
SECOND SUBSTITUTE SENATE BILL 5659

State of Washington

56th Legislature

2000 Regular Session

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

Read first time 1/25/00.

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)) attorneys' fees ((that
36 may be assessed)) against a party ((appealing from)) who appeals the
37 award ((who)) and fails to improve his, her, or its position on the

1 trial de novo. The court may assess costs and reasonable attorneys'
2 fees against a party who voluntarily withdraws a request for a trial de
3 novo if the withdrawal is not requested in conjunction with the
4 acceptance of an offer of compromise.

5 (2) For the purposes of this section, "costs" means those provided
6 for by statute or court rule, or both, as well as all expenses related
7 to expert witnesses, including but not limited to depositions and trial
8 testimony, that the court finds were reasonably necessary after the
9 request for trial de novo was filed.

10 (3) For the purposes of this section, "reasonable attorneys' fees"
11 means those attorneys' fees that the court finds were reasonably
12 necessary after the request for trial de novo was filed.

13 (4) If the prevailing party in the arbitration also prevails at the
14 trial de novo, even though at the trial de novo the appealing party may
15 have improved his or her position from the arbitration, this section
16 does not preclude the prevailing party from recovering those costs and
17 disbursements allowed by law, including but not limited to those
18 allowed under chapter 4.84 RCW, for both actions.

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

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