

JAN 28 1999

WAYS AND MEANS

HOUSE FILE  
BY BURNETT

169

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing that a prevailing property owner or aggrieved  
2 taxpayer in a property tax challenge may recover reasonable  
3 attorney fees from the taxing bodies involved in the appeal.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 169

1 Section 1. Section 441.43, Code 1999, is amended to read  
2 as follows:

3 441.43 POWER OF COURT.

4 1. Upon trial of any appeal from the action of the board  
5 of review fixing the amount of assessment upon any property  
6 concerning which complaint is made, the court may increase,  
7 decrease, or affirm the amount of the assessment appealed  
8 from.

9 2. If the decision of the court is in favor of the  
10 property owner or aggrieved taxpayer, the court shall tax as  
11 part of the costs the reasonable attorney fees of the property  
12 owner or aggrieved taxpayer, as provided in section 625.22.  
13 The attorney fees shall be apportioned between the various  
14 taxing bodies participating in the proceeds of the collection  
15 of taxes involved in the appeal, according to the provisions  
16 of section 441.40.

17 Sec. 2. Section 625.22, Code 1999, is amended to read as  
18 follows:

19 625.22 ~~ATTORNEY'S~~ ATTORNEY FEES -- COSTS.

20 1. When judgment is recovered upon a written contract  
21 containing an agreement to pay an-attorney's-fee attorney  
22 fees, the court shall allow and tax as a part of the costs a  
23 reasonable ~~attorney's-fee~~ attorney fees to be determined by  
24 the court.

25 2. In an action against the maker to recover payment on a  
26 dishonored check or draft, as defined in section 554.3104, the  
27 plaintiff, if successful, may recover, in addition to all  
28 other costs or surcharges provided by law, all court costs  
29 incurred, including a reasonable ~~attorney's-fee~~ attorney fees,  
30 or an individual's cost of processing a small claims recovery  
31 such as lost time and transportation costs from the maker of  
32 the check or draft. However, lost time and transportation  
33 costs of an assignee shall not be awarded under section 631.14  
34 to a person who in the regular course of business takes  
35 assignments of instruments or accounts pursuant to chapter

1 539. Only actual out-of-pocket expenses incurred in obtaining  
2 the small claim recovery may be awarded to the assignee. Any  
3 additional charges shall be determined by the court. If the  
4 defendant is successful in the action and the court determines  
5 the action was frivolous, the court may award the defendant  
6 reasonable attorney's attorney fees.

7 3. In any appeal of a property tax assessment to a  
8 district court pursuant to section 441.38, a prevailing  
9 property owner or aggrieved taxpayer shall be entitled to  
10 receive payment of reasonable attorney fees, which shall be  
11 taxed as costs payable by the taxing bodies participating in  
12 the proceeds of the collection of taxes involved in the  
13 appeal, and apportioned and paid according to the provisions  
14 of section 441.40.

15 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
16 3, shall not apply to this Act.

17 EXPLANATION

18 This bill provides that a prevailing property owner or  
19 aggrieved taxpayer in a property tax challenge may recover  
20 reasonable attorney fees, which shall be taxed as part of the  
21 costs apportioned among and payable by the taxing bodies  
22 participating in the collection of taxes involved in the  
23 appeal. New provisions regarding the award of fees are added  
24 to Code chapter 441 regarding property assessment and  
25 valuation and to Code chapter 625 regarding the award of costs  
26 in civil actions.

27 This bill may include a state mandate as defined in Code  
28 section 25B.3. This bill makes inapplicable Code section  
29 25B.2, subsection 3, which would relieve a political  
30 subdivision from complying with a state mandate if funding for  
31 the cost of the state mandate is not provided or specified.  
32 Therefore, political subdivisions are required to comply with  
33 any state mandate included in this bill.

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**HOUSE FILE 169  
FISCAL NOTE**

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A fiscal note for **House File 169** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 169 provides that a prevailing property owner or aggrieved taxpayer in a property tax challenge may recover reasonable attorney fees from taxing authorities involved in the appeal. Also, the Bill provides an exemption from Section 25B.3, Subsection 3, Code of Iowa, pertaining to State mandates.

**BACKGROUND**

Over the past three years, 540 assessment appeals have been filed in District Court statewide. In just one case, Polk County incurred legal fees of \$75,000, and the legal costs of the appealing property owner, a large real estate management company, were estimated to exceed that amount. The City of Cedar Rapids has experienced similar costly appeals. Discussions with various city and county assessors indicate that most appeals of property tax assessments that go to District Court are filed by large corporations and not small property owners.

**ASSUMPTIONS**

1. An average 180 property tax assessments are appealed to District Court per year.
2. The average private attorney hourly fee in property tax assessment appeals is \$150 per hour.
3. The average amount of attorney time billed per property tax assessment appeal is 80 hours.

**FISCAL IMPACT**

House File 169 will not directly impact the State General Fund. However, the estimated impact on local government is \$2.0 million per year in payment of additional attorneys' fees. In addition, the Legislation would likely cause local taxing authorities to settle more readily in the case of challenges to property tax assessments. If this occurs the value of taxable property in the State would be reduced, and this would result in an increase in State school aid payments. Each \$1.0 million reduction in taxable property value will cost the State an additional \$54,000 in school aid.

**SOURCES**

Department of Revenue and Finance, Polk County Assessor, Cedar Rapids Assessor, Iowa City Assessor, Iowa Association of Counties

(LSB 1292hh, MAL)