



1 with his or her participation in the administrative proceeding,  
2 including any judicial review of agency actions, may be assessed  
3 against either party as the court, resulting from judicial review  
4 or the Surface Mine Board, resulting from administrative  
5 proceedings, considers proper.

6 (b) On a finding that a claim was brought in bad faith or for  
7 the purposes of harassment, the Surface Mine Board or the court,  
8 whichever is appropriate, may award to the defendant or respondent,  
9 however designated, a sum equal to the aggregate amount of all  
10 costs and expenses, including attorney fees, as determined to have  
11 been reasonably incurred.

12 (c) The secretary shall propose rules for legislative approval  
13 in accordance with the provisions of article three, chapter twenty-  
14 nine-a of this code that are necessary to implement the provisions  
15 of this section.

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(NOTE: The purpose of this bill is to authorize the Surface Mine Board or the reviewing circuit court to award attorney fees and costs in administrative proceedings arising under the West Virginia Surface Coal Mining and Reclamation Act.

This section is new; therefore, strike-throughs and underscoring have been omitted.)