

# HB0331



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0331

Introduced 1/27/2009, by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/11-303

from Ch. 110, par. 11-303

Amends the Code of Civil Procedure. Provides that in an action brought by a citizen taxpayer of the State to restrain and enjoin the disbursement of public funds by any officer of the State, the court may, in its discretion, award the prevailing party reasonable attorney's fees. Provides that these changes apply to all actions filed on or after the effective date. Effective immediately.

LRB096 03742 AJO 13771 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 11-303 as follows:

6 (735 ILCS 5/11-303) (from Ch. 110, par. 11-303)

7 Sec. 11-303. Action by private citizen. Such action, when  
8 prosecuted by a citizen and taxpayer of the State, shall be  
9 commenced by petition for leave to file an action to restrain  
10 and enjoin the defendant or defendants from disbursing the  
11 public funds of the State. Such petition shall have attached  
12 thereto a copy of the complaint, leave to file which is  
13 petitioned for. Upon the filing of such petition, it shall be  
14 presented to the court, and the court shall enter an order  
15 stating the date of the presentation of the petition and fixing  
16 a day, which shall not be less than 5 nor more than 10 days  
17 thereafter, when such petition for leave to file the action  
18 will be heard. The court shall also order the petitioner to  
19 give notice in writing to each defendant named therein and to  
20 the Attorney General, specifying in such notice the fact of the  
21 presentation of such petition and the date and time when the  
22 same will be heard. Such notice shall be served upon the  
23 defendants and upon the Attorney General, as the case may be,

1 at least 5 days before the hearing of such petition.

2 Upon such hearing, if the court is satisfied that there is  
3 reasonable ground for the filing of such action, the court may  
4 grant the petition and order the complaint to be filed and  
5 process to issue. The court may, in its discretion, grant leave  
6 to file the complaint as to certain items, parts or portions of  
7 any appropriation Act sought to be enjoined and mentioned in  
8 such complaint, and may deny leave as to the rest.

9 The court may, in its discretion, award the prevailing  
10 party in any such action reasonable attorney's fees. The  
11 changes to this Section made by this amendatory Act of the 96th  
12 General Assembly apply to all actions filed on or after the  
13 effective date of this amendatory Act of the 96th General  
14 Assembly.

15 (Source: P.A. 82-280.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.