
ASSEMBLY BILL NO. 468—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

MARCH 28, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions regarding arbitration and other alternative methods of resolving disputes in certain civil actions. (BDR 2-523)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to civil actions; revising the criteria for determining whether a case must be submitted to nonbinding arbitration; increasing the maximum number of jurors who may serve on the jury for a short trial; authorizing the Nevada Supreme Court to adopt rules and procedures for mandatory short trials in district courts under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain civil actions filed in district court where the amount in issue is \$40,000 or less must be submitted to nonbinding arbitration unless the parties agree to an alternative method of resolving disputes, which may include a binding short trial. (NRS 38.250, 38.255, 38.258) A binding short trial is also authorized for civil actions for damages in justices' courts. A jury for a short trial is limited to a maximum of six persons. "Short trial" is defined as a trial conducted using procedures designed to limit the length of the trial. (NRS 38.250, 38.257)

This bill increases the threshold amount for submitting an action in district court to nonbinding arbitration to \$50,000 for each plaintiff, excluding attorney's fees, interest and court costs. This bill also increases the maximum number of persons who may serve as jurors in a short trial to eight persons. This bill further removes the requirement that a civil action that is submitted to a short trial in district court be binding. Thus, such an action may be appealed.

Existing law authorizes the Nevada Supreme Court to establish certain rules concerning the use of alternative methods of resolving disputes in district court. (NRS 38.258)



17 This bill authorizes the Nevada Supreme Court to adopt rules requiring an
18 appeal from a nonbinding arbitration or mediation pursuant to Supreme Court Rules
19 to be submitted to a short trial.

20 Under existing law, certain fees collected by the county clerk for filing a civil
21 action are deposited by the county treasurer into an account for programs of
22 arbitration in the county general fund. (NRS 19.0315)

23 This bill changes the description of the account to an account for programs for
24 alternative dispute resolution and provides that money in the account may be used
25 to support programs for arbitration and programs for the resolution of disputes
26 through the use of other alternative methods of resolving disputes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 19.0315 is hereby amended to read as follows:

2 19.0315 1. Except as otherwise provided in NRS 19.034, on
3 the commencement of any civil action or proceeding in the district
4 court for which a filing fee is required, and on the filing of any
5 answer or appearance in any such action or proceeding for which a
6 filing fee is required, the county clerk shall charge and collect a fee
7 of \$5 from the party commencing, answering or appearing in the
8 action or proceeding. These fees are in addition to any other fee
9 required by law.

10 2. On or before the first Monday of each month, the county
11 clerk shall pay over to the county treasurer the amount of all fees
12 collected by him pursuant to subsection 1 for credit to an account
13 for programs ~~{of arbitration}~~ *for alternative dispute resolution* in
14 the county general fund. The money in the account must be used
15 only to support programs for the arbitration of civil actions pursuant
16 to NRS 38.250 ~~{ }~~ *and programs for the resolution of disputes*
17 *through the use of other alternative methods of resolving disputes*
18 *pursuant to NRS 38.258.*

19 3. The provisions of this section apply only in judicial districts
20 in which a program ~~{of arbitration}~~ *for alternative dispute*
21 *resolution* has been established pursuant to NRS 38.250 ~~{ }~~ *or*
22 *38.258.*

23 4. As used in this section, “*alternative dispute resolution*”
24 *means alternative methods of resolving disputes, including,*
25 *without limitation, arbitration and mediation.*

26 **Sec. 2.** NRS 38.250 is hereby amended to read as follows:

27 38.250 1. Except as otherwise provided in NRS 38.257 and
28 38.310:

29 (a) All civil actions filed in district court for damages, if the
30 cause of action arises in the State of Nevada and the amount in issue
31 does not exceed ~~{ \$40,000, }~~ *\$50,000 per plaintiff, exclusive of*
32 *attorney’s fees, interest and court costs,* must be submitted to



1 nonbinding arbitration in accordance with the provisions of NRS
2 38.250 to 38.259, inclusive, unless the parties have agreed **or are**
3 **otherwise required** to submit the action to an alternative method of
4 resolving disputes established by the Supreme Court pursuant to
5 NRS 38.258, including, without limitation, a settlement conference,
6 mediation or a ~~[binding]~~ short trial . ~~[, and that method has resulted~~
7 ~~in a binding disposition of the action. If an action is submitted to an~~
8 ~~alternative method of resolving disputes pursuant to this paragraph~~
9 ~~and a binding disposition of the case does not result, the action must~~
10 ~~be submitted to nonbinding arbitration, but the parties may agree to~~
11 ~~submit the action to another alternative method of resolving disputes~~
12 ~~while the nonbinding arbitration is pending or after the nonbinding~~
13 ~~arbitration has been completed.]~~

14 (b) A civil action for damages filed in justice's court may be
15 submitted to arbitration or to an alternative method of resolving
16 disputes, including, without limitation, a settlement conference ~~[,]~~ **or**
17 mediation , **if the parties agree to the submission**, or a binding short
18 trial . ~~[, if the parties agree to the submission.]~~

19 2. An agreement entered into pursuant to this section must be:

20 (a) Entered into at the time of the dispute and not be a part of
21 any previous agreement between the parties;

22 (b) In writing; and

23 (c) Entered into knowingly and voluntarily.

24 ➤ An agreement entered into pursuant to this section that does not
25 comply with the requirements set forth in this subsection is void.

26 3. As used in this section, "short trial" means a trial that is
27 conducted, with the consent of the parties to the action ~~[,]~~ **or in**
28 **conformance with rules adopted by the Supreme Court**, in
29 accordance with procedures designed to limit the length of the trial,
30 including, without limitation, restrictions on the amount of
31 discovery requested by each party, the use of a jury composed of not
32 more than ~~[six persons,]~~ **eight persons** and a specified limit on the
33 amount of time each party may use to present his case.

34 **Sec. 3.** NRS 38.255 is hereby amended to read as follows:

35 38.255 1. The rules adopted by the Supreme Court pursuant
36 to NRS 38.253 to provide guidelines for the establishment by a
37 district court of a program must include provisions for a:

38 (a) Mandatory program for the arbitration of civil actions
39 pursuant to NRS 38.250.

40 (b) Voluntary program for the arbitration of civil actions if the
41 cause of action arises in the State of Nevada and the amount in issue
42 exceeds ~~[\$40,000,]~~ **\$50,000 per plaintiff, exclusive of attorney's**
43 **fees, interest and court costs.**



(c) Voluntary program for the use of binding arbitration in all civil actions.

2. The rules must provide that the district court of any judicial district whose population is 100,000 or more:

(a) Shall establish programs pursuant to paragraphs (a), (b) and (c) of subsection 1.

(b) May set fees and charge parties for arbitration if the amount in issue exceeds ~~[\$40,000.]~~ *\$50,000 per plaintiff, exclusive of attorney's fees, interest and court costs.*

➔ The rules may provide for similar programs for the other judicial districts.

3. The rules must exclude the following from any program of mandatory arbitration:

(a) Actions in which the amount in issue, excluding attorney's fees, interest and court costs, is more than ~~[\$40,000]~~ *\$50,000* or less than the maximum jurisdictional amounts specified in NRS 4.370 and 73.010;

(b) Class actions;

(c) Actions in equity;

(d) Actions concerning the title to real estate;

(e) Probate actions;

(f) Appeals from courts of limited jurisdiction;

(g) Actions for declaratory relief;

(h) Actions involving divorce or problems of domestic relations;

(i) Actions brought for relief based on any extraordinary writs;

(j) Actions for the judicial review of an administrative decision;
~~and~~

(k) Actions in which the parties, pursuant to a written agreement executed before the accrual of the cause of action ~~H~~ *or pursuant to rules adopted by the Supreme Court* have submitted the controversy to arbitration or any other alternative method for resolving a dispute ~~H~~;

(l) Actions that present unusual circumstances that constitute good cause for removal from the program; and

(m) Actions in which any of the parties is incarcerated.

4. The rules must include:

(a) Provisions for the payment of fees to an arbitrator who is appointed to hear a case pursuant to the rules. The rules must provide that an arbitrator must be compensated at a rate of \$100 per hour, to a maximum of \$1,000 per case, unless otherwise authorized by the arbitration commissioner for good cause shown.

(b) Guidelines for the award of attorney's fees and maximum limitations on the costs to the parties of the arbitration.

(c) Disincentives to appeal.



(d) Provisions for trial upon the exercise by either party of his right to a trial anew after the arbitration.

5. The Supreme Court shall, on or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Chairmen of the Assembly and Senate Standing Committees on ~~the~~ Judiciary. The report must include, for the period since the previous such report, if any:

(a) A listing of the number of actions which were submitted to arbitration or other alternative methods of resolving disputes pursuant to NRS 38.250 or 38.258 and their manner of disposition;

(b) A statement of the amount of money collected in each judicial district pursuant to NRS 19.0315 and a summary of the manner in which the fees were expended; and

(c) Any recommendations for legislation or other information regarding the programs on arbitration deemed relevant by the Supreme Court.

Sec. 4. NRS 38.257 is hereby amended to read as follows:

38.257 1. The Supreme Court shall adopt rules to provide for the establishment of a mandatory short trial program for civil cases in the justices' courts.

2. This section does not apply to the following actions and proceedings:

(a) Actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed \$10,000 or when no damages are claimed.

(b) Actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed \$10,000 or when no damages are claimed.

(c) Any action for the issuance of a temporary or extended order for protection against domestic violence.

(d) An action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(e) Small claims actions under the provisions of chapter 73 of NRS.

(f) Any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

3. As used in this section, "short trial" means a trial that is conducted in accordance with procedures designed to limit the length of the trial, including, without limitation, restrictions on the amount of discovery requested by each party, the use of a jury composed of not more than ~~six persons,~~ **eight persons** and a



1 specified limit on the amount of time each party may use to present
2 his case.

3 **Sec. 5.** NRS 38.258 is hereby amended to read as follows:

4 38.258 1. The Supreme Court may authorize the use of
5 settlement conferences and other alternative methods of resolving
6 disputes, including, without limitation, mediation and a ~~{binding}~~
7 short trial, that are available in the county in which a district court is
8 located:

9 (a) In lieu of submitting an action to nonbinding arbitration
10 pursuant to NRS 38.250; **or**

11 (b) ~~{After an action is submitted to nonbinding arbitration~~
12 ~~because an alternative method of resolving disputes did not result in~~
13 ~~a binding disposition of the action; or~~

14 ~~—(c) At any other time during}~~ **During** or following **such**
15 nonbinding arbitration if the parties agree that the use of any such
16 alternative methods of resolving disputes would assist in the
17 resolution of the dispute.

18 2. ***The Supreme Court may adopt rules which provide that if***
19 ***a party requests a trial following nonbinding arbitration or***
20 ***mediation pursuant to rules adopted by the Supreme Court the***
21 ***action must be submitted to the short trial program.***

22 3. If the Supreme Court authorizes **or requires** the use of an
23 alternative method of resolving disputes pursuant to subsection 1 ~~{1}~~
24 **or 2**, the Supreme Court shall adopt rules and procedures to govern
25 the use of any such method.

26 ~~{3-}~~ 4. As used in this section, “short trial” has the meaning
27 ascribed to it in NRS 38.250.



