

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 79

January 7, 2021

SUMMARY OF BILL: Clarifies terminology under the Uniform Administrative Procedures Act (UAPA) regarding payments of reasonable expenses. Establishes that a hearing officer or administrative law judge is authorized to order the agency to pay the party issued a notice the reasonable expenses incurred because of the notice, if the party prevails on the merits of the allegations and the agency issued the notice to harass or cause needless delay or expense to the party.

Requires a hearing officer or administrative law judge that finds a state agency issued a notice to harass or cause needless delay or expense, to issue a written order of the facts that determined the decision. Authorizes a court to require a license or certificate holder to pay reasonable costs incurred by the Department of Health (DOH) if a party issued a sanction seeks judicial review or a chancery court decision after a contested case hearing.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Clarification of UAPA language for uniformity purposes will not significantly impact the number of contested case hearings held between state agencies and other parties or state expenditures associated with such hearings.
- Pursuant to Tenn. Code Ann. § 4-5-325, a hearing officer or administrative law judge is authorized to order a state agency to pay a party issued a citation, at the conclusion of a contested case hearing, if even to the best of the agency's knowledge, the violation was not warranted, or the agency issued the notice to harass or cause needless delay or expense.
- The proposed legislation authorizes a hearing officer or administrative law judge to order a state agency to pay the party issued a notice the reasonable expenses incurred because of the notice, if they find that the party issued the notice prevails on the merits of the allegations and the agency issued the notice to harass or cause unnecessary delay or expense.
- The proposed legislation could result in a decrease in expenditures for state agencies ordered to pay expenses to a party issued a notice after a contested case hearing; however, any decrease is not estimated to be significant.

- A hearing officer or administrative law judge that finds a state agency issued a notice to harass or cause needless delay can issue a written order of the determining facts within existing resources.
- There is not estimated to be a sufficient number of judicial review cases for the DOH to see any significant change in revenue or expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, slightly slanted style.

Bojan Savic, Interim Executive Director

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