

SENATE BILL NO. 442—COMMITTEE ON JUDICIARY

MARCH 23, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing arbitration.  
(BDR 3-1138)

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; authorizing the removal of an arbitrator from an arbitral proceeding under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law establishes the Uniform Arbitration Act of 2000. (NRS 38.206-  
2 38.248) Under existing law, a person who is requested to serve as an arbitrator must  
3 disclose to all parties to the agreement to arbitrate and arbitral proceeding and to  
4 any other arbitrators any facts that a reasonable person would consider likely to  
5 affect the impartiality of the arbitrator in the proceeding. Existing law also  
6 authorizes a court, upon a timely objection by a party, to vacate an award made by  
7 an arbitrator who did not disclose such a fact. (NRS 38.227) This bill requires a  
8 court to remove an arbitrator who did not disclose such a fact from the arbitral  
9 proceeding if an award has not yet been made.

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

1 **Section 1.** NRS 38.227 is hereby amended to read as follows:  
2 38.227 1. Before accepting appointment, an individual who is  
3 requested to serve as an arbitrator, after making a reasonable  
4 inquiry, shall disclose to all parties to the agreement to arbitrate and  
5 arbitral proceeding and to any other arbitrators any known facts that  
6 a reasonable person would consider likely to affect the impartiality  
7 of the arbitrator in the proceeding, including:  
8 (a) A financial or personal interest in the outcome of the arbitral  
9 proceeding; and



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(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitral proceeding, their counsel or representatives, a witness or another arbitrator.

2. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

3. If an arbitrator discloses a fact required by subsection 1 or 2 to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under paragraph (b) of subsection 1 of NRS 38.241 for vacating an award made by the arbitrator.

4. If the arbitrator did not disclose a fact as required by subsection 1 or 2, upon timely objection by a party ~~H~~ *and a determination by the court under paragraph (b) of subsection 1 of NRS 38.241 ~~may vacate~~ that the nondisclosed fact is one that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitral proceeding, the court shall:*

(a) *Vacate an award ~~H~~ made before the objecting party discovered such fact; or*

(b) *If an award has not been made before discovery of such fact, remove the arbitrator from the arbitral proceeding.*

5. An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitral proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality for the purposes of paragraph (b) of subsection 1 of NRS 38.241.

6. If the parties to an arbitral proceeding agree to the procedures of an arbitral organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under paragraph (b) of subsection 1 of NRS 38.241.

