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Bill Analysis

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SUMMARY

- Requires, instead of permits under current law, the award of attorney's fees to an aggrieved person if a court of appeals determines in an appeal by a public office from a Court of Claims order that the public office denied the person access to public records in violation of the Public Records Law.
- Eliminates current law's requirement that the appeal was filed with the intent to either delay compliance with the Court of Claims' order from which the appeal is taken for no reasonable cause or unduly harass the aggrieved person, and related provisions.

DETAILED ANALYSIS

Claims alleging denial of access to public records

Background

Under the Public Records Law, if a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with that Law, the allegedly aggrieved person may do only one of the following, and not both:¹

- File a complaint with the clerk of the Court of Claims or the clerk of the court of common pleas under the Court of Claims Law;
- Commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with the Public Records Law.

¹ R.C. 149.43(C)(1), not in the bill.

Court of Claims procedure

In the Court of Claims procedure, an appeal from a final order of the Court of Claims or from an order of the Court of Claims dismissing the complaint must be taken to the court of appeals of the appellate district where the principal place of business of the public office from which the public record is requested is located.²

Current law

Under current law, if a court of appeals in any appeal taken by the public office or person responsible for the public records determines that the public office or person denied the aggrieved person access to the public records in violation of the Public Records Law and obviously filed the appeal with the intent to either delay compliance with the Court of Claims' order from which the appeal is taken for no reasonable cause or unduly harass the aggrieved person, the court of appeals may award reasonable attorney's fees to the aggrieved person in accordance with the Public Records Law. No discovery may be conducted on the issue of the public office or person responsible for the public records filing the appeal with the alleged intent to either delay compliance with the Court of Claims' order for no reasonable cause or unduly harass the aggrieved person. This provision is not to be construed as creating a presumption that the public office or the person responsible for the public records filed the appeal with the intent to either delay compliance with the Court of Claims' order for no reasonable cause or unduly harass the aggrieved person.³

The bill

The bill modifies current law by providing that if a court of appeals in any appeal taken by the public office or person responsible for the public records determines that the public office or person denied the aggrieved person access to the public records in violation of the Public Records Law, the court of appeals must award reasonable attorney's fees to the aggrieved person.⁴ The bill eliminates the provisions in current law above pertaining to the appeal being filed with the intent to either delay compliance with the Court of Claims' order from which the appeal is taken for no reasonable cause or unduly harass the aggrieved person, and that the award of attorney's fees be in accordance with the Public Records Law. It also removes the last two sentences above in "**Current law**" related to the intent to either delay compliance with the Court of Claims' order for no reasonable cause or unduly harass the aggrieved person.⁵

² R.C. 2743.75(G)(1).

³ R.C. 2743.75(G)(2).

⁴ R.C. 2743.75(G)(2).

⁵ R.C. 2743.75(G)(2).

HISTORY

Action	Date
Introduced	05-12-22
