

ESSB 5478 - H AMD 680

By Representative Mosbrucker

NOT CONSIDERED 12/23/2019

1 On page 4, line 31, after "(3)" insert "(a)"

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3 On page 4, beginning on line 32, after "covenant," strike "the
4 party seeking enforcement must" and insert "the court or arbitrator
5 may order that the party seeking enforcement"

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7 On page 4, line 36, after "proceeding" insert ", under the
8 procedure specified in (b) of this subsection"

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10 On page 4, after line 36, insert the following:

11 "(b) The court or arbitrator must determine whether the reform,
12 rewrite, modification, or partial enforcement is significant enough
13 to justify an award under (a) of this subsection and if so, the
14 amount of damages or penalty, reasonable attorneys' fees, expenses,
15 and costs to be awarded."

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EFFECT: Provides that if a court or arbitrator reforms,
rewrites, modifies or only partially enforces a noncompetition
covenant, the court or arbitrator must determine whether the change
is significant enough to justify an award of damages or penalty,
attorneys' fees, expenses and costs, and the amount of damages or
penalty, attorneys' fees, expenses and costs to be awarded. (The
underlying bill does not provide discretion.)

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