

HOUSE BILL REPORT

ESSB 5052

As Passed House:

April 4, 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: By Senate Committee on Judiciary (originally sponsored by Senators Johnson and Constantine).

Brief History:

Committee Activity:

Judiciary: 3/16/01, 3/27/01 [DP].

Floor Activity:

Passed House: 4/4/01, 92-0.

Brief Summary of Engrossed Substitute Bill

- Various technical and clarifying amendments are made to the Trust and Estate Dispute Resolution Act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Dickerson, Esser, Lovick and McDermott.

Staff: Bill Perry (786-7123).

Background:

In 1999, the Legislature enacted the Trust and Estate Dispute Resolution Act (TEDRA). The intent of the TEDRA was to establish a generally applicable set of procedures for handling the resolution of disputes involving trusts and estates. The TEDRA provides nonjudicial methods of resolution such as mediation, arbitration, and simple agreement of the parties as ways to settle disputes.

The TEDRA provides generally for the use of a summons to notify parties in a trust or estate proceeding.

Under the TEDRA various special representatives may be appointed to represent the interests of minors, incompetent persons, and persons as yet unascertainable who are potentially interested in the estate or trust.

Under the TEDRA when all parties to a dispute involving a trust or estate have agreed upon a resolution, no judicial involvement is generally required. The agreement may be filed with the court. However, a special representative may petition a court for approval of the agreement.

The Real Estate, Probate and Trust Section of the Washington State Bar Association is recommending various technical and clarifying amendments to the TEDRA.

Summary of Bill:

The TEDRA is amended in the following ways:

- Once a proceeding involving a trust or estate has been commenced and notice has been given to a party by a summons, future notice of matters in that same proceeding need not be by summons. However, any new party to such a subsequent proceeding must be notified by summons.
- The right of a special representative to seek court approval of a dispute resolution agreement is clarified. Except with the consent of the special representative, an agreement cannot be filed with the court until after the special representative has had 30 days to seek approval.
- The process for appointing a special representative is clarified, and general standards for court approval of a nominee are supplied. The court is to consider "the special skills required in the representation, and the need for a representative who will act independently and prudently." The person who files a petition for the appointment of a special representative must certify under penalty of perjury that the facts recited in the petition are true. Once appointed, the special representative must also certify that he or she is not interested in or related to anyone who is interested in the estate or trust, and that he or she will willingly serve and will act independently and prudently in the best interests of the represented parties.
- Technical changes are made regarding cross-references, references to mediators and arbitrators, and coordination of the timing of appeal periods in cases of arbitration decisions.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: The whole purpose of the TEDRA was to simplify procedures for resolving disputes. This bill represents what a year's worth of experience has shown could be done to further improve these procedures.

Testimony Against: None.

Testified: Senator Johnson, prime sponsor; and Douglas Lawrence, Washington State Bar Association.