Florida Senate - 2007

By Senator Aronberg

27-773A-07

1	A bill to be entitled
2	An act relating to court-ordered nonbinding
3	arbitration; amending s. 44.103, F.S.; revising
4	provisions relating to the presentation of
5	testimony and evidence in court-ordered
б	nonbinding arbitration proceedings; revising
7	provisions relating to an award of specified
8	costs in a trial de novo following arbitration
9	against the party requesting the trial when the
10	trial judgment differs from the arbitration
11	award by a certain amount; providing an
12	effective date.
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14	Be It Enacted by the Legislature of the State of Florida:
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16	Section 1. Subsections (4) and (6) of section 44.103,
17	Florida Statutes, are amended to read:
18	44.103 Court-ordered, nonbinding arbitration
19	(4) An arbitrator or, in the case of a panel, the
20	chief arbitrator, shall have such power to administer oaths or
21	affirmation and to conduct the proceedings as the rules of
22	court shall provide. The hearing shall be conducted
23	informally. Presentation of testimony and evidence shall be
24	kept to a minimum, and matters shall be presented to the
25	arbitrators primarily through the statements and arguments of
26	<u>counsel.</u> At the request of Any party to the arbitration <u>may</u>
27	petition the court in the underlying action, for good cause
28	<u>shown, to authorize the, such</u> arbitrator <u>to</u> shall issue
29	subpoenas for the attendance of witnesses and the production
30	of books, records, documents, and other evidence <u>at the</u>
31	arbitration and may petition apply to the court for orders
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1 compelling such attendance and production at the arbitration. 2 Subpoenas shall be served an shall be enforceable in the 3 manner provided by law. 4 (6) Upon motion made by either party within 30 days 5 after entry of judgment, the court may assess costs against 6 the party requesting a trial de novo, including arbitration 7 costs, court costs, reasonable attorney's fees, and other 8 reasonable costs such as investigation expenses and expenses for expert or other testimony which were incurred after the 9 10 arbitration hearing and continuing through the trial of the case in accordance with the quidelines for taxation of costs 11 as adopted by the Supreme Court. Such costs may be assessed 12 13 if: (a) The plaintiff, having filed for a trial de novo, 14 obtains a judgment at trial which is at least 25 percent less 15 16 than the arbitration award. In such instance, the costs and 17 attorney's fees pursuant to this section shall be set off 18 against the award. When the costs and attorney's fees pursuant to this section total more than the amount of the judgment, 19 20 the court shall enter judgment for the defendant against the 21 plaintiff for the amount of the costs and attorney's fees, 2.2 less the amount of the award to the plaintiff. For purposes of 23 a determination under this paragraph, the term "judgment" means the amount of the net judgment entered, plus all taxable 2.4 25 costs pursuant to the guidelines for taxation of costs as adopted by the Supreme Court, plus any postarbitration 26 27 collateral source payments received or due as of the date of 2.8 the judgment, and plus any postarbitration settlement amounts by which the verdict was reduced; or 29 30 (b) The defendant, having filed for a trial de novo, has a judgment entered against the defendant which is at least 31

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25 percent more than the arbitration award. For purposes of a	
determination under this paragraph, the term "judgment" means	
the amount of the net judgment entered, plus any	
postarbitration settlement amounts by which the verdict was	
reduced. The party having filed for a trial de novo may be	
assessed the arbitration costs, court costs, and other	
reasonable costs of the party, including attorney's fees,	
investigation expenses, and expenses for expert or other	
testimony or evidence incurred after the arbitration hearing	
if the judgment upon the trial de novo is not more favorable	
than the arbitration decision.	
Section 2. This act shall take effect October 1, 2007.	
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SENATE SUMMARY	
Revises provisions relating to the presentation of testimony and evidence in court-ordered nonbinding arbitration proceedings. Revises provisions relating to an award of specified costs in a trial de novo following arbitration against the party requesting the trial when the trial judgment differs from the arbitration award by a certain amount.	

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