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**SUBSTITUTE SENATE BILL 5659**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Heavey, Roach, Kline, Johnson, Costa and Thibaudeau)

Read first time 02/25/1999.

1 AN ACT Relating to mandatory arbitration of civil actions; amending  
2 RCW 7.06.050 and 7.06.060; reenacting and amending RCW 7.06.020; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 7.06.020 and 1987 c 212 s 101 and 1987 c 202 s 127 are  
6 each reenacted and amended to read as follows:

7 (1) All civil actions, except for appeals from municipal or  
8 district courts, which are at issue in the superior court in counties  
9 which have authorized arbitration, where the sole relief sought is a  
10 money judgment, and where no party asserts a claim in excess of  
11 (~~fifteen~~) twenty-five thousand dollars, or if approved by the  
12 superior court of a county by two-thirds or greater vote of the judges  
13 thereof, up to (~~thirty-five~~) fifty thousand dollars, exclusive of  
14 interest and costs, are subject to mandatory arbitration.

15 (2) If approved by majority vote of the superior court judges of a  
16 county which has authorized arbitration, all civil actions which are at  
17 issue in the superior court in which the sole relief sought is the  
18 establishment, termination or modification of maintenance or child  
19 support payments are subject to mandatory arbitration. The

1 arbitrability of any such action shall not be affected by the amount or  
2 number of payments involved.

3 **Sec. 2.** RCW 7.06.050 and 1982 c 188 s 2 are each amended to read  
4 as follows:

5 (1) Following a hearing as prescribed by court rule, the arbitrator  
6 shall file his decision and award with the clerk of the superior court,  
7 together with proof of service thereof on the parties. Within twenty  
8 days after such filing, any aggrieved party may file with the clerk a  
9 written notice of appeal and request for a trial de novo in the  
10 superior court on all issues of law and fact. Such trial de novo shall  
11 thereupon be held, including a right to jury, if demanded.

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

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

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

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

32 **Sec. 3.** RCW 7.06.060 and 1979 c 103 s 6 are each amended to read  
33 as follows:

34 (1) The ((supreme)) superior court ((may by rule provide for))  
35 shall assess costs and reasonable attorney's fees ((that may be  
36 assessed)) against a party ((appealing from)) who appeals the award  
37 ((who)) and fails to improve his or her position on the trial de novo.

1 The court may assess costs and reasonable attorneys' fees against a  
2 party who voluntarily withdraws a request for a trial de novo.

3 (2) For the purposes of this section, "costs and reasonable  
4 attorneys' fees" means those provided for by statute or court rule, or  
5 both, as well as all expenses related to expert witness testimony, that  
6 the court finds were reasonably necessary after the request for trial  
7 de novo has been filed.

8 (3) If the prevailing party in the arbitration also prevails at the  
9 trial de novo, even though at the trial de novo the appealing party may  
10 have improved his or her position from the arbitration, this section  
11 does not preclude the prevailing party from recovering those costs and  
12 disbursements otherwise allowed under chapter 4.84 RCW, for both  
13 actions.

14 NEW SECTION. Sec. 4. This act applies to all requests for a trial  
15 de novo filed pursuant to and in appeal of an arbitrator's decision and  
16 filed on or after the effective date of this act.

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