HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4155   Declaratory Judgments
SPONSOR(S): Stargel
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	15 Y, 0 N	Caridad	Bond
2) Judiciary Committee			

SUMMARY ANALYSIS

Current law provides that the court may award costs in a declaratory judgment action. Another statute, applicable to all civil actions, provides that the prevailing party shall be awarded costs. The term "costs" does not include attorney's fees.

This bill repeals the specific statute relating to costs in a declaratory judgment action. Parties would still be awarded costs pursuant to the general statute.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Chapter 86, F.S., relates to declaratory judgment actions. Section 86.081, F.S., provides that the court may award costs in declaratory judgment actions as are equitable. Section 57.041(1), F.S., provides that "the party recovering judgment shall recover all his or her legal costs and charges which shall be included in the judgment." While s. 86.081, F.S., provides that the court may award costs as are equitable,[1] s. 57.041, F.S., makes an award of costs mandatory.[2] A court explained:

> Under section 57.041, the recovery of costs is generally available to any "party recovering judgment." This general provision may be displaced by context-specific statutory costs provisions. For example, in declaratory judgment proceedings, section 86.081, Florida Statutes (2005), provides that "[t]he court may award costs as are equitable." And in dissolution cases, section 61.16, Florida Statutes (2005), provides that "a reasonable amount" may be awarded for the costs of a party "after considering the financial resources of both parties." Although the standard for the award of costs may - based on specific statutory provisions - vary from the general standard set forth in section 57.041, it is universally true that costs are at issue when a lawsuit is brought.[3]

This bill repeals s. 86.081, F.S. Recovery of costs would therefore be governed under the general provisions of s. 57.041, F.S.

B. SECTION DIRECTORY:

Section 1 repeals s. 86.081, F.S., relating to costs in declaratory judgment actions.

Section 2 provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have any impact on state revenues.

2. Expenditures:

   The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have any impact on local government revenues.

2. Expenditures:

   The bill does not appear to have any impact on local government expenditures.

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[1] *See Davis v. Davis*, 301 So.2d 154 (Fla. 3d DCA 1974).
[2] *See Hendry Tractor Company v. Fernandez*, 432 So.2d 1315, 1316 (Fla. 1983).
[3] *First Protective Insurance Company v. Featherston*, 978 So.2d 881, 884 (Fla. 2d DCA 2008).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.