

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 141

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYER.

Pre-filed January 6, 2003, and copies ordered printed.

Read 1st time January 8, 2003.

Read 2nd time January 9, 2003, and referred to the Committee on Judiciary January 16, 2003.

Reported from the Committee on Judiciary March 20, 2003, with recommendation that the bill Do Pass by Consent.

Perfectured by Consent March 17, 2003.

STEPHEN S. DAVIS, Chief Clerk

0764L.01P

AN ACT

To repeal section 536.077, RSMo, and to enact in lieu thereof one new section relating to 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Section A. Section 536.077, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 536.077, to read as follows: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 **or the 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

14 witness resides or may be found, for an order upon any witness who shall fail to obey a subpoena
15 to show cause why such subpoena should not be enforced, which said order and a copy of the
16 application therefor shall be served upon the witness in the same manner as a summons in a civil
17 action, and if the said circuit court shall, after a hearing, determine that the subpoena should be
18 sustained and enforced, said court shall proceed to enforce said subpoena in the same manner
19 as though said subpoena had been issued in a civil case in the circuit court. **The court shall**
20 **permit the agency and any party to intervene in the enforcement action.** Any such agency
21 may delegate to any member, officer, or employee thereof the power to issue subpoenas in
22 contested cases; provided that, except where otherwise authorized by law, subpoenas duces
23 tecum shall be issued only by order of the agency or a member thereof.