

BILL ANALYSIS

Senate Research Center
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S.B. 504
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Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In both the State of Texas and federal courts, arbitration is valued as a quick and inexpensive means of settling disputes. However, the state does not collect sufficient information to allow the legislature to evaluate the efficiency or effectiveness of arbitration. Even though current public policy supports arbitration, limited empirical evidence is available to support arbitration's fulfillment of its purpose.

As proposed, S.B. 504 creates an information database on the frequency and cost of arbitrations in this state. The legislature will be able to use this information as a means to evaluate the use of arbitration in this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 7, Civil Practice and Remedies Code, by adding Chapter 181, as follows:

CHAPTER 181. ARBITRATOR REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 181.001. POLICY; FINDINGS. (a) Provides that state and federal policy favors submitting disputes to arbitration. Provides that the benefits of arbitration include quicker and less expensive resolution of disputes than is generally available by litigation.

(b) Provides that it is the state's policy to ensure that a person's right to the fair and impartial hearing and resolution of a civil complaint is not infringed. Provides that to protect that right, it is in the public interest and is the purpose of this chapter to require the provision of information needed to evaluate whether the public policy supporting arbitration is being served and to establish a basic system for evaluating and ensuring the accountability of arbitrators and arbitration services providers.

Sec. 181.002. DEFINITIONS. Defines "arbitration panel," "arbitration services provider," "arbitrator," "consumer arbitration," "employment arbitration," and "office of court administration."

Sec. 181.003. APPLICABILITY. (a) Provides that except as provided by Subsection (b), the requirements of this chapter apply to any consumer arbitration or employment arbitration conducted in this state that is subject to Chapter 171 or Chapter 1, Federal Arbitration Act (9 U.S.C. Sections 1-16), as amended.

(b) Provides that this chapter does not apply to an arbitration conducted or administered by a self-regulatory organization as defined by the Securities Exchange Act of 1934 (15 U.S.C. Section 78c), as amended, the Commodity

Exchange Act (7 U.S.C. Section 1 et seq.), as amended, or regulations adopted under those acts.

[Reserves Sections 181.004-181.050 for expansion.]

SUBCHAPTER B. DISCLOSURE PROCEDURES

Sec. 181.051. **DISCLOSURE FILING.** Requires the arbitration services provider, for each consumer arbitration or employment arbitration conducted in this state, the arbitrator or arbitration panel that conducts the arbitration or, if an arbitration services provider administers the arbitration, the arbitrations services provider to file an arbitration disclosure with the office of court administration before the 90th day after the date the arbitration award is signed.

Sec. 181.052. **DISCLOSURE INFORMATION.** Requires the disclosure to contain certain information.

Sec. 181.053. **OPTION TO LIMIT DISCLOSURE.** (a) Authorizes the parties, notwithstanding Section 181.052, to agree to except from disclosure the information required by Sections 181.052(1), (2), and (6).

(b) Prohibits an agreement to limit disclosure from being entered into at certain times.

(c) Requires the parties to provide evidence of their agreement to limit disclosure by signing a form adopted for that purpose by the office of court administration, under the supervision of the chief justice.

(d) Requires the arbitrator or arbitration services provider to take certain actions if the parties agree to limit disclosure.

Sec. 181.054. **INTERNET SITE FOR INFORMATION.** Requires the office of court administration to make the information collected under this subchapter available on its Internet website.

[Reserves Sections 181.055-181.100 for expansion.]

SUBCHAPTER C. ENFORCEMENT PROVISIONS

Sec. 181.101. **LATE FILING FEE.** (a) Requires the director of the office of court administration, under the supervision of the chief justice, to implement procedures for the collection of a fee not to exceed \$100 for the late filing of an arbitration disclosure in accordance with rules adopted by the supreme court for the efficient administration of justice.

(b) Authorizes a party to an arbitration, or an attorney for the party, to report overdue filing of the arbitration disclosure to the office of court administration.

(c) Provides that an arbitration disclosure that is filed within the period specified by Section 181.051 is not subject to a filing fee.

Sec. 181.102. **LATE DISCLOSURE FILERS; INELIGIBILITY FOR ARBITRATION ADMINISTRATION.** (a) Provides that an arbitrator, including a member of an arbitration panel, or arbitration services provider is ineligible for a court appointment to arbitrate or administer an arbitration under Section 171.041(b) during the period in which the arbitrator or panel of which the arbitrator is a member or arbitration services provider either fails to file an overdue arbitration disclosure or owes a fee for late filing.

(b) Provides that an arbitrator who personally or as a member of an arbitration panel has failed, or an arbitration services provider that has failed, three times in the preceding 12-month period to timely file arbitration disclosure is ineligible for

a court appointment to arbitrate or administer an arbitration under Section 171.041(b) (Appointment of Arbitrators) until the first anniversary of the date the office of court administration receives the third report of an overdue filing with respect to that arbitrator or arbitration services provider.

(c) Requires the office of court administration to compile, maintain, and publish on the Internet an updated list of arbitrators and arbitration service providers that are ineligible to conduct or administer a court-ordered arbitration under Subsection (a) or (b).

(d) Requires the director of the office of court administration, under the supervision of the chief justice, to implement a procedure by which an arbitrator or arbitration services provider can be removed from the published list, in accordance with rules adopted by the supreme court for the efficient administration of justice.

(e) Requires the office of court administration and the Texas Judicial Council to include in the annual report under Section 71.034 (Reports; Investigations), Government Code, a list of the names of all arbitrators or arbitration services providers who have been on the ineligible list during the period included in that report.

[Reserves Sections 181.103-181.150 for expansion.]

SUBCHAPTER D. IMMUNITY

Sec. 181.151. IMMUNITY FROM CIVIL LIABILITY. Provides that an arbitrator or arbitration services provider is immune from civil liability for providing information required for compliance with this chapter unless the complaining party proves that the arbitrator or arbitration services provider recklessly or knowingly provided false information.

SECTION 2. (a) Provides that for the purposes of this section, the date an arbitration is commenced is the date an arbitrator, as defined by Section 182.002, Civil Practices and Remedies Code, as added by this Act, is selected or appointed.

(b) Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2006.