

of Washington by chapter 121, Laws of 1935, as amended by chapter 49, Laws of 1939 (sections 9578-1 to 9578-11, both inclusive, Remington's Revised Statutes, Supplement; sections 4449a-41 to 4449a-51, both inclusive, Pierce's Code).

Passed the Senate February 19, 1943.

Passed the House March 10, 1943.

Approved by the Governor March 18, 1943.

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## CHAPTER 138.

[ S. B. 221. ]

### ARBITRATION OF ACTIONS FOR LEGAL OR EQUITABLE RELIEF.

AN ACT providing for the arbitration of controversies; providing a procedure for the same; providing for judgment to be entered thereon; prescribing the duty of the courts in connection therewith; and repealing sections 264, 265, 266, 267, 268, 269, 270, 271, 272, 273 and 274, Code of 1881 (sections 420 to 430, Remington's Revised Statutes; sections 7339 to 7349, Pierce's Code).

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Two or more parties may agree in writing to submit to arbitration, in conformity with the provisions of this act, any controversy which may be the subject of an action existing between them at the time of the agreement to submit, or they may include in a written agreement a provision to settle by arbitration any controversy thereafter arising between them out of or in relation to such agreement. Such agreement shall be valid, enforceable and irrevocable save upon such grounds as exist in law or equity for the revocation of any agreement.

The provisions of this act shall not apply to any arbitration agreement between employers and employees or between employers and associations of employees, unless such agreement specifically pro-

Agreement  
in writing.

Limitation.

vides that it shall be subject to the provisions of this act.

"Court"  
defined.

SEC. 2. The term "Court" when used in this act means any Superior Court of the State of Washington or the Supreme Court of the State of Washington.

Summary  
hearing.

Any application made under authority of this act shall be made in writing and heard in a summary way in the manner and upon the notice provided by law or rules of court for the making and hearing of motions or petitions, except as otherwise herein expressly provided.

Court may  
stay action  
pending  
arbitration.

SEC. 3. If any action for legal or equitable relief or other proceedings be brought by any party to a written agreement to arbitrate, the Court in which such action or proceeding is pending, upon being satisfied that any issue involved in such action or proceeding is referable to arbitration under such agreement, shall, on motion of any party to the arbitration agreement, stay the action or proceeding until an arbitration has been had in accordance with the agreement.

May apply  
for order for  
arbitration.

SEC. 4. 1. A party to a written agreement for arbitration claiming the neglect or refusal of another to proceed with an arbitration thereunder may make application to the Court for an order directing the parties to proceed with the arbitration in accordance with their agreement. Eight days notice in writing of such application shall be served upon the party alleged to be in default. Service thereof shall be made in the manner provided by law for service of a summons in a civil action in the court specified in section 2. If the Court is satisfied after hearing the parties that no substantial issue exists as to the existence or validity of the agreement to arbitrate or the failure to comply therewith, the Court shall make an order directing the parties to proceed to arbitrate in accordance with the terms of the agreement.

Written  
notice.

Court may  
order  
arbitration.

2. If the Court shall find that a substantial issue is raised as to the existence or validity of the arbitration agreement or the failure to comply therewith, the Court shall proceed immediately to the trial of such issue. If upon such trial the Court finds that no written agreement providing for arbitration was made or that there is no default in proceeding thereunder, the motion to compel arbitration shall be denied.

Shall proceed to trial.

3. Either party shall have the right to demand the immediate trial by jury of any such issue concerning the validity or existence of the arbitration agreement or the failure to comply therewith. Such demand shall be made before the return day of the motion to compel arbitration under this section, or if no such motion was made, the demand shall be made in the application for a stay of the arbitration, as provided under "4 (e)" hereunder.

May demand jury trial.

4. In order to raise an issue as to the existence or validity of the arbitration agreement or the failure to comply therewith, a party must set forth evidentiary facts raising such issue and must either (a) make a motion for a stay of the arbitration. If a notice of intention to arbitrate has been served as provided in section 6 hereof, notice of the motion for the stay must be served within twenty (20) days after service of said notice. Any issue regarding the validity or existence of the agreement or failure to comply therewith shall be tried in the same manner as provided in subsections 2 and 3 hereunder; or (b) by contesting a motion to compel arbitration as provided under subsection 1 of this section.

Stay of arbitration.

SEC. 5. Upon the application of any party to the arbitration agreement, and upon notice to the other parties thereto, the Court shall appoint an arbitrator, or arbitrators, in any of the following cases:

(a) When the arbitration agreement does not prescribe a method for the appointment of arbitrators.

(b) When the arbitration agreement does prescribe

When arbitrator to be appointed.

a method for the appointment of arbitrators, and the arbitrators, or any of them, have not been appointed and the time within which they should have been appointed has expired. (c) When any arbitrator fails or is otherwise unable to act, and his successor has not been duly appointed. (d) In any of the foregoing cases where the arbitration agreement is silent as to the number of arbitrators, three (3) arbitrators shall be appointed by the Court.

Power of appointed arbitrators.

Arbitrators appointed by the Court shall have the same power as though their appointment had been made in accordance with the agreement to arbitrate.

Notice of intention to arbitrate.

SEC. 6. When the controversy arises from a written agreement containing a provision to settle by arbitration a controversy thereafter arising between the parties out of or in relation to such agreement, the party demanding arbitration shall serve upon the other party, personally or by registered mail, a written notice of his intention to arbitrate. Such notice must state in substance that unless within twenty (20) days after its service, the party served therewith shall serve a notice of motion to stay the arbitration, he shall thereafter be barred from putting in issue the existence or validity of the agreement or the failure to comply therewith.

Arbitrators fix time and place.

SEC. 7. The arbitrators shall appoint a time and place for the hearing and notify the parties thereof, and may adjourn the hearing from time to time as may be necessary, and, on application of either party, and for good cause, may postpone the hearing to a time not extending beyond the date fixed for making the award.

Majority may determine.

All the arbitrators shall meet and act together during the hearing but a majority of them may determine any question and render a final award. The Court shall have power to direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

SEC. 8. If any party neglects to appear before the arbitrators after reasonable notice of the time and place of hearing, the arbitrators may nevertheless proceed to hear and determine the controversy upon the evidence which is produced before them.

Failure to appear no bar to hearing.

SEC. 9. If the time within which the award shall be made is not fixed in the arbitration agreement, the award shall be made within thirty (30) days from the closing of the proceeding, and any award made after the lapse of such thirty (30) days shall have no legal effect, unless the parties extend the time in which said award may be made or ratify any award made after the expiration of the thirty (30) day period. Any extension of time or ratification of the award shall be in writing and signed by all parties to the arbitration.

Award to be made within 30 days.

Ratification in writing.

SEC. 10. Any party shall have the right to be represented by an attorney at law in any arbitration proceeding or any hearing before the arbitrators.

Attorney may represent.

SEC. 11. The arbitrators, or a majority of them, may require any person to attend as a witness, and to bring with him any book, record, document or other evidence. The fees for such attendance shall be the same as the fees of witnesses in the Superior Court. Each arbitrator shall have the power to administer oaths.

Attendance required.

Witness fees.

Subpoenae shall issue and be signed by the arbitrators, or any one of them, and shall be directed to the person and shall be served in the same manner as subpoenae to testify before a court of record in this state. If any person so summoned to testify shall refuse or neglect to obey such subpoenae, upon petition authorized by the arbitrators or a majority of them, the court may compel the attendance of such person before the said arbitrator or arbitrators, or punish said person for contempt in the same manner now provided for the attendance of witnesses or the punishment of them in the courts of this state.

Subpoenae.

Refusal punishable as contempt.

Depositions  
as in suits.

SEC. 12. Depositions may be taken with or without a commission in the same manner and upon the same grounds as provided by law for the taking of depositions in suits pending in the Courts of Record in this state.

Order to  
preserve  
property.

SEC. 13. At any time before final determination of the arbitration the Court may upon application of a party to the agreement to arbitrate make such order or decree or take such proceeding as it may deem necessary for the preservation of the property or for securing satisfaction of the award.

Award in  
writing.

SEC. 14. The award shall be in writing and signed by the arbitrators or by a majority of them. The arbitrators shall promptly upon its rendition deliver a true copy of the award to each of the parties or their attorneys.

Application  
to confirm  
award.

SEC. 15. At any time within one (1) year after the award is made, unless the parties shall extend the time in writing, any party to the arbitration may apply to the Court for an order confirming the award, and the Court shall grant such an order unless the award is vacated, modified, or corrected, as provided in sections 16 and 17. Notice in writing of the motion must be served upon the adverse party, or his attorney, five (5) days before the hearing thereof. The validity of an award, otherwise valid, shall not be affected by the fact that no motion is made to confirm it.

Notice in  
writing.

Grounds  
for vacating  
award.

SEC. 16. In any of the following cases the Court shall after notice and hearing make an order vacating the award, upon the application of any party to the arbitration:

(a) Where the award was procured by corruption, fraud or other undue means.

(b) Where there was evident partiality or corruption in the arbitrators or any of them.

(c) Where the arbitrators were guilty of misconduct, in refusing to postpone the hearing, upon

sufficient cause shown, or in refusing to hear evidence, pertinent and material to the controversy; or of any other misbehavior, by which the rights of any party have been prejudiced.

(d) Where the arbitrators exceeded their powers, or so imperfectly executed them that a final and definite award upon the subject matter submitted was not made.

(e) If there was no valid submission or arbitration agreement and the proceeding was instituted without either serving a notice of intention to arbitrate, as provided in section 6, or without serving a motion to compel arbitration, as provided in section 4, subsection 1.

An award shall not be vacated upon any of the grounds set forth under subsections (a) to (d), inclusive, unless the Court is satisfied that substantial rights of the parties were prejudiced thereby.

Limitation.

Where an award is vacated, the Court may, in its discretion, direct a rehearing either before the same arbitrators or before new arbitrators to be chosen in the manner provided in the agreement for the selection of the original arbitrators and any provision limiting the time in which the arbitrators may make a decision shall be deemed applicable to the new arbitration and to commence from the date of the Court's order.

May direct rehearing.

SEC. 17. In any of the following cases, the Court shall, after notice and hearing, make an order modifying or correcting the award, upon the application of any party to the arbitration:

Grounds for modifying award.

(a) Where there was an evident miscalculation of figures, or an evident mistake in the description of any person, thing or property, referred to in the award.

(b) Where the arbitrators have awarded upon a matter not submitted to them.

(c) Where the award is imperfect in a matter of form, not affecting the merits of the controversy.

The order must modify and correct the award, so as to effect the intent thereof.

Notice of motion to vacate.

SEC. 18. Notice of a motion to vacate, modify or correct an award shall be served upon the adverse party, or his attorney, within three (3) months after a copy of the award is delivered to the party or his attorney. Such motion shall be made in the manner prescribed by law for the service of notice of a motion in an action. For the purposes of the motion any judge who might make an order to stay the proceedings, in an action brought in the same Court, may make an order to be served with the notice of motion, staying the proceedings of the adverse party to enforce the award.

Jurisdiction.

Judgment follows order.

SEC. 19. Upon the granting of an order, confirming, modifying, correcting or vacating an award, judgment or decree shall be entered in conformity therewith. Costs of the application and of the proceedings subsequent thereto, not exceeding twenty-five dollars (\$25) and disbursements, may be awarded by the Court in its discretion.

Award of costs.

Clerk to file judgment roll.

SEC. 20. Immediately after entering judgment, the clerk must attach together and file the following papers, which constitute the judgment roll:

Contents.

1. The agreement; the selection or appointment, if any, of an additional arbitrator, or umpire; and each written extension of the time, if any, within which to make the award.

2. The award.

3. Each notice, affidavit or other paper used upon an application to confirm, modify or correct the award, and a copy of each order of the Court upon such an application.

4. A copy of the judgment.

The judgment may be docketed as if it was rendered in an action.

SEC. 21. The judgment so entered has the same force and effect, in all respects as, and is subject to



all the provisions of law relating to, a judgment in an action; and it may be enforced as if it had been rendered in an action in the court in which it is entered.

Effect of judgment.

SEC. 22. An appeal may be taken from any final order made in a proceeding under this act, or from a judgment entered upon an award, as from an order or judgment in any civil action.

Right of appeal.

SEC. 23. Sections 264, 265, 266, 267, 268, 269, 270, 271, 272, 273 and 274 of the Code of 1881 (sections 420 to 430, both inclusive, Remington's Revised Statutes; sections 7339 to 7349, both inclusive, Pierce's Code) are hereby repealed: *Provided, however,* That arbitration proceedings pending upon the effective date of this act may be carried through to final judgment under the provisions of said sections, which are hereby continued in effect for such purposes only.

Sections repealed.

Proviso.

Passed the Senate March 10, 1943.

Passed the House March 10, 1943.

Approved by the Governor March 18, 1943.

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## CHAPTER 139.

[ S. B. 238. ]

### ELECTION OF SHERIFFS.

AN ACT relating to the election, qualification, term of office, and bonding of Sheriffs; prescribing the duties of certain officers; and amending section 4155, Remington's Revised Statutes.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Section 4155, Remington's Revised Statutes, is amended to read as follows:

Amendments.

Section 4155. There shall be elected in each county in this state a Sheriff, who shall possess the qualifications of a voter, and hold his office for the

Sheriff, qualifications and term.