

FIRST REGULAR SESSION

SENATE BILL NO. 290

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

0424S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 536.085, RSMo, and to enact in lieu thereof one new section relating to awards of attorney's fees for certain proceedings.

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

Section A. Section 536.085, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 536.085,
3 to read as follows:

536.085. As used in section 536.087, the following
2 terms mean:

3 (1) "Agency proceeding", an adversary proceeding in a
4 contested case pursuant to this chapter in which the state
5 is represented by counsel, but does not include proceedings
6 for determining the eligibility or entitlement of an
7 individual to a monetary benefit or its equivalent, child
8 custody proceedings, eminent domain proceedings, driver's
9 license proceedings, vehicle registration proceedings,
10 proceedings to establish or fix a rate, or proceedings
11 before the state tax commission;

12 (2) "Party":

13 (a) An individual whose net worth did not exceed two
14 million dollars at the time the civil action or agency
15 proceeding was initiated; or

16 (b) Any owner of an unincorporated business or any
17 partnership, corporation, association, unit of local
18 government or organization, the net worth of which did not

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

19 exceed seven million dollars at the time the civil action or
20 agency proceeding was initiated, and which had not more than
21 five hundred employees at the time the civil action or
22 agency proceeding was initiated;

23 (3) "Prevails", obtains a favorable order, decision,
24 judgment, or dismissal in a civil action or agency
25 proceeding;

26 (4) "Reasonable fees and expenses" includes the
27 reasonable expenses of expert witnesses, the reasonable cost
28 of any study, analysis, engineering report, test, or project
29 which is found by the court or agency to be necessary for
30 the preparation of the party's case, and reasonable attorney
31 or agent fees. The amount of fees awarded as reasonable
32 fees and expenses shall be based upon prevailing market
33 rates for the kind and quality of the services furnished,
34 except that no expert witness shall be compensated at a rate
35 in excess of the highest rate of compensation for expert
36 witnesses paid by the state in the type of civil action or
37 agency proceeding[, and attorney fees shall not be awarded
38 in excess of seventy-five dollars per hour unless the court
39 determines that a special factor, such as the limited
40 availability of qualified attorneys for the proceedings
41 involved, justifies a higher fee];

42 (5) "State", the state of Missouri, its officers and
43 its agencies, but shall not include political subdivisions
44 of the state.

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