuit court review of a contested agency civil penalty. If the amount in question is \$10,000 or greater, the hearing is before a circuit court judge and the petitioner has a right to a jury trial. If the amount is less than \$10,000, the hearing is in small claims court.