

Amendment No. 431

Assembly Amendment to Assembly Bill No. 326

(BDR 52-803)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AMI/WLK



Date: 4/18/2013

A.B. No. 326—Revises provisions relating to arbitration. (BDR 52-803)



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:

Section 1 of this bill requires an agreement which includes a provision requiring a person to submit to arbitration any dispute arising between the parties to the agreement to include specific authorization of the provision by the person. **Section 1** further provides that an agreement which includes such a provision concerning submitting a dispute to arbitration and which fails to include specific authorization of that provision by the person is void. **Section 1 excludes a collective bargaining agreement from these new provisions.**

Existing law which governs the provisions for arbitration provided by the parties to an agreement is set forth in the Uniform Arbitration Act. (NRS 38.206-38.248) **Section 2** of this bill provides an exception to a provision of the Uniform Arbitration Act which governs the validity of an agreement to arbitrate to account for the requirement set forth in **section 1**.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~4.4.1~~ Except as otherwise provided in subsection 3, an agreement which includes a provision which requires a person to submit to arbitration any dispute arising between the parties to the agreement must include specific authorization for the provision which indicates that the person has affirmatively agreed to the provision.

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

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

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

5 38.219 1. An agreement contained in a record to submit to arbitration any
6 existing or subsequent controversy arising between the parties to the agreement is
7 valid, enforceable and irrevocable except *as otherwise provided in section 1 of this*
8 *act or* upon a ground that exists at law or in equity for the revocation of a contract.

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

11 3. An arbitrator shall decide whether a condition precedent to arbitrability has
12 been fulfilled and whether a contract containing a valid agreement to arbitrate is
13 enforceable.

14 4. If a party to a judicial proceeding challenges the existence of, or claims that
15 a controversy is not subject to, an agreement to arbitrate, the arbitral proceeding
16 may continue pending final resolution of the issue by the court, unless the court
17 otherwise orders.

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