

6949--C

Cal. No. 1571

I N S E N A T E

March 9, 2016

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public officers law, in relation to freedom of information requests and attorneys' fees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (c) of subdivision 4 of section 89 of the public
2 officers law, as amended by chapter 492 of the laws of 2006, is amended
3 to read as follows:

4 (c) [The court in such a proceeding may assess, against such agency
5 involved, reasonable attorney's fees and other litigation costs reason-
6 ably incurred by such person in any case under the provisions of this
7 section in which such person has substantially prevailed, when:

8 i. the agency had no reasonable basis for denying access; or
9 ii. the agency failed to respond to a request or appeal within the
10 statutory time.]

11 THE COURT IN SUCH PROCEEDING SHALL ASSESS, AGAINST SUCH AGENCY
12 INVOLVED, REASONABLE ATTORNEYS' FEES AND OTHER LITIGATION COSTS REASON-
13 ABLY INCURRED BY SUCH PERSON, IN ANY CASE UNDER THE PROVISIONS OF THIS
14 SECTION IN WHICH SUCH PERSON HAS SUBSTANTIALLY PREVAILED UNLESS THE
15 COURT FINDS THAT THE POSITION OF SUCH AGENCY WAS SUBSTANTIALLY JUSTIFIED
16 OR THAT SPECIAL CIRCUMSTANCES MAKE SUCH ASSESSMENT UNJUST; OR THE AGENCY
17 FAILED TO RESPOND TO A REQUEST OR APPEAL WITHIN THE STATUTORY TIME,
18 UNLESS THE COURT FINDS THAT THE AGENCY PROVIDED SUBSTANTIVE EVIDENCE OF
19 INABILITY TO COMPLY.

20 S 2. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD13918-14-6