

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 1236

By: McCall of the House

3
4 and

McCortney of the Senate

5
6
7 An Act relating to civil procedure; amending 12 O.S.
2021, Section 1438, which relates to costs and fees;
8 providing that a court in certain circumstances shall
award expenses which are directly incurred in
9 defending against a legal action; and providing an
effective date.

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12 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

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14 "An Act relating to the Oklahoma Citizens
Participation Act; amending 12 O.S. 2021, Section
15 1438, which relates to costs and fees; authorizing
award of certain expenses; authorizing imposition of
16 sanctions under certain circumstances; and providing
an effective date.

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19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 12 O.S. 2021, Section 1438, is
21 amended to read as follows:

22 Section 1438. A. If the court orders dismissal of a legal
23 action under the Oklahoma Citizens Participation Act, the court
24 ~~shall~~ may award to the moving party:

1 1. Court costs, reasonable attorney fees and other expenses
2 incurred in defending against the legal action as justice and equity
3 may require; and

4 2. Sanctions against the party who brought the legal action as
5 the court determines sufficient to deter the party who brought the
6 legal action from bringing similar actions described in the Oklahoma
7 Citizens Participation Act.

8 B. If the court finds that a motion to dismiss filed under the
9 Oklahoma Citizens Participation Act is frivolous or solely intended
10 to delay, the court may award court costs and reasonable attorney
11 fees to the responding party.

12 SECTION 2. This act shall become effective November 1, 2023.”

13 Passed the Senate the 17th day of April, 2023.
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16 _____
Presiding Officer of the Senate

17 Passed the House of Representatives the ____ day of _____,
18 2023.

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21 _____
Presiding Officer of the House
22 of Representatives
23
24

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2 BILL NO. 1236

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7 An Act relating to civil procedure; amending 12 O.S.
8 2021, Section 1438, which relates to costs and fees;
9 providing that a court in certain circumstances shall
10 award expenses which are directly incurred in
11 defending against a legal action; and providing an
12 effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 3. AMENDATORY 12 O.S. 2021, Section 1438, is
15 amended to read as follows:

16 Section 1438. A. If the court orders dismissal of a legal
17 action under the Oklahoma Citizens Participation Act, the court
18 shall award to the moving party:

19 1. Court costs, reasonable attorney fees and other expenses
20 which are directly incurred in defending against the legal action as
21 justice and equity may require; and

22 2. Sanctions against the party who brought the legal action as
23 the court determines sufficient to deter the party who brought the
24 legal action from bringing similar actions described in the Oklahoma
Citizens Participation Act.

1 B. If the court finds that a motion to dismiss filed under the
2 Oklahoma Citizens Participation Act is frivolous or solely intended
3 to delay, the court may award court costs and reasonable attorney
4 fees to the responding party.

5 SECTION 4. This act shall become effective November 1, 2023.
6 Passed the House of Representatives the 21st day of March, 2023.

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8 _____
9 Presiding Officer of the House
of Representatives

10 Passed the Senate the ____ day of _____, 2023.

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13 _____
14 Presiding Officer of the Senate