

FIRST REGULAR SESSION

HOUSE BILL NO. 1369

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HURLBERT.

2923H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 226.096, RSMo, and to enact in lieu thereof one new section relating to Missouri department of transportation contracts.

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

Section A. Section 226.096, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 226.096, to read as follows:

226.096. 1. This section shall govern any controversy or claim to which the Missouri department of transportation is a party that arises out of or relates to a contract awarded pursuant to subdivision (9) of subsection 1 of section 226.130, and the claim exceeds twenty-five thousand dollars, but is less than three hundred twenty-seven thousand dollars as adjusted on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as calculated pursuant to subsection 5 of section 537.610. Provided a claim has been filed pursuant to the procedures set forth in the Missouri standard specifications for highway construction, or its successor, upon issuance of a final decision as provided in such standards or upon expiration of ninety days from the date the claim was filed, the controversy or claim shall upon written demand by any party to the contract be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules, except as provided herein. The highways and transportation commission shall promulgate rules pursuant to chapter 536, to become effective on or before July 1, 2004, establishing a method for appointment of arbitrators and allowing for the mediation of claims upon agreement of both parties. Judgment upon awards rendered under arbitration shall be entered in the circuit court of Cole County, Missouri.

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 2. Any contract specification, special provision, contract clause, or rule pertaining to
18 contracts governed by this section, which purports to waive, release or extinguish the rights of
19 a contractor to file a claim, or which purports to bind any court of competent jurisdiction or
20 alternate dispute resolution process to any determinations of fact rendered by the Missouri
21 department of transportation or its employees and agents so as to prevent any such court or
22 alternate dispute resolution process from fully considering the merits of any controversy or
23 claim governed by this section, is against public policy and shall be void and unenforceable.

24 3. **All general specification documents issued by the Missouri department of**
25 **transportation under this section shall be subject to the rulemaking requirements of**
26 **chapter 536 to ensure public notice, comment, and legislative oversight as provided by**
27 **law.**

28 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
29 created under the authority delegated in this section shall become effective only if it complies
30 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
31 This section and chapter 536 are nonseverable and if any of the powers vested with the
32 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
33 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
34 rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid
35 and void.

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