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## Judiciary Committee

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### HB 1142

**Title:** An act relating to statutory costs.

**Brief Description:** Changing provisions regarding statutory costs.

**Sponsors:** Representatives Williams, Warnick, O'Brien, Rodne, Campbell, Lantz and Goodman.

Brief Summary of Bill
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| <ul style="list-style-type: none"><li>• Expressly allows a plaintiff to recover certain costs of bringing a lawsuit.</li><li>• Applies if, after the lawsuit is filed, the defendant offers and the plaintiff accepts full or partial payment, and the plaintiff gave the defendant prior written notice that the defendant may still be liable for those costs in addition to the payment accepted.</li></ul> |
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**Hearing Date:** 1/23/07

**Staff:** Bill Perry (786-7123).

**Background:**

Generally in civil actions, attorneys' fees are not recoverable by the prevailing party unless permitted by contract, statute, or some recognized ground in equity. However, there are statutes that allow a prevailing party to recover his or her expenses in the action, which are called "costs."

Costs include filing fees, service of process fees, reasonable expenses incurred in obtaining records, witness fees, and statutory attorneys' fees. The statutory attorneys' fee is generally \$200. However, in district court cases, the prevailing party is not entitled to the statutory attorneys' fee if the judgment is for less than \$50. If the judgment is at least \$50 but less than \$200, the statutory attorneys' fee is \$125.

Some of the statutes relating to costs are designed to encourage early settlement between the parties. A defendant is entitled to costs if, before the action is commenced, the defendant offered to pay the full amount owed to the plaintiff, and the plaintiff refused the offer. A defendant is also entitled to costs if, after an action is commenced, the defendant deposits with the court the

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amount the defendant believes is owed plus costs, and the plaintiff refuses to accept it and subsequently recovers a lesser amount than offered.

**Summary of Bill:**

A plaintiff is the prevailing party and therefore entitled to costs if, after an action is commenced, the defendant offers and the plaintiff accepts full or partial payment when the plaintiff had given the defendant prior written notice that the defendant could still be liable for costs regardless of full or partial payment. Upon application by the plaintiff, the court is to enter a judgment for those costs, except those costs that are paid before entry of judgment.

The same provision applies to cases in district court. However, the plaintiff is not entitled to the statutory attorneys' fees portion of costs unless the amount asked for in the complaint, exclusive of costs, is \$50 or more. In a case where the amount asked for is at least \$50 but less than \$200, the statutory attorneys' fees is \$125.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.