

SENATE BILL REPORT

SB 5172

As Reported By Senate Committee On:
Judiciary, February 22, 2005

Title: An act relating to the revised uniform arbitration act.

Brief Description: Enacting the revised Uniform Arbitration Act.

Sponsors: Senators Johnson, Kline, Esser and Weinstein.

Brief History:

Committee Activity: Judiciary: 1/11/05, 2/22/05 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5172 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: There are many statutes dealing with arbitration of disputes in specific situations. Chapter 7.04 RCW is the chapter generally dealing with arbitration. This chapter was enacted in 1943 and few of its provisions have been significantly amended since that time. Mandatory arbitration of civil actions for claims under \$15,000 is provided by Chapter 7.06 RCW.

The Revised Uniform Arbitration Act was drafted, in 2000, by the National Conference of Commissioners on Uniform State Laws. It has been adopted by 10 states (New Mexico, Nevada, Hawaii, Utah, Arizona, New Jersey, Alaska, North Carolina, North Dakota, and Oregon), some with amendments and others adopted the act in its entirety (North Carolina, Utah, and Hawaii).

Summary of Substitute Bill: Chapter 7.04 RCW is repealed in its entirety. New arbitration procedures are consolidated in a new chapter in Title 7 RCW. To a great extent, the provisions of the current Chapter 7.04 RCW are reorganized and retained. There are a few changes however.

While current law requires three arbitrators to be appointed unless the arbitration agreement specifies otherwise, the number of arbitrators is now unspecified and the general language of the bill appears to assume that one arbitrator will be appointed. Arbitrators have immunity from civil liability to the same extent as judges acting in their judicial capacity.

Multiple arbitration proceedings may be consolidated. The court or the arbitrator, once selected, may order provisional remedies to protect the effectiveness of the arbitration

proceeding. The arbitrator's award must be confirmed by the court within one year under current law. This requirement is eliminated.

Current law requires a showing that substantial rights of the parties were prejudiced before an arbitrator's decision can be vacated by the court. This is changed so that no prejudice need be shown in cases where there is corruption or fraud in the proceeding, an arbitrator was not impartial, or there was no agreement to arbitrate. While current law allows modification or correction in any case where arbitrators have made an award on a matter not submitted to them, an additional requirement is now added that the error was not related to the merits of the case. Any final order may be appealed under current law, but this is changed to only allow appeal under specified circumstances. A party who prevails in a contested judicial proceeding after arbitration may receive attorney fees and costs of litigation. Current law, unamended since 1943, contemplated costs not exceeding \$25.

In considering the interpretation of this new arbitration act, the court must recognize how other states have interpreted the act. The new chapter applies to arbitration proceedings before July 1, 2006, by agreement of parties; on or after July 1, 2006, to all arbitration agreements; and after July 1, 2003, to all agreements to arbitrate whenever they had been entered into. The chapter does not apply to arbitration between employers and employees or associations of employees.

Substitute Bill Compared to Original Bill: It is clarified that the new chapter does not apply to arbitrations under chapter 7.06 RCW. The chapter does not apply to arbitration between employers and employees or associations of employees. The date the act governs agreements to arbitrate is changed from January 1, 2007 to July 1, 2003.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2006.

Testimony For: As society becomes more mobile, consistency between state laws, rules, and procedures becomes more important. To a great extent, this bill accounts for case law developed since 1943, the date of the original act. The act was purposefully designed to prevent conflicts with federal law. This act applies to those who chose to arbitrate, it is not mandatory, so the right to trial by jury is not implicated.

Testimony Against: None.

Who Testified: PRO: Nicholas Wagner, Washington State Bar Association, Dispute Resolution Section; Philip Cutler, Washington State Bar Association, ADR Roundtable; Susan Slagle, American Arbitration Association; Marlin Appelwick, Washington Uniform Legislation Committee.