

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1692
Version: First engrossment

DATE: March 2, 2010

Authors: Morrow

Subject: Uniform Arbitration Act

Analyst: Matt Gehring, 651-296-5052

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill enacts the Uniform Arbitration Act, which provides procedures and standards for arbitration proceedings in certain disputes. This is a modified version of the Uniform Arbitration Act that would replace the existing uniform provisions related to arbitration under current Minnesota law.

Article 1: Uniform Arbitration Act

Section

- 1** **Definitions.** Provides definitions for a number of the terms used in the bill, including “arbitration organization,” “arbitrator,” “authenticate,” “court,” “knowledge,” “person,” and “record.”
- 2** **Notice.** Specifies standards for sufficient notice. Notice is considered sufficient if a person takes action that is reasonably necessary to inform the other person in the ordinary course of business, even if the other person never acquires knowledge of the notice. A notice may be brought to a person’s attention, or delivered at the person’s place of residence or business, or another location held out by the person as a proper place of delivery of notice.
- 3** **Applicability.** Specifies the applicability of the provisions contained in the bill, in language similar to an effective date.
- 4** **Effect of agreement; nonwaivable provisions.** Specifies certain right related to arbitration that may not be waived by the parties.
- 5** **Application to court.** Provides standards for seeking judicial relief in an action related to an arbitration proceeding.
- 6** **Validity of agreement.** Provides that agreement to arbitrate is valid and irrevocable,

unless the contract agreement is otherwise subject to revocation or invalidation under standard contract law. Disputes about whether an agreement exists, or whether a particular controversy is subject to an arbitration clause, must be determined by a court. If a dispute arises, an arbitration proceeding may continue pending a final decision or absent other court order.

- 7 Motion to compel or stay arbitration.** Provides standards for court intervention if the parties disagree as to whether arbitration is required, or if one party to an arbitration agreement refuses to participate.
- 8 Provisional remedies.** Permits a court to enter an order for provisional remedies to protect the effectiveness of an arbitration proceeding if an arbitrator has not yet been appointed. After appointment of an arbitrator, that person is permitted to enter an order for provisional remedies. Once an arbitrator has been appointed, a party may only request an order for provisional remedies from a court if a matter is urgent and the arbitrator is not able to provide an adequate remedy or can not act in a timely manner.
- 9 Initiation of arbitration.** Provides procedural standards for initiating an arbitration proceeding.
- 10 Consolidation of separate proceedings.** Establishes the conditions under which a court is permitted to consolidate separate arbitration proceedings into one action. Proceedings may not be consolidated if the arbitration agreement prohibits it.
- 11 Appointment of arbitrator.** Provides that an arbitrator is to be chosen using whatever method the parties to the dispute agree to employ. If that method fails, the court may make the appointment.
- A person who has a known, direct, and material interest in the outcome of the proceeding may not be appointed.
- 12 Disclosures by arbitrator.** Establishes standards for disclosure required of an arbitrator. Before accepting an appointment, an arbitrator must disclose any known facts a reasonable person would consider likely to affect the arbitrator's impartiality. Examples are provided.
- The arbitrator has a duty to update the parties if any circumstances change that would affect the arbitrator's impartiality. An arbitration award may be vacated if the arbitrator fails to make proper disclosures and a party objects to the continued appointment of that person.
- 13 Action by majority.** Provides that in an action involving an arbitration panel, decisions are to be made by majority rule.
- 14 Immunity of arbitrator; attorney fees.** Provides civil immunity to an arbitrator for his or her actions in the proceeding and exempts an arbitrator from testifying in another proceeding related to the action, with certain exceptions.
- A court is required to award attorney fees and other reasonable expenses of litigation to an arbitrator who successfully defends an action on immunity grounds, or on the testimonial privilege under this section.
- 15 Arbitration process.** Establishes certain procedural requirements and rights and powers of the arbitrator and the parties in an arbitration proceeding.

- 16 **Representation by lawyer.** Provides the right of a party to an arbitration proceeding to be represented by an attorney.
- 17 **Witnesses; subpoena; depositions; discovery.** Establishes certain standards related to the collection of testimony, including processes related to issuing subpoenas, conducting depositions, and engaging in discovery.
- 18 **Court enforcement of pre-award ruling.** Provides standards for incorporating a pre-award ruling by an arbitrator into the final award on the dispute.
- 19 **Award.** Requires an arbitrator to make a formal record of an award, provides standards for notice and timing.
- 20 **Change of award by arbitrator.** Provides standards for modifying or correcting an existing arbitration award.
- 21 **Remedies; fees and expenses.** Permits the arbitrator to award punitive damage or other exemplary relief, and attorney fees and other reasonable expenses if such an award would be permitted in a civil action on the same issue. An arbitrator may also award other remedies as may be just and appropriate under the circumstances. Costs of the arbitrator must be paid as specified in the award.
- 22 **Confirmation of award.** Provides for court confirmation of an arbitration award upon motion by a party.
- 23 **Vacation of award.** Provides standards and grounds for court to vacate an arbitration award.
- 24 **Modification or correction of award.** Provides standards and grounds for a court to modify or correct an arbitration award.
- 25 **Judgment on award; attorney's fees and litigation expenses.** Provides standards for formally entering a judgment on an arbitration award. Attorney fees and other
- 26 **Jurisdiction.** Provides that a court with jurisdiction over the dispute and the parties to the dispute may enforce an agreement to arbitrate.
- 27 **Venue.** Provides standards for where an arbitration action must be filed.
- 28 **Appeals.** Provides grounds for appeal.
- 29 **Uniformity of law; conflicts of law.** Specifies which law governs in certain cases where a conflict of laws would arise.
- 30 **Savings clause.** Provides the applicability of the new provisions contained in the bill. The provisions would only affect disputes commenced on or after the effective date.
- 31 **Electronic signatures.** Clarifies certain standards related to electronic signatures.
- 32 **Repealer.** Repeals a number of sections of existing Minnesota law related to arbitration disputes.
- 33 **Effective date.** Provides an effective date for the provisions of the bill.

Article 2: Conforming Amendments

- 1-8** **Conforming changes.** Modifies a number of cross references to reflect the substantive changes made in article 1 of the bill.