

27 ~~administrative law judge to have~~ participated in the proceeding
 28 for an improper purpose.

29 (c) In proceedings conducted pursuant to s. 120.57(1), ~~and~~
 30 ~~upon motion,~~ the administrative law judge shall determine
 31 whether a ~~any~~ party participated in the proceeding for an
 32 improper purpose as defined in ~~by~~ this subsection. In making
 33 such determination, the administrative law judge shall consider
 34 whether the nonprevailing adverse party ~~has~~ participated in
 35 another ~~two or more other~~ such proceeding ~~proceedings~~ involving
 36 the same prevailing party and ~~the same~~ project as an adverse
 37 party ~~and in which such two or more proceedings~~ the
 38 nonprevailing adverse party did not establish ~~either~~ the factual
 39 or legal merits of its position. The judge shall also, ~~and shall~~
 40 consider whether the factual or legal position asserted in the
 41 instant proceeding would have been cognizable in the previous
 42 proceeding ~~proceedings~~. In such event, it shall be rebuttably
 43 presumed that the nonprevailing adverse party participated in
 44 the pending proceeding for an improper purpose.

45 (d) In a ~~any~~ proceeding in which the administrative law
 46 judge determines that a party participated in the proceeding for
 47 an improper purpose, the recommended order shall ~~so~~ designate
 48 that party and ~~shall~~ determine the award of costs and attorney
 49 ~~attorney's~~ fees.

50 (e) For purposes ~~the purpose~~ of this subsection, the term:
 51 1. "Improper purpose" means participation in a proceeding
 52 pursuant to s. 120.57(1) primarily to harass or to cause

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53 unnecessary delay or for frivolous purpose or to needlessly
54 increase the cost of litigation, licensing, or securing the
55 approval of an activity.

56 2. "Costs" has the same meaning as the costs allowed in
57 civil actions in this state as provided in chapter 57.

58 3. "Nonprevailing adverse party" means a party that has
59 failed to have substantially changed the outcome of the proposed
60 or final agency action which is the subject of a proceeding. If
61 ~~In the event that~~ a proceeding results in any substantial
62 modification or condition intended to resolve the matters raised
63 in a party's petition, it shall be determined that the party
64 having raised the issue addressed is not a nonprevailing adverse
65 party. The recommended order shall state whether the change is
66 substantial for purposes of this subsection. ~~In no event shall~~
67 The term "nonprevailing party" or "prevailing party" may not be
68 deemed to include a ~~any~~ party that has intervened in a
69 previously existing proceeding to support the position of an
70 agency.

71 Section 2. This act shall take effect July 1, 2014.