

BILL ANALYSIS

Senate Research Center
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S.B. 503
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Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, arbitration agreements are routinely sealed at the conclusion of the arbitration process. The legislature is responsible for addressing important public policy considerations and safety issues. In some cases, the legislature and the public may be unaware of issues involving important public policy considerations and concerns regarding such considerations, if routine sealing of information in the arbitration process takes place.

As proposed, S.B. 503 requires that certain information related to arbitration agreements be made public, unless a court determines that an important public policy favors sealing of the record, to ensure that the legislature has an opportunity to review and evaluate the arbitration system and to ensure the public's right to access important information.

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 Section 171.086(b), Civil Practice and Remedies Code, to provide that an order to seal the award of an arbitration under Section 177.053, Civil Practice and Remedies Code, is an order authorized under this section.

SECTION 2. Amends Title 7, Civil Practice and Remedies Code, by adding Chapter 177, as follows:

CHAPTER 177. OPEN RECORDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 177.001. OPEN RECORDS POLICY. Sets forth the state's open records policy regarding all decisions in civil disputes.

Sec. 177.002. DEFINITIONS. Defines "arbitration," "arbitration services provider," "arbitrator," and "office of court administration."

Sec. 177.003. APPLICABILITY. Provides that the requirements of this chapter supplement, in any arbitration held in this state, the arbitration law of this state and any other state and the Federal Arbitration Act (9 U.S.C. Sections 1-16), as amended, and apply to any arbitration subject to those laws.

[Reserves Sections 177.004-177.050 for expansion.]

SUBCHAPTER B. AWARD FILING PROCEDURES

Sec. 177.051. AWARD FILING. Requires, for each arbitration, the person who conducts or administers such to file the arbitration award within 30 days of the date of the award with the office of court administration.

Sec. 177.052. AWARD INFORMATION. Sets forth specific information which must be included in the award filed.

Sec. 177.053. SEALING OF AWARD. (a) Authorizes a party to an arbitration, except as provided by this section, to apply to a court in the county in which the arbitration is held to have the arbitrator's award sealed in accordance with the standards and procedures under Paragraphs 1-6, Rule 76a, Texas Rules of Civil Procedure.

(b) Requires the party seeking to have an award sealed to post notice as required by Paragraph 3, Rule 76a, Texas Rules of Civil Procedure, with certain exceptions.

(c) Authorizes a party to an arbitration to request that the court issue a temporary sealing order according to Paragraph 5, Rule 76a, Texas Rules of Civil Procedure, if the requesting party notifies all other parties to the arbitration by a method of service described by Rule 21a, Texas Rules of Civil Procedure.

(d) Requires the court receiving the application to treat the award of the arbitrator as if it were a court record under Paragraph 2, Rule 76a, Texas Rules of Civil Procedure.

(e) Requires the court, if the court grants or denies the application for sealing the award, to notify the parties to the dispute, the arbitrator, the arbitration services provider, if any, the clerk of the court, and the office of its decision.

(f) Requires said parties to the dispute, if the court grants the request for sealing, to treat the award as if it were a court record sealed under Rule 76a, Texas Rules of Civil Procedure, and prohibits those parties from disclosing it unless the award is later unsealed.

(g) Provides that the rules for unsealing of court records, continuing jurisdiction, and appeal under Paragraphs 6, 7, and 8, Rule 76a, Texas Rules of Civil Procedure, apply to an award sealed under this section.

[Sections 177.054-177.100 reserved for expansion.]

SUBCHAPTER C. ENFORCEMENT PROVISIONS

Sec. 177.101. LATE FILING FEE. Sets forth procedures for the director of the office of court administration, under the supervision of the chief justice, in implementing a late filing fee, not to exceed \$100, for the late filing of an arbitration award and authorizes a party to an arbitration, or attorney for the party, to report an overdue filing of the award to the office of court administration.

Sec. 177.102. LATE AWARD FILERS; INELIGIBILITY FOR ARBITRATION ADMINISTRATION. Provides guidelines for rendering an arbitrator or arbitration services provider ineligible to administer a court-ordered arbitration on the basis of repeated late filings. Requires the office of court administration to compile and publish at least twice a year an updated list of those who are ineligible under this section and to implement procedures by which said persons can be removed from the list in accordance with specific rules.

SECTION 3. (a) Provides that, for the purpose of this section, the date an arbitration is commenced is the date an arbitrator is selected or appointed.

(b) Makes application of this Act prospective.

SECTION 4. Effective date: January 1, 2006.