

FINAL BILL REPORT

SB 5373

C 339 L 02
Synopsis as Enacted

Brief Description: Changing mandatory arbitration of civil actions.

Sponsors: Senators Sheahan, Kline, McCaslin, Thibaudeau, Kastama, Long, Roach, Johnson and Constantine.

Senate Committee on Judiciary

House Committee on Judiciary

Background: Arbitration is a nonjudicial method for resolving disputes in which a neutral party is given authority to decide the case. A statute allows any superior court, by majority vote of its judges, to adopt mandatory arbitration in prescribed cases. In counties of 70,000 or more population, the county legislative authority may also impose this mandatory arbitration. This mandatory arbitration applies to cases in which the sole relief sought is a money judgment of \$15,000 or less. By a two-thirds vote, the judges of the superior court may raise this limit to \$35,000.

An award by an arbitrator may be appealed to the superior court. The superior court will hear the appeal "de novo;" that is, the court will conduct a trial on all issues of fact and law essentially as though the arbitration had not occurred.

The mandatory arbitration statute provides that Supreme Court rule will establish the procedures to be used in mandatory arbitration. The statute also provides that the Supreme Court rules may allow for the recovery of costs and "reasonable" attorney fees from a party who demands a trial de novo and fails to improve his or her position on appeal. The determination of whether or not the appealing party's position has been improved is based on the amount awarded in arbitration compared to the amount awarded at the trial de novo.

Summary: An offer of compromise procedure is provided for mandatory arbitration cases that are appealed to the superior court.

- A non-appealing party may serve an appealing party with a written offer to settle the case.
- If the appealing party does not accept the offer, the amount of the offer becomes the basis for determining whether the party that demanded the trial de novo fails to improve his or her position on appeal for purposes of awarding reasonable attorney fees and costs under the court rules.
- The award of reasonable attorney fees and costs against an appealing party who fails to improve his or her position is made mandatory in statute. The superior court is also authorized to assess these same fees and costs against a party who voluntarily withdraws a request for a trial de novo, but only if the voluntary withdrawal is not made in connection with the acceptance of an offer of compromise.

Votes on Final Passage:

Senate	37	11
House	65	28

Effective: June 13, 2002