

HOUSE BILL REPORT

SSB 5295

As Reported By House Committee On:

Law & Justice

Title: An act relating to district court proceedings.

Brief Description: Revising district court procedures regarding small claims and appeals.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Goings, Kohl, Wojahn, Zarelli, Schow and Patterson).

Brief History:

Committee Activity:

Law & Justice: 3/28/97, 4/2/97 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 11 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney; Lantz; Radcliff; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 2 members: Representatives Carrell and Lambert.

Staff: Edie Adams (786-7180).

Background: Small claims court is a department of the district court. District courts have jurisdiction over civil claims if the amount at issue does not exceed \$25,000. The small claims department of the district court has jurisdiction over cases for the recovery of money where the amount claimed does not exceed \$2,500.

District court proceedings are conducted according to court rules for courts of limited jurisdiction. These rules do not apply to the small claims department, and therefore proceedings in the small claims department are governed by statute.

An action is commenced in the small claims department by filing a claim that contains specified information and a filing fee. An action originally filed in the district court may be transferred to the small claims department if the claim does not exceed

\$2,500. The court must set a date for the hearing and send notice of the claim to the defendant. Notice may be served either personally or by registered or certified mail. No other paper may be served with the notice of claim.

A party may not be represented by an attorney in the small claims department, except that if the case was originally filed in district court and the plaintiff was represented by an attorney at that time, the attorney may represent the plaintiff in the small claims department.

The hearing and disposition of the action are informal. The parties may offer evidence through witness testimony, and the judge may informally consult witnesses or otherwise investigate the controversy. A judgment of the small claims department that is less than \$100 may not be appealed. A party who requested the jurisdiction of the small claims department may not appeal a judgment when the amount originally claimed was less than \$1,000.

An appeal from a small claims judgement must be made within 20 days from the date the judgment is rendered. An appellant must file a bond, with one or more sureties, with the court in the amount of \$100 in order to appeal a judgment. If a stay of the proceedings is requested, a bond in an amount that is two times the amount in controversy or two times the judgement, must be filed with the court. The appellant must file with the superior court a transcript of the small claims proceedings within 10 days of filing the appeal. The appeal must be held in the same manner as in actions originally commenced in the superior court, except that no new pleadings are required unless directed by the court.

Summary of Bill: A number of provisions relating to the procedures of the small claims department and appeals of judgments are amended.

A trial in the small claims department does not have to be held on the first appearance of the parties if dispute resolution services are offered or if local practice rules provide that trials will be held on different days.

The notice of claim must be promptly served on the defendant at least 10 days prior to the first hearing. When the court serves the notice of the claim, the court may not send any other legal document or process with the notice, but may send information regarding the small claims department procedures or dispute resolution services.

A clarification is made that a corporation may be represented by an attorney or other legal professional if the action was originally filed in district court and the corporation was represented by an attorney at that time.

At the hearing on the claim, the court may allow witness testimony to be presented in the form of a sworn affidavit if the testimony is otherwise admissible.

The judgment amount below which an appeal may not be taken is increased from \$100 to \$250. The restriction on an appeal by a party who requested the exercise of jurisdiction by the small claims department is changed to only prohibit that person from appealing if the amount he or she claimed is less than \$1,000.

A new provision is added that specifies that actions commenced in the small claims department or transferred to the small claims department from a district court may not be removed by a defendant to the superior court under current procedures which authorize removal to superior court of certain district court actions. A defendant may not remove a small claims case from the small claims department as a matter of right merely by filing a claim, counterclaim, or request for relief that is beyond the jurisdiction of the small claims department. These claims may be brought and maintained simultaneously in superior court as a separate action without affecting the jurisdiction of the small claims department over the original claim.

The provisions concerning the appeal of a district court judgment to superior court are amended to specifically apply only to small claims department judgements. An appeal is not available unless the amount in controversy exceeds \$250. The time period for filing and serving the notice of appeal is increased from 20 to 30 days after the judgment that is being appealed is rendered. In all appeals, the appellant must file a bond with the district court in an amount that is equal to the greater of two times the amount of the judgment and costs or two times the amount in controversy.

After an appeal is filed, the period within which the appellant must file a designation of the record to be transmitted to the superior court is increased from 10 to 14 days. Any other party may supplement the record designation within 14 days. The parties must pay the clerk of the district court for that portion of the record they designate within 10 days of the notice from the clerk that the record is complete.

The appeal of a small claims judgment is a trial de novo in superior court conducted as nearly as possible in the manner of the small claims trial, without a jury, and without counsel, unless ordered by the court.

Numerous grammatical and structural changes are made to clarify outdated language.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill is intended to bring the statute governing small claims court procedures into line with current practices, to make procedures consistent across the court levels, and to remove inconsistencies between statute and case law. Small

claims court is a very informal process designed to keep down costs and free up time for more substantial matters in superior court. An appeal of a small claims court judgement in superior court should be as easy and informal as the small claims court action.

Testimony Against: None.

Testified: Gene Willett, District and Municipal Court Judges Association (pro); and Don Webb, Postal Workers Union (pro).