

STATE OF NEW YORK

5357--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

Introduced by M. of A. STECK -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to the award of reasonable attorneys' fees in certain proceedings

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 453 of the laws of 2017, is amended
3 to read as follows:

4 (c) The court in such a proceeding[+
5 ~~(i) may~~ shall assess, against such agency involved, reasonable attor-
6 ney's fees and other litigation costs reasonably incurred by such person
7 in any case under the provisions of this section in which such person
8 has [substantially] prevailed[, and when the agency failed to respond to
9 a request or appeal within the statutory time, and (ii) shall assess,
10 against such agency involved, reasonable attorney's fees and other liti-
11 gation costs reasonably incurred by such person in any case under the
12 provisions of this section in which such person has substantially
13 prevailed and the court finds that the agency had no reasonable basis
14 for denying access].

15 § 2. Subdivision 2 of section 107 of the public officers law, as
16 amended by chapter 397 of the laws of 2008, is amended to read as
17 follows:

18 2. In any proceeding brought pursuant to this section, costs and
19 reasonable attorney fees [may] shall be awarded by the court, [~~in its
20 discretion,~~] to the successful [party] petitioner and against the public
21 body. [~~If a court determines that a vote was taken in material violation
22 of this article, or that substantial deliberations relating thereto
23 occurred in private prior to such vote, the court shall award costs and
24 reasonable attorney's fees to the successful petitioner, unless there
25 was a reasonable basis for a public body to believe that a closed
26 session could properly have been held.~~]

27 § 3. This act shall take effect immediately.

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

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