



March 26, 2021

ENGROSSED HOUSE BILL No. 1436

DIGEST OF HB 1436 (Updated March 24, 2021 7:10 pm - DI 136)

Citations Affected: IC 4-21.5.

Synopsis: Administrative proceedings and state agencies. Provides that, in an adjudicative administrative proceeding concerning an agency action, the administrative law judge shall order the agency to pay the reasonable attorney's fees incurred, if the party challenging the agency action proves, by a preponderance of the evidence, that: (1) the agency's action was frivolous or groundless; or (2) the agency pursued the action in bad faith.

Effective: July 1, 2021.

Thompson

(SENATE SPONSORS — MESSMER, BROWN L, KOCH)

January 14, 2021, read first time and referred to Committee on Judiciary.
February 11, 2021, amended, reported — Do Pass.
February 15, 2021, read second time, ordered engrossed. Engrossed.
February 17, 2021, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

March 2, 2021, read first time and referred to Committee on Judiciary.
March 25, 2021, amended, reported favorably — Do Pass.

EH 1436—LS 6680/DI 55



March 26, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1436

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-21.5-3-27.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: **Sec. 27.5. In a proceeding under this**
4 **chapter concerning an agency action, the administrative law judge**
5 **shall order the agency to pay the reasonable attorney's fees**
6 **incurred in the proceeding by the party challenging the agency**
7 **action if the party challenging the agency action proves, by a**
8 **preponderance of the evidence, that:**
9 (1) the agency's action was frivolous or groundless; or
10 (2) the agency pursued the action in bad faith.

EH 1436—LS 6680/DI 55



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1436, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete line 17.

Delete pages 2 through 6.

and when so amended that said bill do pass.

(Reference is to HB 1436 as introduced.)

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Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1436, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 7, delete "administrative law judge makes a finding that the" and insert: "**party challenging the agency action proves, by a preponderance of the evidence, that:**".

Page 1, delete lines 8 through 16, begin a new line block indented and insert:

**"(1) the agency's action was frivolous or groundless; or
(2) the agency pursued the action in bad faith."**

and when so amended that said bill do pass.

(Reference is to HB 1436 as printed February 11, 2021.)

BROWN L, Chairperson

Committee Vote: Yeas 7, Nays 3.

