

# SENATE BILL REPORT

## SB 5391

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As of January 30, 2001

**Title:** An act relating to optional authorization of mandatory arbitration for civil actions.

**Brief Description:** Expanding authorization for mandatory arbitration.

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

**Brief History:**

**Committee Activity:** Judiciary: 2/8/01.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Dick Armstrong (786-7460)

**Background:** Arbitration is a nonjudicial method for resolving disputes in which a neutral party is given authority to decide the case. Arbitration is intended to be a less expensive and time-consuming way of settling problems than taking a dispute to court. Parties are generally free to agree between themselves to submit an issue to arbitration. In some cases, however, arbitration is mandatory.

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. These limits were set at their current levels in 1988, when they were raised from \$10,000 and \$25,000, respectively.

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 of Substitute Bill:** Regardless of the population in a county, all district and superior courts in the state may authorize a mandatory arbitration program in their courts.

The maximum amount subject to mandatory arbitration is increased to \$50,000 for both district and superior courts.

Arbitrators of cases in district court are paid the same amount as judges pro tempore in the superior court.

A filing fee not to exceed \$31 for mandatory arbitration cases filed in district court is authorized. The fee is to offset the cost of the program in district court.

**Substitute Bill Compared to Original Bill:** The original bill was not considered.

**Appropriation:** None.

**Fiscal Note:** Requested on January 25, 2001.

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