

FIRST REGULAR SESSION

SENATE BILL NO. 203

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Pre-filed December 18, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0727S.011

AN ACT

To repeal section 536.077, RSMo, and to enact in lieu thereof one new section relating to administrative subpoenas.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 536.077, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 536.077, to read as follows:

536.077. In any contested case before an agency created by the constitution or state statute, such agency shall upon request of any party issue subpoenas and shall in a proper case issue subpoenas duces tecum. Subpoenas other than subpoenas duces tecum shall on request of any party be issued with the caption and number of the case, the name of the witness, and the date for appearance in blank, but such caption, number, name and date shall be filled in by such party before service. Subpoenas shall extend to all parts of the state, and shall be served and returned as in civil actions in the circuit court. The witness shall be entitled to the same fees and, if compelled to travel more than forty miles from his place of residence, shall be entitled to the same tender of fees for travel and attendance, and at the same time, as is now or may hereafter be provided for witnesses in civil actions in the circuit court, such fees to be paid by the party or agency subpoenaing him, except where the payment of such fees is otherwise provided for by law. The [agency] **party at whose request the subpoena is issued** shall enforce subpoenas by applying to a judge of the circuit court of the county of the hearing or of any county where the witness resides or may be found, for an order upon any witness who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which said order and a copy of the application therefor shall be served upon the witness in the same manner as

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

a summons in a civil action, and if the said circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, said court shall proceed to enforce said subpoena in the same manner as though said subpoena had been issued in a civil case in the circuit court. **The court shall permit the agency and any party to intervene in the enforcement action.** Any such agency may delegate to any member, officer, or employee thereof the power to issue subpoenas in contested cases; provided that, except where otherwise authorized by law, subpoenas duces tecum shall be issued only by order of the agency or a member thereof.

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