



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 27, 2001

H.R. 1886

A bill to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings

As ordered reported by the House Committee on the Judiciary on June 20, 2001

H.R. 1886 would allow third parties—meaning persons other than the patent owner—to appeal patent reexamination decisions to the U.S. Court of Appeals for the Federal Circuit. CBO estimates that implementing the bill would cost the Patent and Trademark Office (PTO) about \$3 million a year, assuming the appropriation of the necessary amounts. Enacting H.R. 1886 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 1886 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Under current law, third parties can file a request with PTO to reexamine a patent's validity and can appeal the agency's ruling to a special board. Unlike the patent owner, however, a third party is not allowed to appeal the special board's ruling to the U.S. Court of Appeals for the Federal Circuit. Because H.R. 1886 would give third parties this extra level of appeal, implementing the bill would require PTO to hire additional attorneys to represent the agency in appeals proceedings. Based on information from PTO, CBO also expects that enacting H.R. 1886 would cause the total number of patent reexamination filings to increase. As a result, PTO would need to hire additional patent examiners to review the new requests. CBO estimates that the added staff would cost the agency about \$3 million a year, subject to the availability of appropriated funds.

The CBO staff contacts for this estimate are Ken Johnson (for federal costs), Scott Masters (for the state and local impact), and Paige Piper/Bach (for the private-sector impact). The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.