

ENROLLED

CS/CS/CS/HB 829, Engrossed 2

2019 Legislature

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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.

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

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

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

38 (b) The governing body of the local governmental entity
39 withdraws the proposed ordinance within 30 days; or, in the case
40 of an adopted ordinance, the governing body of a local
41 government notices an intent to repeal the ordinance within 30
42 days of receipt of the notice and repeals the ordinance within
43 30 days thereafter.

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

46 (5) This section does not apply to local ordinances
47 adopted pursuant to part II of chapter 163, s. 553.73, or s.
48 633.202.

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

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57 | is repealed by the municipality or county or until the effective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

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