

SENATE BILL REPORT

SB 5733

As Passed Senate, March 16, 2005

Title: An act relating to mandatory arbitration.

Brief Description: Concerning mandatory arbitration.

Sponsors: Senators Kline, McCaslin, Rockefeller, Esser, Thibaudeau, Weinstein, Rasmussen and Eide.

Brief History:

Committee Activity: Judiciary: 2/17/05, 2/22/05 [DP].

Passed Senate: 3/16/05, 31-17.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: Arbitration is mandatory in counties that have a population of over 150,000 in civil actions where the sole relief sought is a money judgment of up to \$35,000. Courts or the legislative authority in smaller counties may also authorize mandatory arbitration of civil actions. These rules apply to superior court actions, except for appeals from municipal or district courts. Mandatory arbitration is subject to appeal by a trial *de novo*.

Eleven counties (Benton, Clark, King, Kitsap, Pierce, Skagit, Snohomish, Spokane, Thurston, Whatcom, and Yakima) have a current population of over 100,000. The remaining 28 counties have current populations of less than 100,000.

Summary of Bill: The minimum population a county may have before mandatory arbitration is required is lowered from 150,000 to 100,000. Benton and Skagit counties will have no choice but to require mandatory arbitration while before, they had the option. The monetary threshold for mandatory arbitration is raised from \$35,000 to \$50,000. The net effect is that more superior court cases will be subject to mandatory arbitration.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: This will preserve state resources and save time by keeping cases out of superior court. Mandatory arbitration has been successful for the past 25 years. Over 3,000

cases per year in Washington go through mandatory arbitration while preserving the right to trial by jury through trial de novo. This is a modest increase in value, less than inflation since the statute was last revised. Resolving cases more quickly benefits plaintiffs and defendants.

Testimony Against: This process works for small cases only. Arbitrator's awards are almost always higher than jury awards, so more cases will go to trial de novo as a result of this bill. Discovery is more limited in arbitration and this usually benefits plaintiffs more than defendants.

Who Testified: PRO: Senator Kline, prime sponsor; Steve Toole WSTLA; Larry Shannon, WSTLA.

CON: Jean Leonard, State Farm WA Insurance; John Kugler, Washington Defense Trial Lawyers.

House Amendment(s): The change from \$35,000 to \$50,000 in the monetary threshold applies only to cases in which the notice of arbitrability is filed on or after the date of the act.

Passed House: 86-10.