

***Judiciary Committee***

***SB 5491***

***Title:*** *An act relating to small claims appeals.*

***Brief Description:*** *Revising small claims proceedings.*

***Sponsors:*** *By Senators Kline and Long; by request of Administrator for the Courts.*

***Brief Summary of Bill***

- *Changes appeals of small claims judgments from trial de novo to an appeal de novo on the record.*
- *Makes other changes to the procedures applicable to small claims appeals.*

***Hearing Date:*** *3/27/01*

***Staff:*** *Trudes Hutcheson (786-7384).*

***Background:***

*Small claims court is a department of the district court. The small claims department has jurisdiction over cases for the recovery of money where the amount claimed does not exceed \$2,500.*

*Proceedings in the small claims department are informal. Generally, a party may not be represented by an attorney in the small claims department. The parties may offer evidence and bring witnesses. The judge may consult witnesses and investigate the controversy between the parties, and the judge may give judgment or make orders that the judge finds equitable.*

*A party may not appeal the judgment from the small claims department if the amount in controversy is less than \$250. A party requesting the exercise of jurisdiction by the small claims department may not appeal a judgment if the amount claimed by that party was less than \$1,000.*

*To appeal a small claims judgment, the appellant must file a notice of appeal in the district court, pay the statutory superior court filing fee, post a bond, and serve a copy of the notice of appeal to all parties within 30 days after the judgment is rendered. The bond must be in a sum equal to twice the amount of the judgment and costs or twice the amount in controversy, whichever is greater.*

*Within 14 days after a small claims appeal has been filed, the clerk of the district court must transmit the complete record of the case to superior court. The record must consist of a transcript of all entries made in the district court docket relating to the case and all process and other papers relating to the case that were filed in the district court.*

*Once the small claims appeal is in superior court, any mandatory superior court procedures will apply as if the case was originally filed in superior court.*

*The appeal from a small claims judgment is trial de novo in superior court and shall be tried as nearly as possible in the manner of the original small claims trial. No attorney or jury is allowed unless permitted by the superior court. No new pleadings or new evidence may be presented without permission of the superior court. Each party is allowed equal time, but not more than 30 minutes each unless otherwise permitted by the court.*

*A review that is de novo on the record requires the reviewing court to determine its own findings of facts and conclusions of law based upon the record made before the lower court.*

***Summary of Bill:***

*The procedures regarding small claims appeals to superior court are changed. Appeals from a small claims judgment to superior court are to be based de novo on the record only, as opposed to trial de novo in which the parties are allowed equal time and the court may allow for additional evidence.*

*References to the application of mandatory superior court procedures such as arbitration and other dispute resolution methods are removed. Instead, the superior court may, in its discretion, utilize any method of dispute resolution.*

***Appropriation:*** None.

***Fiscal Note:*** Not Requested.

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