

Protection Expanded

Change lets larger businesses collect

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A law that gives small businesses a way to protect themselves against unjustified government enforcement action has been expanded to cover more companies and increase the amount of cash they can recover.

The changes came in an amendment to the 1986 Minnesota Equal Access to Justice Act (MEAJA); Gov. Jesse Ventura signed the changes into law April 24.

"The Legislature reaffirmed the law and reaffirmed that states should be careful how they handle small businesses," said Joseph Maternowski, a Minneapolis attorney who testified in support of the change.

"It deals with an issue that's very

important to small businesses and can even bankrupt them," said Mike Hickey, director of the St. Paul-based state office of the National Federation of Independent Business.

Maternowski represented two men who in December 1998 were awarded nearly \$63,000, to be paid by the state, to cover their legal costs in an environmental case that a Douglas County judge found had no "reasonable basis in law and fact." MEAJA allows certain businesses and individual company officials to seek such reimbursement in cases where "the position of the state was not substantially justified."

The old version of the law limited businesses to no more than 50 employees and \$4 million in annual revenue, and the amount reimbursed for attorney's fees to

\$100 an hour. The new law, which takes effect Aug. 1, boosts those to up to 500 employees and \$7 million in revenue, and allows \$125 an hour for fees.

In addition, the amended law sets up a procedure for seeking redress, including itemized statements from attorneys and expert witnesses.

The procedural change is important because it will help change the perception among some judges that MEAJA relief is only justified in extraordinary circumstances, said Rep. John Tuma, R-Northfield, a sponsor of the change. "Previously it seemed like you had to show that [state officials] were almost malicious," Tuma said.

The amendment drew bipartisan support; Sen. Ember Reichgott Junge, DFL-New Hope, sponsored it in the Senate.