

BILL ANALYSIS

Senate Research Center
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S.B. 997
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Jurisprudence
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DIGEST AND PURPOSE

Currently, arbitration agreements are routinely sealed at the conclusion of the arbitration process. As proposed, S.B. 997 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.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Office of Court Administration in SECTION 2 (Sections 177.101 and 177.102, Civil Practice and Remedies Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.086(b), Civil Practice and Remedies Code, to add a new Subdivision (6) relating to a court order to seal the award of the arbitration.

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. (a) Provides that it is this state's policy to provide open access to the records of all decisions in civil disputes, whether adjudicated or arbitrated, to create precedential guidance for future cases.

(b) Provides that it is this state's policy to ensure that a person's right to the fair and impartial hearing and resolution of a civil complaint is not infringed. Provides that to protect that right, it is in the public interest and the purpose of this chapter to require the provision of information needed to evaluate whether the public policy supporting mandatory arbitration is being served and to establish a basic system for evaluating and ensuring the accountability of arbitrators and arbitration services providers.

(c) Authorizes arbitration awards that qualify to be sealed in accordance with Section 177.053 in order to ensure that procedures relating to records in arbitration cases are commensurate with those within the court system.

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) 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 arbitrator who conducts the arbitration or, if an arbitration services provider administers the arbitration, the services provider to file the arbitration award before the 31st day after the date of the arbitration award with the Office of Court Administration.

Sec. 177.052. AWARD INFORMATION. Requires the award filed to contain certain information.

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 through 6, Rule 76a, Texas Rules of Civil Procedure.

(b) Requires the party seeking to have an award sealed or unsealed to post notice as required by Paragraph 3, Rule 76a, Texas Rules of Civil Procedure, except that on the day notice is posted the party must perform certain actions.

(c) Authorizes a party to an arbitration to request that the court issue a temporary sealing order according to the method of 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 Court Administration of its decision.

(f) Requires the parties to the dispute, the arbitrator, the arbitration services provider, if any, the clerk of the court, and the Office of Court Administration, 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 the disclosure of the award unless it 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.

[Reserves Sections 177.054-177.100 for expansion.]

SUBCHAPTER C. ENFORCEMENT PROVISIONS

Sec. 177.101. LATE FILING FEE. (a) Requires the Office of Court Administration by rule to establish a fee not to exceed \$100 for the late filing of an arbitration award and procedures for the collection of that fee.

(b) Authorizes a party to an arbitration, or an attorney for the party, to report an overdue filing of the arbitration award to the Office of Court Administration.

Sec. 177.102. LATE AWARD FILERS; INELIGIBILITY FOR ARBITRATION ADMINISTRATION. (a) Provides that an arbitrator or arbitration services provider that has failed more than three times in the preceding 12-month period to timely file arbitration awards is ineligible to administer a court-ordered arbitration.

(b) Requires the Office of Court Administration to compile and publish at least

twice each year an updated list of arbitrators or arbitration services providers that are ineligible to administer a court-ordered arbitration under Subsection (a).

(c) Requires the Office of Court Administration to by rule establish procedures by which an arbitrator or arbitration services provider can be removed from the published list.

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) Effective date: January 1, 2004.
Makes application of this Act prospective.