**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE AWARD OF ATTORNEY FEES IN CIVIL LAWSUITS; PROVIDING REQUIREMENTS FOR REASONABLE ATTORNEY FEE AWARD REQUESTS; AMENDING SECTION 25-10-711, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Requirements for attorney fee award request -- awards against state.** (1) An award of attorney fees must be reasonable. A reasonable claim for attorney fees must include the following:

(a) the date a task is performed and the name of the timekeeper;

(b) a specific description of the task, including but not limited to the nature, purpose, or subject of the work performed. Generic descriptors for a task and the work claimed is unreasonable. The description of the task performed must be sufficient for a reasonable person to understand what work is being claimed.

(c) time that is billed in increments of tenths of an hour, including:

(i) a statement indicating whether the attorney has or has had a client who pays the hourly rate requested by the attorney; and

(ii) a detailed list of time spent on each task. Block billing or aggregating of tasks may not be claimed.

(d) a specific description of the work performed;

(e) an itemized list of expenses, including receipts from vendors;

(f) in-house copying expenses that may not exceed 10 cents a page; and

(g) an indication of whether a portion of the attorney fee has been paid and whether the client is responsible for paying a portion of the bill if the attorney does not collect the award.

(2) There is a rebuttable presumption that the following are unreasonable requests for attorney

fees:

(a) sending more than one attorney to a deposition;

(b) sending more than two attorneys to an oral argument or trial;

(c) charging for telephone calls, faxes, library facilities, or electronic research subscriptions; and

(d) charging an hourly rate greater than the statewide average if the attorney has not been practicing for more than 10 years.

(3) In addition to the requirements imposed by subsections (1) and (2), when considering an award of attorney fees against the state, the court shall take into consideration the hourly rate charged by the attorney representing the state. If the court elects to grant a rate higher than the rate charged by the attorney representing the state, the court shall provide an explanation as to why the rate charged by the state does not adequately compensate the attorney for which attorney fees are requested.

(4) In determining the reasonableness of an award of attorney fees, a court may consider factors other than those contained in this section.

Section 2. Section 25-10-711, MCA, is amended to read:

"**25-10-711. Award of costs against governmental entity when suit or defense is frivolous or pursued in bad faith.** (1) In any civil action brought by or against the state, a political subdivision, or an agency of the state or a political subdivision, the opposing party, whether plaintiff or defendant, is entitled to the costs enumerated in 25-10-201 and reasonable attorney fees as determined by the court if:

(a) the opposing party prevails against the state, political subdivision, or agency; and

(b) the court finds that the claim or defense of the state, political subdivision, or agency that brought or defended the action was frivolous or pursued in bad faith.

(2) Costs may be granted pursuant to subsection (1) notwithstanding any other provision of the law to the contrary. The award of costs must be reasonable and considered under [section 1]."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 25, chapter 10, and the provisions of Title 25, chapter 10, apply to [section 1].

NEW SECTION. **Section 4. Applicability.** [This act] applies to awards of attorney fees in civil lawsuits that are filed on or after [the effective date of this act].

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