

Judiciary Committee

HB 1415

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

Brief Description: Expanding authorization for mandatory arbitration.

Sponsors: Representatives Lantz, Boldt, Dickerson, Simpson, Rockefeller and Kessler; by request of Administrator for the Courts.

Brief Summary of Bill

- *Extends to all counties, not just those with a population of 70,000 or more, the authority of a county legislative body to adopt mandatory arbitration in superior court.*
- *Increases the maximum dollar amount of cases that may be made subject to mandatory arbitration from \$35,000 to \$50,000.*
- *Allows district court judges to adopt mandatory arbitration in a county's district court.*

Hearing Date: 2/13/01

Staff: Bill Perry (786-7123).

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 a 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. Superior court judges may also vote to use mandatory arbitration in child support cases, without limit as to the dollar amount of the support payments.

Anyone agreed to by the parties may be an arbitrator. If agreement is not reached, the court will appoint an arbitrator who must be a retired judge or a lawyer with at least five years membership in the bar. Arbitrators are paid at the same rate as judges pro tem of the superior court.

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 on appeal will conduct a trial on all issues of fact and law essentially as though the arbitration had not occurred. Amounts awarded on appeal are not subject to any dollar limits. The mandatory arbitration statute provides that supreme court rules will establish the procedures to be used in mandatory arbitration and that such rules may provide for the recovery of costs and "reasonable" attorney fees from a party who appeals and fails to improve his or her position. The rules make the award of costs and fees mandatory when an appealing party fails to improve his or her position, and makes such awards discretionary when an appealing party withdraws the 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.

The Board for Judicial Administration has recommended as part of its Project 2001 effort that mandatory arbitration be expanded and extended to district courts as a way of encouraging some shifting of civil cases from superior to district court.

Summary of Bill:

In all counties, not just those with a population of 70,000 or more, the legislative authority may impose mandatory arbitration in superior court. A simple majority vote by either the superior court judges or the county legislative authority imposes mandatory arbitration for cases of up to \$15,000. The maximum dollar value of cases that may be made subject to mandatory arbitration by a two-thirds vote of a county's superior court judges is increased from \$35,000 to \$50,000.

By a majority vote, the district court judges of a county may adopt mandatory arbitration in the district court for cases of up to \$15,000. The maximum dollar value of cases in district court that are subject to mandatory arbitration may also be increased to \$50,000 by a two-thirds vote of the district court judges. Arbitrators in district court are to be paid at the same rate as arbitrators in the superior court.

Appropriation: None.

Fiscal Note: Not Requested.

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