Unofficial Draft Copy
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**** Bill No. ****

Introduced By **********

By Request of the *********

A Bill for an Act entitled: "An Act clarifying that the district court has discretion to award reasonable costs and attorney fees incurred as a result of an appeal of a final decision on a permit or change in appropriation right; prohibiting the award of costs or attorney fees incurred as a result of administrative proceedings; providing that costs or attorney fees may not be asserted or awarded against the department of natural resources and conservation; amending section 85-2-125, MCA; providing an immediate effective date; and providing an applicability date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-125, MCA, is amended to read:

"**85-2-125. Recovery of costs and attorney fees by prevailing party.** (1) If a final decision of the department on an application for a permit or change in appropriation right is appealed to district court, the district court ~~shall~~ may award the prevailing party reasonable costs and attorney fees. The district court may not award costs or attorney fees incurred as a result of the administrative proceedings. Costs or attorney fees may not be asserted or awarded against the department under this subsection.

(2) The party obtaining injunctive relief in an action to

enforce a water right must be awarded reasonable costs and attorney fees. For the purposes of this section, "enforce a water right" means an action by a party with a water right to enjoin the use of water by a person that does not have a water right."

{*Internal References to 85-2-125: None.*}

NEW SECTION. **Section 2. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. {standard} Applicability.** [This act] applies to **applications for a permit or a change in appropriation right pending for which a judgement has not been entered prior to the [effective date of this act]** and applications for a permit or a change in appropriation right filed on or after the [effective date of this Act].

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