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1 A bill to be entitled

2 An act relating to attorney fees in administrative
3 actions; amending s. 120.595, F.S.; revising the limit
4 on attorney fees awarded to a prevailing party in
5 certain challenges to proposed agency rules, existing
6 agency rules, and unadopted rules to include
7 consolidated cases and multiple parties; providing an
8 effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsections (2) and (3) and paragraph (b) of
13 subsection (4) of section 120.595, Florida Statutes, are amended
14 to read:

15 120.595 Attorney's fees.—

16 (2) CHALLENGES TO PROPOSED AGENCY RULES PURSUANT TO SECTION
17 120.56(2).—If the appellate court or administrative law judge
18 declares a proposed rule or portion of a proposed rule invalid
19 pursuant to s. 120.56(2), a judgment or order shall be rendered
20 against the agency for reasonable costs and reasonable attorney
21 ~~attorney's~~ fees, unless the agency demonstrates that its actions
22 were substantially justified or special circumstances exist
23 which would make the award unjust. An agency's actions are
24 "substantially justified" if there was a reasonable basis in law
25 and fact at the time the actions were taken by the agency. If
26 the agency prevails in the proceedings, the appellate court or
27 administrative law judge shall award reasonable costs and
28 reasonable attorney ~~attorney's~~ fees against a party if the
29 appellate court or administrative law judge determines that a

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30 party participated in the proceedings for an improper purpose as
31 defined by paragraph (1) (e). An ~~no~~ award of attorney ~~attorney's~~
32 fees as provided by this subsection ~~may not shall~~ exceed \$50,000
33 against any party or against the agency, even if multiple
34 proceedings are consolidated ~~and-or~~ multiple parties are
35 entitled to fees against the same nonprevailing party or agency.

36 (3) CHALLENGES TO EXISTING AGENCY RULES PURSUANT TO SECTION
37 120.56(3) AND (5).—If the appellate court or administrative law
38 judge declares a rule or portion of a rule invalid pursuant to
39 s. 120.56(3) or (5), a judgment or order shall be rendered
40 against the agency for reasonable costs and reasonable attorney
41 attorney's fees, unless the agency demonstrates that its actions
42 were substantially justified or special circumstances exist
43 which would make the award unjust. An agency's actions are
44 "substantially justified" if there was a reasonable basis in law
45 and fact at the time the actions were taken by the agency. If
46 the agency prevails in the proceedings, the appellate court or
47 administrative law judge shall award reasonable costs and
48 reasonable attorney attorney's fees against a party if the
49 appellate court or administrative law judge determines that a
50 party participated in the proceedings for an improper purpose as
51 defined by paragraph (1) (e). An ~~no~~ award of attorney ~~attorney's~~
52 fees as provided by this subsection ~~may not shall~~ exceed \$50,000
53 against any party or against the agency, even if multiple
54 proceedings are consolidated ~~and-or~~ multiple parties are
55 entitled to fees against the same nonprevailing party or agency.

56 (4) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION
57 120.56(4).—

58 (b) Upon notification to the administrative law judge

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59 provided before the final hearing that the agency has published
60 a notice of rulemaking under s. 120.54(3)(a), such notice shall
61 automatically operate as a stay of proceedings pending
62 rulemaking. The administrative law judge may vacate the stay for
63 good cause shown. A stay of proceedings under this paragraph
64 remains in effect so long as the agency is proceeding
65 expeditiously and in good faith to adopt the statement as a
66 rule. The administrative law judge shall award reasonable costs
67 and reasonable attorney ~~attorney's~~ fees accrued by the
68 petitioner before ~~prior to~~ the date the notice was published,
69 unless the agency proves to the administrative law judge that it
70 did not know and should not have known that the statement was an
71 unadopted rule. Attorney ~~attorneys'~~ fees and costs under this
72 paragraph and paragraph (a) shall be awarded only upon a finding
73 that the agency received notice that the statement may
74 constitute an unadopted rule at least 30 days before a petition
75 under s. 120.56(4) was filed and that the agency failed to
76 publish the required notice of rulemaking pursuant to s.
77 120.54(3) that addresses the statement within that 30-day
78 period. Notice to the agency may be satisfied by its receipt of
79 a copy of the s. 120.56(4) petition, a notice or other paper
80 containing substantially the same information, or a petition
81 filed pursuant to s. 120.54(7). An award of attorney ~~attorney's~~
82 fees as provided by this paragraph may not exceed \$50,000
83 against any party or against the agency, even if multiple
84 proceedings are consolidated and or multiple parties are
85 entitled to fees against the same nonprevailing party or agency.

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