

BILL ANALYSIS

S.B. 1167
By: Duncan
Civil Practices
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, appeals are only authorized to be taken from final orders or judgments unless an interlocutory challenge is permitted by statute. There is a statutory exception permitting interlocutory appeal of a lower court's denial of a petition to order arbitration in cases subject to the Texas General Arbitration Act. However, there is no such statutory exception in cases subject to the Federal Arbitration Act, and the Supreme Court of Texas has held that review in these cases is required to be made by writ of mandamus. As a result, there are two different procedures for seeking review under the two arbitration acts, leading to duplicative actions that may be unnecessarily expensive and cumbersome.

Senate Bill 1167 creates a statutory exception to the general procedural rule to authorize interlocutory appeal of a court's petition denial in cases subject to the Federal Arbitration Act.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 51, Civil Practice and Remedies Code, by adding Section 51.016, as follows:

Sec 51.016. APPEAL ARISING UNDER FEDERAL ARBITRATION ACT. Authorizes a person to take an appeal or writ of error to the court of appeals from the judgment or interlocutory order of a district court, county court at law, or county court under the same circumstances that an appeal from a federal district court's order or decision would be permitted by 9 U.S.C. Section 16, in a matter subject to the Federal Arbitration Act (9 U.S.C. Section 1 et seq.)

SECTION 2. (a) Makes application of this Act prospective.

(b) Provides that this Act does not apply to the appeal of an interlocutory order in an action pending on the effective date of this Act if the appeal of the order is initiated before that date.

SECTION 3. Effective date: September 1, 2007.

EFFECTIVE DATE

This Act takes effect September 1, 2007.