

SENATE BILL REPORT

ESSB 5052

As Passed Senate, February 16, 2001

Title: An act relating to technical corrections to trust and estate dispute resolution.

Brief Description: Making technical corrections to trust and estate dispute resolution provisions.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Johnson and Constantine).

Brief History:

Committee Activity: Judiciary: 1/18/01, 1/29/01 [DPS].

Passed Senate: 2/16/01, 43-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5052 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Johnson, Kastama, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: In 1999, the Legislature enacted the Trust and Estate Resolution Act to centralize in the Washington statute all procedures for handling disputes that occur regarding trust and estates. The act also provided mechanisms for resolving disputes by informal binding agreements between parties and by outlining the process by which parties can obtain resolution of disputes using mediation and/or arbitration and to obtain compliance with decisions.

The Washington State Bar Association Real Property, Probate and Trust Section is recommending various clarifications and technical corrections to the act.

Summary of Bill: The Trust and Estate Resolution Act is modified to make various clarifications and technical corrections to the act.

After a probate proceeding has been commenced, future notice of matters in an existing judicial proceeding that relate to the same trust, estate or nonprobate asset need not be in the form of a summons.

The process for appointing a qualified and independent person as a special representative to represent the interest of minors, unknown persons or incompetents is clarified.

If a nonjudicial binding agreement has been entered into, and a special representative has also been appointed, the agreement may not be filed with a court for 30 days without the consent of the special representative.

The period to appeal an arbitrator's decision is extended to 30 days after the decision has been served on the parties.

The process for filing an arbitrator's decision, notice to parties, and appeal procedures to superior court are set forth.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill makes largely technical and clarifying amendments. The bill provides for notice requirements to appropriate parties. Provisions are specified for appointment of a special representative for nonjudicial binding agreements. Provisions are set forth to appeal an arbitrator's decision.

Testimony Against: None.

Testified: Doug Lawrence, WSBA.