

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 559**

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**Introduced by Assembly Member Swanson**

February 16, 2011

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An act to amend Section 1033 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 559, as amended, Swanson. Civil actions: costs.

Existing law provides that a prevailing party is entitled as a matter of right to recover costs in any action or proceeding, and specifies those items allowable as costs. Existing law provides that costs, or any portion of claimed costs, shall be as determined by the court, in its discretion, in a case other than a limited civil case, if the prevailing party recovers a judgment that could have been rendered in a limited civil case.

This bill would exempt from that latter provision an action brought under a specified provision of the *California* Fair Employment and Housing Act alleging an unlawful practice.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1033 of the Code of Civil Procedure is
- 2 amended to read:
- 3 1033. (a) Costs or any portion of claimed costs shall be as
- 4 determined by the court in its discretion in a case other than a
- 5 limited civil case in accordance with Section 1034 if the prevailing

1 party recovers a judgment that could have been rendered in a  
2 limited civil case. This subdivision shall not apply to any action  
3 brought under ~~Section 12965~~ Part 2.8 (*commencing with Section*  
4 *12900*) of Division 3 of Title 2 of the Government Code.

5 (b) If a prevailing plaintiff in a limited civil case recovers less  
6 than the amount prescribed by law as the maximum limitation  
7 upon the jurisdiction of the small claims court, the following shall  
8 apply:

9 (1) If the party could have brought the action in the small claims  
10 division but did not do so, the court may, in its discretion, allow  
11 or deny costs to the prevailing party, or may allow costs in part in  
12 any amount as it deems proper.

13 (2) If the party could not have brought the action in the small  
14 claims court, costs and necessary disbursements shall be limited  
15 to the actual cost of the filing fee, the actual cost of service of  
16 process, and, if otherwise specifically allowed by law, reasonable  
17 attorney's fees. However, those costs shall be awarded to the  
18 plaintiff only if the court is satisfied that prior to the  
19 commencement of the action, the plaintiff informed the defendant  
20 in writing of the intended legal action against the defendant and  
21 that legal action could result in a judgment against the defendant  
22 that would include the costs and necessary disbursements allowed  
23 by this paragraph.