

CHAPTER 439—H.F.No. 3497

An act relating to state government; regulating the recovery of costs and attorney fees from the state of Minnesota; establishing specific procedures for application of fees; amending Minnesota Statutes 1998, sections 15.471, subdivisions 4, 5, and 6; and 15.472.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 15.471, subdivision 4, is amended to read:

Subd. 4. **EXPENSES.** "Expenses" means the costs incurred by the party in the litigation, including:

- (1) filing fees;
- (2) subpoena fees and mileage;
- (3) transcript costs and court reporter fees;
- (4) expert witness fees;
- (5) the reasonable cost of any study, analysis, engineering report, test, or project;
- (6) photocopying and printing costs;
- ~~(6)~~ (7) postage and delivery costs; and
- ~~(7)~~ (8) service of process fees.

Sec. 2. Minnesota Statutes 1998, section 15.471, subdivision 5, is amended to read:

Subd. 5. **FEES.** "Fees" means the reasonable attorney fees or reasonable fees charged by a person not an attorney who is authorized by law or rule to represent the party and may include reasonable charges by the party, the party's employee, or agent. The amount of fees must be based upon prevailing market rates for the kind and quality of the services furnished, subject to the following limitations:

(a) In a court action, an expert witness may not be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States state.

(b) In a contested case proceeding, an expert witness may not be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the state agency involved.

(c) Attorney or agent fees may not be awarded in excess of \$100 ~~\$125~~ per hour unless the court or administrative law judge determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee.

Sec. 3. Minnesota Statutes 1998, section 15.471, subdivision 6, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. **PARTY.** (a) Except as modified by paragraph (b), "party" means a person named or admitted as a party, or seeking and entitled to be admitted as a party, in a court action or contested case proceeding, or a person admitted by an administrative law judge for limited purposes, and who is:

(1) an unincorporated business, partnership, corporation, association, or organization, having not more than ~~50~~ 500 employees at the time the civil action was filed or the contested case proceeding was initiated; and

(2) an unincorporated business, partnership, corporation, association, or organization whose annual revenues did not exceed ~~\$4,000,000~~ \$7,000,000 at the time the civil action was filed or the contested case proceeding was initiated.

(b) "Party" also includes a partner, officer, shareholder, member, or owner of an entity described in paragraph (a), clauses (1) and (2).

(c) "Party" does not include a person providing services pursuant to licensure or reimbursement on a cost basis by the department of health or the department of human services, when that person is named or admitted or seeking to be admitted as a party in a matter which involves the licensing or reimbursement rates, procedures, or methodology applicable to those services.

Sec. 4. Minnesota Statutes 1998, section 15.472, is amended to read:

15.472 FEES AND EXPENSES; CIVIL ACTION OR CONTESTED CASE PROCEEDING INVOLVING STATE.

(a) If a prevailing party other than the state, in a civil action or contested case proceeding other than a tort action, brought by or against the state, shows that the position of the state was not substantially justified, the court or administrative law judge shall award fees and other expenses to the party unless special circumstances make an award unjust.

(b) A party seeking an award of fees and other expenses shall, within 30 days of final judgment in the action, submit to the court or administrative law judge an application of fees and other expenses which shows that the party unless special circumstances make an award unjust, is a prevailing party and is eligible to receive an award, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the state was not substantially justified.

~~(b)~~ (c) The court or administrative law judge may reduce the amount to be awarded under this section, or deny an award, to the extent that the prevailing party during the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of an administrative law judge under this section must be made a part of the record containing the final decision of the agency and must include written findings and conclusions.

~~(e)~~ (d) This section does not preclude a party from recovering costs, disbursements, fees, and expenses under other applicable law.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 5. **EFFECTIVE DATE; APPLICATION.**

This act is effective August 1, 2000, and applies to any civil action or contested case proceeding which is commenced on or after that date.

Presented to the governor April 20, 2000

Signed by the governor April 24, 2000, 1:47 p.m.

CHAPTER 440—S.F.No. 3581

An act relating to liquor; providing exceptions to the prohibition on intoxicating liquors at the state fairgrounds; modifying the definition of club; authorizing the city of Minneapolis to issue an on-sale wine and malt liquor license for the Illusion Theatre and the Hollywood Theatre; exempting winemaking-on-premises stores from state licensing with certain restrictions; authorizing exclusive liquor stores to conduct wine tastings; exempting an on-sale intoxicating liquor license in Bemidji from statutory restrictions on proximity to a state university; authorizing the cities of Duluth, Springfield, Eveleth, and Cottage Grove to issue on-sale intoxicating liquor licenses; authorizing the city of Anoka to issue an on-sale wine license; authorizing an election on Sunday liquor sales in Sherman township; amending Minnesota Statutes 1998, sections 37.21; and 340A.101, subdivision 7; Minnesota Statutes 1999 Supplement, section 340A.404, subdivision 2; Laws 1999, chapter 202, section 15; proposing coding for new law in Minnesota Statutes, chapter 340A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 37.21, is amended to read:

37.21 SALE OF LIQUORS.

Subdivision 1. LIQUOR PROHIBITED. No person may sell, barter, give away, or otherwise dispose of or introduce, have, or keep for barter, gift, or sale, any intoxicating liquors of any kind upon or within one-half mile of the state fairgrounds, or aid and abet any of those acts. The presence and possession of any kind of these liquors, in any quantity, upon the person or upon the premises leased or occupied by any person within these limits is a public nuisance and is prima facie evidence of the purpose of the person to barter, give away, or sell the liquor. Any person who violates this section is guilty of a misdemeanor.

Subd. 2. EXCEPTIONS. Notwithstanding subdivision 1, the state agricultural society may authorize, under terms and conditions it chooses, the sale, possession, and consumption of intoxicating liquors at special events taking place on the fairgrounds at times other than during the annual fair including, but not limited to, family reunions, class reunions, weddings, conventions, and similar events. This section does not authorize the society to issue retail licenses for the sale of alcoholic beverages.

Sec. 2. Minnesota Statutes 1998, section 340A.101, subdivision 7, is amended to read:

New language is indicated by underline, deletions by strikeout.