

SECOND REGULAR SESSION

HOUSE BILL NO. 2865

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PARKER.

6518H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 536.085, RSMo, and to enact in lieu thereof one new section relating to fees and expenses in civil actions or agency 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Section A. Section 536.085, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 536.085, to read as follows:

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

- 2 (1) "Agency proceeding", an adversary proceeding in a contested case pursuant to this
3 chapter in which the state is represented by counsel, but does not include proceedings for
4 determining the eligibility or entitlement of an individual to a monetary benefit or its
5 equivalent, child custody proceedings, eminent domain proceedings, driver's license
6 proceedings, vehicle registration proceedings, proceedings to establish or fix a rate, or
7 proceedings before the state tax commission;
- 8 (2) "Party":
 - 9 (a) An individual whose net worth did not exceed two million dollars at the time the
10 civil action or agency proceeding was initiated; or
 - 11 (b) Any owner of an unincorporated business or any partnership, corporation,
12 association, unit of local government or organization, the net worth of which did not exceed
13 seven million dollars at the time the civil action or agency proceeding was initiated, and
14 which had not more than five hundred employees at the time the civil action or agency
15 proceeding was initiated;
- 16 (3) "Prevails", obtains a favorable order, decision, judgment, or dismissal in a civil
17 action or agency proceeding;

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.

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

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

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