

## **BILL ANALYSIS**

H.B. 3662  
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Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties have expressed concerns regarding instances in which Texans facing regulatory action by a state agency find themselves at a distinct financial disadvantage because of the relatively limited resources available to them and the relative absence of restraints against the state. The parties assert that given this disparity, an agency can pursue claims, including baseless claims, against a private citizen or business, often causing the individual or business to run up legal fees and numerous other costs that the individual or business can ill afford. As a result of the expense and inconvenience incurred in defending against an adverse state agency action, Texans often are compelled to accept unfair and unjust sanctions just to end the situation, often with no consequences for the agency. These parties contend that, in regard to these suits, the playing field between Texans and their government is not level and that a court should be authorized to award attorney's fees and costs against a state agency that pursues an unreasonable regulatory action against a Texas citizen or business. H.B. 3662 seeks to provide for this remedy.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 3662 amends the Civil Practice and Remedies Code to authorize a claimant to bring an action against a state agency if the state agency takes a regulatory action against the claimant that is frivolous, unreasonable, or without foundation and to recover, in addition to all other costs allowed by law or rule, the damages caused by the state agency's frivolous regulatory action, reasonable attorney's fees, and court costs.

H.B. 3662 authorizes a person to recover, in addition to all other costs allowed by law or rule, reasonable attorney's fees and costs incurred in defending against a frivolous regulatory action during an administrative proceeding and judicial review of that proceeding if the person prevails in the judicial review of an administrative proceeding and the state agency is unable to demonstrate that the agency has good cause for the regulatory action.

### **EFFECTIVE DATE**

September 1, 2015.