

Legislative #
190114A

CHAPTER 2019-151

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 829

An act relating to attorney fees and costs; creating s. 57.112, F.S.; defining the term "attorney fees and costs"; providing for the award of attorney fees and costs and damages in civil actions challenging local ordinances as being preempted by the State Constitution or state law; prohibiting an award of attorney fees and costs under certain circumstances; providing construction; providing applicability; specifying that municipalities and counties may continue to enforce or extend certain ordinances, regulations, resolutions, rules, moratoriums, or policies until certain actions are taken; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 57.112, Florida Statutes, is created to read:

57.112 Attorney fees and costs and damages; preempted local actions.

(1) As used in this section, the term "attorney fees and costs" means the reasonable and necessary attorney fees and costs incurred for all preparations, motions, hearings, trials, and appeals in a proceeding.

(2) If a civil action is filed against a local government to challenge the adoption or enforcement of a local ordinance on the grounds that it is expressly preempted by the State Constitution or by state law, the court shall assess and award reasonable attorney fees and costs and damages to the prevailing party.

(3) Attorney fees and costs may not be awarded pursuant to this section if:

(a) The governing body of a local governmental entity receives written notice that an ordinance that has been publicly noticed or adopted is expressly preempted by the State Constitution or state law; and

(b) The governing body of the local governmental entity withdraws the proposed ordinance within 30 days; or, in the case of an adopted ordinance, the governing body of a local government notices an intent to repeal the ordinance within 30 days of receipt of the notice and repeals the ordinance within 30 days thereafter.

(4) The provisions in this section are supplemental to all other sanctions or remedies available under law or court rule.

(5) This section does not apply to local ordinances adopted pursuant to part II of chapter 163, s. 559.73, or s. 633.202.

(6) This section is intended to be prospective in nature and shall apply only to cases commenced on or after July 1, 2019.

Section 2. A municipality or county may continue to enforce or extend an ordinance, regulation, resolution, rule, moratorium, or policy adopted before February 1, 2019, relating to the land application of Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed by the municipality or county or until the effective date of the rules adopted by the Department of Environmental Protection, whichever occurs first.

Section 3. This act shall take effect July 1, 2019.

Approved by the Governor June 26, 2019.

Filed in Office Secretary of State June 26, 2019.