

**Unofficial Draft Copy**

As of: July 28, 2010 (12:56pm)

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\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

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

A Bill for an Act entitled: "An Act providing the district court discretion to award reasonable costs and attorney fees incurred as a result of an appeal of a final decision on a permit application or change in appropriation right; amending section 85-2-125, MCA; providing an immediate effective date and 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.

(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 district court 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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