

HB 1128 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 7.06.010 and 2005 c 472 s 1 are each amended to
4 read as follows:

5 In counties with a population of more than one hundred thousand,
6 (~~mandatory~~) arbitration of civil actions under this chapter shall
7 be required. In counties with a population of one hundred thousand or
8 less, the superior court of the county, by majority vote of the
9 judges thereof, or the county legislative authority may authorize
10 (~~mandatory~~) arbitration of civil actions under this chapter.

11 **Sec. 2.** RCW 7.06.020 and 2005 c 472 s 2 are each amended to read
12 as follows:

13 (1) All civil actions, except for appeals from municipal or
14 district courts, which are at issue in the superior court in counties
15 which have authorized arbitration, where the sole relief sought is a
16 money judgment, and where no party asserts a claim in excess of
17 fifteen thousand dollars, or if approved by the superior court of a
18 county by two-thirds or greater vote of the judges thereof, up to
19 (~~fifty thousand dollars~~) the maximum claim amount provided in
20 subsection (3) of this section, exclusive of interest and costs, are
21 subject to (~~mandatory~~) civil arbitration.

22 (2) If approved by majority vote of the superior court judges of
23 a county which has authorized arbitration, all civil actions which
24 are at issue in the superior court in which the sole relief sought is
25 the establishment, termination, or modification of maintenance or
26 child support payments are subject to mandatory arbitration. The
27 arbitrability of any such action shall not be affected by the amount
28 or number of payments involved.

29 (3) For purposes of subsection (1) of this section, the "maximum
30 claim amount" is:

1 (a) Until January 1, 2018, fifty thousand dollars;

2 (b) Beginning January 1, 2018, until January 1, 2020, sixty-five
3 thousand dollars;

4 (c) Beginning January 1, 2020, until January 1, 2022, seventy
5 thousand dollars;

6 (d) Beginning January 1, 2022, seventy-five thousand dollars.

7 NEW SECTION. Sec. 3. A new section is added to chapter 7.06 RCW
8 to read as follows:

9 The arbitrator shall set the time, date, and place of the hearing
10 and shall give reasonable notice of the hearing date to the parties.
11 Except by stipulation or for good cause shown, the hearing shall be
12 scheduled to take place not sooner than twenty-one days, nor later
13 than seventy-five days, from the date of the assignment of the case
14 to the arbitrator. The hearing shall take place in appropriate
15 facilities provided or authorized by the court.

16 NEW SECTION. Sec. 4. A new section is added to chapter 7.06 RCW
17 to read as follows:

18 After the assignment of a case to the arbitrator, a party may
19 conduct discovery as follows: (1) Request from the arbitrator an
20 examination under CR 35; (2) request admissions from a party under CR
21 36; and (3) take the deposition of another party. A party may request
22 additional discovery from the arbitrator, including interrogatories,
23 and the arbitrator will allow additional discovery only as reasonably
24 necessary.

25 **Sec. 5.** RCW 7.06.040 and 1987 c 212 s 102 are each amended to
26 read as follows:

27 (1) The appointment of arbitrators shall be prescribed by rules
28 adopted by the supreme court. An arbitrator must be a member of the
29 state bar association who has been admitted to the bar for a minimum
30 of five years or who is a retired judge.

31 (2)(a) A person may not serve as an arbitrator unless the person
32 has completed a minimum of three credits of Washington state bar
33 association approved continuing legal education credits on the
34 professional and ethical consideration for serving as an arbitrator.
35 A person serving as an arbitrator must file a declaration or
36 affidavit stating or certifying to the appointing court that the
37 person is in compliance with this section.

1 (b) The superior court judge or judges in any county may choose
2 to waive the requirements of this subsection (2) for arbitrators who
3 have acted as an arbitrator five or more times previously.

4 (3) The parties may stipulate to a nonlawyer arbitrator. The
5 supreme court may prescribe by rule additional qualifications of
6 arbitrators.

7 (4) Arbitrators shall be compensated in the same amount and
8 manner as judges pro tempore of the superior court.

9 **Sec. 6.** RCW 7.06.050 and 2011 c 336 s 164 are each amended to
10 read as follows:

11 (1) Following a hearing as prescribed by court rule, the
12 arbitrator shall file his or her decision and award with the clerk of
13 the superior court, together with proof of service thereof on the
14 parties. Within twenty days after such filing, any aggrieved party
15 may file with the clerk a written notice of appeal and request for a
16 trial de novo in the superior court on all issues of law and fact.
17 The notice must be signed by the party. Such trial de novo shall
18 thereupon be held, including a right to jury, if demanded.

19 (a) Up to thirty days prior to the actual date of a trial de
20 novo, a nonappealing party may serve upon the appealing party a
21 written offer of compromise.

22 (b) In any case in which an offer of compromise is not accepted
23 by the appealing party within ten calendar days after service
24 thereof, for purposes of MAR 7.3, the amount of the offer of
25 compromise shall replace the amount of the arbitrator's award for
26 determining whether the party appealing the arbitrator's award has
27 failed to improve that party's position on the trial de novo.

28 (c) A postarbitration offer of compromise shall not be filed or
29 communicated to the court or the trier of fact until after judgment
30 on the trial de novo, at which time a copy of the offer of compromise
31 shall be filed for purposes of determining whether the party who
32 appealed the arbitrator's award has failed to improve that party's
33 position on the trial de novo, pursuant to MAR 7.3.

34 (2) If no appeal has been filed at the expiration of twenty days
35 following filing of the arbitrator's decision and award, a judgment
36 shall be entered and may be presented to the court by any party, on
37 notice, which judgment when entered shall have the same force and
38 effect as judgments in civil actions.

1 **Sec. 7.** RCW 36.18.016 and 2016 c 74 s 4 are each amended to read
2 as follows:

3 (1) Revenue collected under this section is not subject to
4 division under RCW 36.18.025 or 27.24.070.

5 (2)(a) For the filing of a petition for modification of a decree
6 of dissolution or paternity, within the same case as the original
7 action, and any party filing a counterclaim, cross-claim, or third-
8 party claim in any such action, a fee of thirty-six dollars must be
9 paid.

10 (b) The party filing the first or initial petition for
11 dissolution, legal separation, or declaration concerning the validity
12 of marriage shall pay, at the time and in addition to the filing fee
13 required under RCW 36.18.020, a fee of fifty-four dollars. The clerk
14 of the superior court shall transmit monthly forty-eight dollars of
15 the fifty-four dollar fee collected under this subsection to the
16 state treasury for deposit in the domestic violence prevention
17 account. The remaining six dollars shall be retained by the county
18 for the purpose of supporting community-based domestic violence
19 services within the county, except for five percent of the six
20 dollars, which may be retained by the court for administrative
21 purposes. On or before December 15th of each year, the county shall
22 report to the department of social and health services revenues
23 associated with this section and community-based domestic violence
24 services expenditures. The department of social and health services
25 shall develop a reporting form to be utilized by counties for uniform
26 reporting purposes.

27 (3)(a) The party making a demand for a jury of six in a civil
28 action shall pay, at the time, a fee of one hundred twenty-five
29 dollars; if the demand is for a jury of twelve, a fee of two hundred
30 fifty dollars. If, after the party demands a jury of six and pays the
31 required fee, any other party to the action requests a jury of
32 twelve, an additional one hundred twenty-five dollar fee will be
33 required of the party demanding the increased number of jurors.

34 (b) Upon conviction in criminal cases a jury demand charge of one
35 hundred twenty-five dollars for a jury of six, or two hundred fifty
36 dollars for a jury of twelve may be imposed as costs under RCW
37 10.46.190.

38 (4) For preparing a certified copy of an instrument on file or of
39 record in the clerk's office, for the first page or portion of the
40 first page, a fee of five dollars, and for each additional page or

1 portion of a page, a fee of one dollar must be charged. For
2 authenticating or exemplifying an instrument, a fee of two dollars
3 for each additional seal affixed must be charged. For preparing a
4 copy of an instrument on file or of record in the clerk's office
5 without a seal, a fee of fifty cents per page must be charged. When
6 copying a document without a seal or file that is in an electronic
7 format, a fee of twenty-five cents per page must be charged. For
8 copies made on a compact disc, an additional fee of twenty dollars
9 for each compact disc must be charged.

10 (5) For executing a certificate, with or without a seal, a fee of
11 two dollars must be charged.

12 (6) For a garnishee defendant named in an affidavit for
13 garnishment and for a writ of attachment, a fee of twenty dollars
14 must be charged.

15 (7) For filing a supplemental proceeding, a fee of twenty dollars
16 must be charged.

17 (8) For approving a bond, including justification on the bond, in
18 other than civil actions and probate proceedings, a fee of two
19 dollars must be charged.

20 (9) For the issuance of a certificate of qualification and a
21 certified copy of letters of administration, letters testamentary, or
22 letters of guardianship, there must be a fee of five dollars.

23 (10) For the preparation of a passport application, the clerk may
24 collect an execution fee as authorized by the federal government.

25 (11) For clerk's services such as performing historical searches,
26 compiling statistical reports, and conducting exceptional record
27 searches, the clerk may collect a fee not to exceed thirty dollars
28 per hour.

29 (12) For processing ex parte orders, the clerk may collect a fee
30 of thirty dollars.

31 (13) For duplicated recordings of court's proceedings there must
32 be a fee of ten dollars for each audiotape and twenty-five dollars
33 for each video or other electronic storage medium.

34 (14) For registration of land titles, Torrens Act, under RCW
35 65.12.780, a fee of twenty dollars must be charged.

36 (15) For the issuance of extension of judgment under RCW 6.17.020
37 and chapter 9.94A RCW, a fee of two hundred dollars must be charged.
38 When the extension of judgment is at the request of the clerk, the
39 two hundred dollar charge may be imposed as court costs under RCW
40 10.46.190.

1 (16) A facilitator surcharge of up to twenty dollars must be
2 charged as authorized under RCW 26.12.240.

3 (17) For filing an adjudication claim under RCW 90.03.180, a fee
4 of twenty-five dollars must be charged.

5 (18) For filing a claim of frivolous lien under RCW 60.04.081, a
6 fee of thirty-five dollars must be charged.

7 (19) For preparation of a change of venue, a fee of twenty
8 dollars must be charged by the originating court in addition to the
9 per page charges in subsection (4) of this section.

10 (20) A service fee of five dollars for the first page and one
11 dollar for each additional page must be charged for receiving faxed
12 documents, pursuant to Washington state rules of court, general rule
13 17.

14 (21) For preparation of clerk's papers under RAP 9.7, a fee of
15 fifty cents per page must be charged.

16 (22) For copies and reports produced at the local level as
17 permitted by RCW 2.68.020 and supreme court policy, a variable fee
18 must be charged.

19 (23) Investment service charge and earnings under RCW 36.48.090
20 must be charged.

21 (24) Costs for nonstatutory services rendered by clerk by
22 authority of local ordinance or policy must be charged.

23 (25) For filing a request for (~~mandatory~~) civil arbitration, a
24 filing fee may be assessed against the party filing a statement of
25 arbitrability not to exceed two hundred (~~twenty~~) fifty dollars as
26 established by authority of local ordinance. Two hundred twenty
27 dollars of this charge shall be used (~~solely~~) to offset the cost of
28 the (~~mandatory~~) civil arbitration program. Thirty dollars of each
29 fee collected under this subsection must be used for indigent defense
30 services.

31 (26) For filing a request for trial de novo of (~~a~~) a civil
32 arbitration award, a fee not to exceed (~~two~~) four hundred (~~fifty~~)
33 dollars as established by authority of local ordinance must be
34 charged.

35 (27) A public agency may not charge a fee to a law enforcement
36 agency, for preparation, copying, or mailing of certified copies of
37 the judgment and sentence, information, affidavit of probable cause,
38 and/or the notice of requirement to register, of a sex offender
39 convicted in a Washington court, when such records are necessary for

1 risk assessment, preparation of a case for failure to register, or
2 maintenance of a sex offender's registration file.

3 (28) For the filing of a will or codicil under the provisions of
4 chapter 11.12 RCW, a fee of twenty dollars must be charged.

5 (29) For the collection of an adult offender's unpaid legal
6 financial obligations, the clerk may impose an annual fee of up to
7 one hundred dollars, pursuant to RCW 9.94A.780.

8 (30) A surcharge of up to twenty dollars may be charged in
9 dissolution and legal separation actions as authorized by RCW
10 26.12.260.

11 The revenue to counties from the fees established in this section
12 shall be deemed to be complete reimbursement from the state for the
13 state's share of benefits paid to the superior court judges of the
14 state prior to July 24, 2005, and no claim shall lie against the
15 state for such benefits.

16 NEW SECTION. **Sec. 8.** This act applies to all cases filed on or
17 after January 1, 2018.

18 NEW SECTION. **Sec. 9.** This act takes effect January 1, 2018."

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19 On page 1, line 1 of the title, after "arbitration;" strike the
20 remainder of the title and insert "amending RCW 7.06.010, 7.06.020,
21 7.06.040, 7.06.050, and 36.18.016; adding new sections to chapter
22 7.06 RCW; creating a new section; and providing an effective date."

EFFECT: Increases the maximum arbitration limit over time:
Currently from \$50,000 to \$65,000 on January 1, 2018; then to \$70,000
on January 1, 2020; and then to \$75,000 on January 1, 2022.

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