

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6645**

**BILL NUMBER:** HB 1102

**NOTE PREPARED:** Feb 11, 2015

**BILL AMENDED:** Feb 10, 2015

**SUBJECT:** Patent Protection.

**FIRST AUTHOR:** Rep. Koch

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill prohibits a person from asserting a claim of patent infringement in bad faith. It provides that a court may, upon motion, require a person to post a bond if the target establishes a reasonable likelihood that the person has made an assertion of patent infringement in bad faith. It also provides that a claim of patent infringement is not made in bad faith if certain conditions apply to the person making the claim. The bill establishes remedies, damages, and civil penalties.

**Effective Date:** July 1, 2015.

**Explanation of State Expenditures:** *Office of Attorney General (AG):* This bill may result in additional actions brought by the AG. The bill's requirements should be able to be implemented by the AG with no additional appropriations.

**Explanation of State Revenues:** (Revised) The bill authorizes the Attorney General to bring civil actions in Indiana state courts with jurisdiction for bad faith assertions of patent infringement. The bill provides that a claim of patent infringement is not made in bad faith if the person making the claim follows certain conditions established by the provision. The bill allows the AG to impose a civil penalty of not more than \$10,000 per violation, which is deposited in the state General Fund. Actual increases in court fee revenue due to those cases is indeterminable. The Attorney General is not required to pay a civil filing fee. However, if the Attorney General prevails in a lawsuit, the defendant in the case is required to pay all court fees.

*Court Fee Revenue:* Revenue to the state General Fund may increase as a result of any additional civil actions and accompanying court fees. When a civil case is filed, a civil costs fee of \$100 would be assessed, 70% (55%) of which would be deposited in the state General Fund if the case is filed in a court of record (if

the case is filed in a city or town court).

Additionally, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5) and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use in assistance with pro bono legal services programs in Indiana. Proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund. Additional fees may be collected at the discretion of the judge.

A court may award attorney's fees, litigation expenses, and costs to an individual who prevails in a civil action. These are taken from a bond posted by a person who has made a bad faith assertion and paid to the prevailing individual. Thereby, there is no additional revenue impact to the General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Court Fee Revenue:* If any additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge. Persons filing a civil case are also required to pay document storage fees (\$2), document fees (\$1 per document), and service fees (\$10) that are deposited in local funds.

**State Agencies Affected:** Attorney General.

**Local Agencies Affected:** Trial courts, city and town courts.

**Information Sources:**

**Fiscal Analyst:** Anita Yadavalli, 317-234-9438.