

SB106\_L.005

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

SB16-106 be amended as follows:

1 Amend proposed committee amendment (SB106\_L.004), page 1, strike  
2 lines 3 through 6 and substitute:

3 "SECTION 1. In Colorado Revised Statutes, 1-45-111.5, amend  
4 (2); and add (5) as follows:

5 1-45-111.5. Duties of the secretary of state - enforcement -  
6 sanctions - definition. (2) A party in any action brought to enforce the  
7 provisions of article XXVIII of the state constitution or of this article  
8 shall be IS entitled to the recovery of the party's reasonable attorney fees  
9 and costs from any attorney or party who has brought or defended the  
10 action, either in whole or in part, upon a determination by the office of  
11 administrative courts that the action, or any part thereof, lacked  
12 substantial justification or that the action, or any part thereof, was  
13 interposed for delay or harassment or if it finds that an attorney or party  
14 unnecessarily expanded the proceeding by other improper conduct,  
15 including, but not limited to, abuses of discovery procedures available  
16 under the Colorado rules of civil procedure. A PARTY AWARDED  
17 ATTORNEY FEES UNDER THIS SUBSECTION (2) MAY SEEK ENFORCEMENT OF  
18 THE AWARD IN A PRIVATE CAUSE OF ACTION BROUGHT UNDER SECTION 9  
19 (2) OF ARTICLE XXVIII OF THE STATE CONSTITUTION WITHOUT RESORT TO  
20 THE SECRETARY OF STATE. Notwithstanding any other provision of this  
21 subsection (2), no attorney fees may be awarded under this subsection (2)  
22 unless the court or administrative law judge, as applicable, has first  
23 considered the provisions of section 13-17-102 (5) and (6), C.R.S. For  
24 purposes of this subsection (2), "lacked substantial justification" means  
25 substantially frivolous, substantially groundless, or substantially  
26 vexatious.

27 (5) NOT LATER THAN DECEMBER, 1, 2016, THE SECRETARY OF".

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