

SENATE BILL REPORT

SB 5659

As Reported By Senate Committee On:
Judiciary, February 24, 1999

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

Brief Description: Changing provisions relating to mandatory arbitration of civil actions.

Sponsors: Senators Heavey, Roach, Kline, Johnson, Costa and Thibaudeau.

Brief History:

Committee Activity: Judiciary: 2/10/99, 2/24/99 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5659 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Hargrove, Johnson, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: Counties have the option of authorizing mandatory arbitration of civil actions filed in superior court. If a county has authorized mandatory arbitration, claims for money damages under \$15,000 are subject to arbitration. The dollar amount may be increased up to \$35,000 if two-thirds or more of the superior court judges approve the increase.

The Supreme Court has adopted rules of procedure for mandatory arbitration, and some counties have adopted local court rules. Court rules provide for the assessment of attorneys' fees and costs to a party who appeals a decision and who then fails to improve his or her position at a trial de novo in superior court.

The purpose of mandatory arbitration is to provide for a neutral forum where the parties can present their cases in an expeditious and cost-effective manner and hopefully avoid a time consuming trial.

Summary of Substitute Bill: In counties that have authorized mandatory arbitration, an action for money damages equal to or less than \$25,000 is subject to mandatory arbitration. The judges of the superior court in a county, by a two-thirds vote or more, may increase the amount to \$50,000.

If an arbitration award is appealed to superior court, the nonappealing party may make an offer of compromise. For purposes of determining whether the appealing party has improved his or her position on appeal, the dollar amount of the offer of compromise is used instead of the arbitrator's award. If an appealing party does not improve his or her position on

appeal, the party must pay the attorneys' fees and costs of the nonappealing party from the date of the request for a trial de novo.

If a party withdraws after requesting a trial de novo, the court may assess attorneys' fees and costs.

Costs— include those costs provided by statute or court rule including expert witness expenses necessary after the request for trial de novo.

The provisions apply to all requests for trial de novo in an appeal of an arbitration decision filed on or after the effective date of the act.

Substitute Bill Compared to Original Bill: The emergency clause was deleted from the original bill. Several technical amendments were made to the substitute bill.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: It is hard to get a case heard that is civil in nature. Arbitration helps to eliminate court congestion. The dollar limits in the mandatory arbitration statute should be increased. The offer of compromise will encourage parties to evaluate their cases and make an effort to have the parties settle their cases. A disincentive to do well at arbitration now exists.

Testimony Against: There is a tendency of arbitrators to split the value— of a case, and insurers don't get an accurate assessment of their case. The offer of compromise— will work to the disadvantage of the defense because in order to improve their position they will have to guess if the jury will come in at the number offered by the plaintiff. Overall there is no need to change the current system.

Testified: PRO: Larry Shannon, Steve Toole, Frank Landenburg, WSTLA; Shawn Briggs, Pierce County Arbitration Program; Basil Badley, Insurance Industry (in part). CON: Mel Sorensen, Independent Insurance Association; Basil Badley, Insurance Industry (in part).