

By Senator Farmer

34-01492A-22

20221654__

1 A bill to be entitled
2 An act relating to the award of attorney fees and
3 costs in actions involving district school boards;
4 creating s. 57.116, F.S.; defining terms; requiring an
5 award of attorney fees and costs to a district school
6 board in any civil or administrative proceeding in
7 which the district school board was the prevailing
8 party over a state agency, regardless of which party
9 initiated the action; specifying the circumstances
10 under which a district school board is considered a
11 prevailing party; providing the procedure for an
12 attorney for a prevailing district school board to
13 apply for an award; requiring an application for
14 attorney fees and costs to be made in a specified
15 timeframe; authorizing a state agency to oppose the
16 application by affidavit; requiring an evidentiary
17 hearing on an application for an award of attorney
18 fees and costs to be promptly conducted by a court or
19 an administrative law judge, as applicable; providing
20 for the appeal of a final order by an administrative
21 law judge; providing for the award of additional
22 attorney fees and costs for an appeal; prohibiting an
23 award of attorney fees and costs to be made in any
24 case in which a state agency was a nominal party;
25 authorizing a prevailing district school board to
26 petition the circuit court where the subject matter of
27 the underlying action arose for enforcement of an
28 award by writ of mandamus, including additional
29 attorney fees and costs incurred for issuance of the

34-01492A-22

20221654__

30 writ, if a state agency fails to tender payment of the
31 award within a specified timeframe; providing an
32 effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Section 57.116, Florida Statutes, is created to
37 read:

38 57.116 Attorney fees and costs; district school boards.-

39 (1) As used in this section, the term:

40 (a) "Attorney fees and costs" means the reasonable and
41 necessary attorney fees and costs incurred for all preparations,
42 motions, hearings, trials, and appeals in a proceeding.

43 (b) "District school board" means a school board
44 established in accordance with s. 4 of Art. IX of the State
45 Constitution.

46 (c) "State agency" means the Governor, each state officer
47 and state department, and each departmental unit described in s.
48 20.04.

49 (2) (a) Notwithstanding any other law, an award of attorney
50 fees and costs must be made to a district school board in any
51 civil or administrative proceeding in which the district school
52 board was the prevailing party over a state agency, regardless
53 of which party initiated the action.

54 (b) A district school board is a prevailing party when:

55 1. A final judgment or order has been entered in favor of
56 the district school board and such judgment or order has not
57 been reversed on appeal or the time for seeking judicial review
58 of the judgment or order has expired; or

34-01492A-22

20221654__

59 2. The state agency has sought a voluntary dismissal of its
60 complaint.

61 (c) To apply for an award under this section, the attorney
62 for the prevailing district school board must submit an
63 affidavit to the court that first conducted the adversarial
64 proceeding in the underlying action or, in the case of a
65 proceeding pursuant to chapter 120, must submit such affidavit
66 by electronic means to the Division of Administrative Hearings
67 through its website, which shall assign an administrative law
68 judge. The affidavit must state the nature and extent of the
69 services rendered by the attorney and must itemize the costs
70 incurred in preparations, motions, hearings, and appeals in the
71 proceeding. The application for an award of attorney fees and
72 costs must be made within 60 days after the district school
73 board became a prevailing party.

74 (d) The state agency may oppose the application for the
75 award of attorney fees and costs by affidavit.

76 (e) The court, or the administrative law judge in the case
77 of a proceeding under chapter 120, shall promptly conduct an
78 evidentiary hearing on the application for an award of attorney
79 fees and costs and shall issue a judgment or a final order, as
80 applicable. A final order of an administrative law judge is
81 reviewable in accordance with s. 120.68. If the court affirms
82 the award of attorney fees and costs in whole or in part, the
83 court may, in its discretion, award additional attorney fees and
84 costs for the appeal.

85 (f) An award of attorney fees and costs may not be made in
86 any case in which the state agency was a nominal party.

87 (3) If the state agency fails to tender payment of the

34-01492A-22

20221654__

88 award of attorney fees and costs within 30 days after the date
89 that the order or judgment becomes final, the prevailing
90 district school board may petition the circuit court where the
91 subject matter of the underlying action arose for enforcement of
92 the award by writ of mandamus, including additional attorney
93 fees and costs incurred for issuance of the writ.

94 Section 2. This act shall take effect July 1, 2022.