

ASSEMBLY BILL NO. 326—ASSEMBLYMAN AIZLEY

MARCH 18, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to arbitration.
(BDR 52-803)

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 arbitration; requiring certain agreements that require arbitration of disputes arising under the agreement to include specific authorization for the arbitration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill requires an agreement which includes a provision
2 requiring a person to submit to arbitration any dispute arising between the parties to
3 the agreement to include specific authorization of the provision by the person.
4 **Section 1** further provides that an agreement which includes such a provision
5 concerning submitting a dispute to arbitration and which fails to include specific
6 authorization of that provision by the person is void. **Section 1** excludes a
7 collective bargaining agreement from these new provisions.
8 Existing law which governs the provisions for arbitration provided by the
9 parties to an agreement is set forth in the Uniform Arbitration Act. (NRS 38.206-
10 38.248) **Section 2** of this bill provides an exception to a provision of the Uniform
11 Arbitration Act which governs the validity of an agreement to arbitrate to account
12 for the requirement set forth in **section 1**.

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

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 ***1. Except as otherwise provided in subsection 3, an***
4 ***agreement which includes a provision which requires a person to***
5 ***submit to arbitration any dispute arising between the parties to the***
6 ***agreement must include specific authorization for the provision***



1 *which indicates that the person has affirmatively agreed to the*
2 *provision.*

3 2. *If an agreement includes a provision which requires a*
4 *person to submit to arbitration any dispute arising between the*
5 *parties to the agreement and the agreement fails to include*
6 *the specific authorization required pursuant to subsection 1, the*
7 *provision is void and unenforceable.*

8 3. *The provisions of this section do not apply to an agreement*
9 *that is a collective bargaining agreement. As used in this*
10 *subsection, "collective bargaining" has the meaning ascribed to it*
11 *in NRS 288.033.*

12 **Sec. 2.** NRS 38.219 is hereby amended to read as follows:

13 38.219 1. An agreement contained in a record to submit to
14 arbitration any existing or subsequent controversy arising between
15 the parties to the agreement is valid, enforceable and irrevocable
16 except *as otherwise provided in section 1 of this act or* upon a
17 ground that exists at law or in equity for the revocation of a contract.

18 2. The court shall decide whether an agreement to arbitrate
19 exists or a controversy is subject to an agreement to arbitrate.

20 3. An arbitrator shall decide whether a condition precedent to
21 arbitrability has been fulfilled and whether a contract containing a
22 valid agreement to arbitrate is enforceable.

23 4. If a party to a judicial proceeding challenges the existence
24 of, or claims that a controversy is not subject to, an agreement to
25 arbitrate, the arbitral proceeding may continue pending final
26 resolution of the issue by the court, unless the court otherwise
27 orders.

28 **Sec. 3.** The amendatory provisions of this act apply only to
29 agreements entered into or renewed on or after October 1, 2013.

