

A bill for an act
relating to dispute resolution; providing for arbitration of disputes; adopting
the Uniform Arbitration Act; amending Minnesota Statutes 2008, sections
80C.146, subdivision 2; 122A.40, subdivision 15; 122A.41, subdivision 13;
179.09; 325E.37, subdivision 5; 325F.665, subdivision 6; 469.1762; 572A.02,
subdivision 1; proposing coding for new law as Minnesota Statutes, chapter
572B; repealing Minnesota Statutes 2008, sections 572.08; 572.09; 572.10;
572.11; 572.12; 572.13; 572.14; 572.15; 572.16; 572.17; 572.18; 572.19; 572.20;
572.21; 572.22; 572.23; 572.24; 572.25; 572.26; 572.27; 572.28; 572.29; 572.30.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1
UNIFORM ARBITRATION ACT

Section 1. [572B.01] DEFINITIONS.

In sections 572B.01 to 572B.31:

(1) "Arbitration organization" means a neutral association, agency, board, commission, or other entity that initiates, sponsors, or administers arbitration proceedings or is involved in the appointment of arbitrators.

(2) "Arbitrator" means an individual appointed to render an award in a controversy between persons who are parties to an agreement to arbitrate.

(3) "Authenticate" means:

(A) to sign; or

(B) to execute or adopt a record by attaching to or logically associating with the record, an electronic sound, symbol, or process with the intent to sign the record.

(4) "Court" means a court of competent jurisdiction in this state.

(5) "Knowledge" means actual knowledge.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(7) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 2. [572B.02] NOTICE.

Unless the parties to an agreement to arbitrate otherwise agree or except as otherwise provided in sections 572B.01 to 572B.31, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in the ordinary course of business, whether or not the other person acquires knowledge of the notice. A person has notice if the person has knowledge of the notice or has received notice. A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

Sec. 3. [572B.03] WHEN ACT APPLIES.

(a) Sections 572B.01 to 572B.31 govern agreements to arbitrate entered into:
(1) on or after August 1, 2009; and
(2) before August 1, 2009, if all parties to the agreement to arbitrate or to arbitration proceedings agree in a record to be governed by sections 572B.01 to 572B.31.
(b) On or after August 1, 2009, sections 572B.01 to 572B.31 govern agreements to arbitrate even if the arbitration agreement was entered into prior to August 1, 2009.

Sec. 4. [572B.04] EFFECT OF AGREEMENT TO ARBITRATE;
NONWAIVABLE PROVISIONS.

(a) Except as otherwise provided in subsections (b) and (c), the parties to an agreement to arbitrate or to an arbitration proceeding may waive or vary the requirements of sections 572B.01 to 572B.31 to the extent permitted by law.
(b) Before a controversy arises that is subject to an agreement to arbitrate, the parties to the agreement may not:
(1) waive or vary the requirements of section 572B.05, subsection (a); 572B.06, subsection (a); 572B.08; 572B.17, subsection (a) or (b); 572B.26; or 572B.27;
(2) unreasonably restrict the right under section 572B.09 to notice of the initiation of an arbitration proceeding;

(3) unreasonably restrict the right under section 572B.12 to disclosure of any facts by a neutral arbitrator; or

(4) waive the right under section 572B.16 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under sections 572B.01 to 572B.31, except that an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(c) The parties to an agreement to arbitrate may not waive or vary the requirements of this section or section 572B.03, subsection (a)(1) or (b); 572B.07; 572B.14; 572B.18; 572B.20, subsection (c) or (d); 572B.22; 572B.23; 572B.24; 572B.25, subsection (a) or (b); 572B.29; 572B.30; 572B.31; or 572B.32.

Sec. 5. [572B.05] APPLICATION TO COURT.

(a) Except as otherwise provided in section 572B.28, an application for judicial relief under sections 572B.01 to 572B.31 must be made by motion to the court and heard in the manner and upon the notice provided by law or rule of court for making and hearing motions.

(b) Notice of an initial motion to the court under sections 572B.01 to 572B.31 must be served in the manner provided by law for the service of a summons in a civil action unless a civil action is already pending involving the agreement to arbitrate.

Sec. 6. [572B.06] VALIDITY OF AGREEMENT TO ARBITRATE.

(a) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of contract.

(b) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate, except in the case of a grievance arising under a collective bargaining agreement when an arbitrator shall decide.

(c) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(d) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

Sec. 7. [572B.07] MOTION TO COMPEL OR STAY ARBITRATION.

4.1 (a) On motion of a person showing an agreement to arbitrate and alleging another
4.2 person's refusal to arbitrate pursuant to the agreement, the court shall order the parties
4.3 to arbitrate if the refusing party does not appear or does not oppose the motion. If the
4.4 refusing party opposes the motion, the court shall proceed summarily to decide the issue.
4.5 Unless the court finds that there is no enforceable agreement to arbitrate, it shall order
4.6 the parties to arbitrate. If the court finds that there is no enforceable agreement, it may
4.7 not order the parties to arbitrate.

4.8 (b) On motion of a person alleging that an arbitration proceeding has been initiated
4.9 or threatened but that there is no agreement to arbitrate, the court shall proceed summarily
4.10 to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it
4.11 shall order the parties to arbitrate. If the court finds that there is no enforceable agreement,
4.12 it may not order the parties to arbitrate.

4.13 (c) The court may not refuse to order arbitration because the claim subject to
4.14 arbitration lacks merit or grounds for the claim have not established.

4.15 (d) If a proceeding involving a claim referable to arbitration under an alleged
4.16 agreement to arbitrate is pending in court, a motion under this section must be filed in
4.17 that court. Otherwise, a motion under this section may be filed in any court as required
4.18 by section 572B.27.

4.19 (e) If a party files a motion with the court to order arbitration under this section, the
4.20 court shall on just terms stay any judicial proceeding that involves a claim alleged to be
4.21 subject to the arbitration until the court renders a final decision under this section.

4.22 (f) If the court orders arbitration, the court shall on just terms stay any judicial
4.23 proceeding that involves a claim subject to the arbitration. If a claim subject to the
4.24 arbitration is severable, the court may sever it and limit the stay to that claim.

4.25 **Sec. 8. [572B.08] PROVISIONAL REMEDIES.**

4.26 (a) Before an arbitrator is appointed and is authorized and able to act, the court, upon
4.27 motion of a party to an arbitration proceeding and for good cause shown, may enter an
4.28 order for provisional remedies to protect the effectiveness of the arbitration proceeding to
4.29 the same extent and under the same conditions as if the controversy were the subject of
4.30 a civil action.

4.31 (b) After an arbitrator is appointed and is authorized and able to act, the arbitrator
4.32 may issue such orders for provisional remedies, including interim awards, as the arbitrator
4.33 finds necessary to protect the effectiveness of the arbitration proceeding and to promote
4.34 the fair and expeditious resolution of the controversy, to the same extent and under the
4.35 same conditions as if the controversy were the subject of a civil action. After an arbitrator

is appointed and is authorized and able to act, a party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act in a timely manner or if the arbitrator cannot provide an adequate remedy.

(c) A motion to a court for a provisional remedy under subsection (a) or (b) does not waive any right of arbitration.

Sec. 9. [572B.09] INITIATION OF ARBITRATION.

(a) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by mail certified or registered, return receipt requested and obtained, or by service as authorized for the initiation of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(b) Unless a person interposes an objection as to lack or insufficiency of notice under section 572B.15, subsection (c), not later than the commencement of the arbitration hearing, the person's appearance at the hearing waives any objection to lack of or insufficiency of notice.

Sec. 10. [572B.10] CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS.

(a) Except as otherwise provided in subsections (c) and (d), upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(1) there are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(2) the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(3) the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(4) prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) The court may order consolidation of separate arbitration proceedings as to certain claims and allow other claims to be resolved in separate arbitration proceedings.

(c) The court may not order consolidation of the claims of a party to an agreement to arbitrate which prohibits consolidation.

(d) An arbitrator shall decide whether to consolidate one or more grievances arising under a collective bargaining agreement.

Sec. 11. [572B.11] APPOINTMENT OF ARBITRATOR; SERVICE AS A NEUTRAL ARBITRATOR.

(a) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. The arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

(b) An arbitrator who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as a neutral arbitrator.

Sec. 12. [572B.12] DISCLOSURE BY ARBITRATOR.

(a) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

- (1) a financial or personal interest in the outcome of the arbitration proceeding; and
- (2) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, witnesses, or the other arbitrators.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceedings and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by subsection (a) or (b) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the disclosure, the objection may be a ground to vacate the award under section 572B.23, subsection (a)(2).

(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b), upon timely objection of a party, an award may be vacated under section 572B.23, subsection (a)(2).

(e) An arbitrator appointed as a neutral who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under section 572B.23, subsection (a)(2).

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 572B.23, subsection (a)(2).

Sec. 13. [572B.13] ACTION BY MAJORITY.

If there is more than one arbitrator, the powers of the arbitrators must be exercised by a majority of them.

Sec. 14. [572B.14] IMMUNITY OF ARBITRATOR; COMPETENCY TO TESTIFY; ATTORNEY FEES AND COSTS.

(a) An arbitrator or an arbitration organization acting in such capacity is immune from civil liability to the same extent as a judge of a court in this state acting in a judicial capacity.

(b) The immunity afforded by this section supplements any other immunity.

(c) If an arbitrator does not make a disclosure required by section 572B.12, the nondisclosure does not cause a loss of immunity under this section.

(d) In any judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify or required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply:

(1) to the extent necessary to determine the claim of an arbitrator or an arbitration organization or a representative of the arbitration organization against a party to the arbitration proceeding; or

(2) if a party to the arbitration proceeding files a motion to vacate an award under section 572B.23, subsection (a)(1) or (2), and establishes prima facie that a ground for vacating the award exists.

(e) If a person commences a civil action against an arbitrator, an arbitration organization, or a representative of an arbitration organization arising from the services of the arbitrator, organization, or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify in violation of subsection (d), and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is incompetent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney fees and other reasonable expenses of litigation.

Sec. 15. [572B.15] ARBITRATION PROCESS.

(a) The arbitrator may conduct the arbitration in such manner as the arbitrator considers appropriate so as to aid in the fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and to determine the admissibility, relevance, materiality, and weight of any evidence.

(b) The arbitrator may decide a request for summary disposition of a claim or particular issue by agreement of all interested parties or upon request of one party to the arbitration proceeding if that party gives notice to all other parties to the arbitration proceeding and the other parties have a reasonable opportunity to respond.

(c) The arbitrator shall set a time and place for a hearing and give notice of the hearing not less than five days before the hearing. Unless a party to the arbitration proceeding interposes an objection to lack of or insufficiency of notice not later than the commencement of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to promptly conduct the hearing and render a timely decision.

(d) If an arbitrator orders a hearing under subsection (c), the parties to the arbitration proceeding are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(e) If there is more than one arbitrator, all of them shall conduct the hearing under subsection (c), however, a majority shall decide any issue and make a final award.

(f) If an arbitrator ceases, or is unable, to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with section 572B.11 to continue the hearing and to decide the controversy.

Sec. 16. [572B.16] REPRESENTATION BY LAWYER.

A party to an arbitration proceeding may be represented by a lawyer.

Sec. 17. [572B.17] WITNESSES; SUBPOENAS; DEPOSITIONS; DISCOVERY.

(a) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(b) On request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness, including a witness who cannot be subpoenaed for or is unable to attend a hearing, to be taken under conditions determined by the arbitrator for use as evidence in order to make the proceeding fair, expeditious, and cost-effective.

(c) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective.

(d) If an arbitrator permits discovery under subsection (c), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, including the issuance of a subpoena for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and may take action against a party to the arbitration proceeding who does not comply to the extent permitted by law as if the controversy were the subject of a civil action in this state.

(e) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure as if the controversy were the subject of a civil action in this state.

(f) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(g) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court in order to make the arbitration proceeding fair, expeditious, and cost-effective. A subpoena or discovery-related order issued by an arbitrator must be served in the manner provided by law for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

Sec. 18. **[572B.18] COURT ENFORCEMENT OF PRE-AWARD RULING BY ARBITRATOR.**

If an arbitrator makes a pre-award ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 572B.19. The successful party may file a motion to the court for an expedited order to confirm the award under section 572B.22, in which case the court shall proceed summarily to decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award of the arbitrator pursuant to sections 572B.23 and 572B.24.

Sec. 19. **[572B.19] AWARD.**

(a) An arbitrator shall make a record of an award. The record must be authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(b) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

Sec. 20. **[572B.20] CHANGE OF AWARD BY ARBITRATOR.**

(a) On motion to an arbitrator by a party to the arbitration proceeding, the arbitrator may modify or correct an award:

(1) upon the grounds stated in section 572B.24, subsection (a)(1) or (3);

(2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

(b) A motion under subsection (a) must be made and served on all parties within 20 days after the movant receives notice of the award.

(c) A party to the arbitration proceeding must serve any objections to the motion within ten days after receipt of the notice.

(d) If a motion to the court is pending under sections 572B.22, 572B.23, and 572B.24, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(1) upon the grounds stated in section 572B.24, subsection (a)(1) or (3);

(2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

(e) An award modified or corrected pursuant to this section is subject to sections 572B.22, 572B.23, and 572B.24.

Sec. 21. [572B.21] REMEDIES; FEES AND EXPENSES OF ARBITRATION PROCEEDING.

(a) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) An arbitrator may award attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(c) As to all remedies other than those authorized by subsections (a) and (b), an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under section 572B.22 or for vacating an award under section 572B.23.

(d) An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(e) If an arbitrator awards punitive damages or other exemplary relief under subsection (a), the arbitrator shall specify in the award the basis in fact justifying and the

12.1 basis in law authorizing the award and state separately the amount of the punitive damages
12.2 or other exemplary relief.

12.3 Sec. 22. **[572B.22] CONFIRMATION OF AWARD.**

12.4 After a party to the arbitration proceeding receives notice of an award, the party may
12.5 file a motion with the court for an order confirming the award, at which time the court
12.6 shall issue such an order unless the award is modified or corrected pursuant to section
12.7 572B.20 or 572B.24 or is vacated pursuant to section 572B.23.

12.8 Sec. 23. **[572B.23] VACATING AWARD.**

12.9 (a) Upon motion of a party to the arbitration proceeding, the court shall vacate an
12.10 award if:

12.11 (1) the award was procured by corruption, fraud, or other undue means;

12.12 (2) there was:

12.13 (A) evident partiality by an arbitrator appointed as a neutral;

12.14 (B) corruption by an arbitrator; or

12.15 (C) misconduct by an arbitrator prejudicing the rights of a party to the arbitration
12.16 proceeding;

12.17 (3) an arbitrator refused to postpone the hearing upon showing of sufficient cause
12.18 for postponement, refused to consider evidence material to the controversy, or otherwise
12.19 conducted the hearing contrary to section 572B.15, so as to prejudice substantially the
12.20 rights of a party to the arbitration proceeding;

12.21 (4) an arbitrator exceeded the arbitrator's powers;

12.22 (5) there was no agreement to arbitrate, unless the person participated in the
12.23 arbitration proceeding without raising the objection under section 572B.15, subsection (c),
12.24 not later than the commencement of the arbitration hearing; or

12.25 (6) the arbitration was conducted without proper notice of the initiation of an
12.26 arbitration as required in section 572B.09 so as to prejudice substantially the rights of a
12.27 party to the arbitration proceeding.

12.28 (b) A motion under this section must be filed within 90 days after the movant
12.29 receives notice of the award in a record pursuant to section 572B.19 or within 90 days
12.30 after the movant receives notice of an arbitrator's award in a record on a motion to modify
12.31 or correct an award pursuant to section 572B.20, unless the motion is predicated upon the
12.32 ground that the award was procured by corruption, fraud, or other undue means, in which
12.33 case it must be filed within 90 days after such a ground is known or by the exercise of
12.34 reasonable care should have been known by the movant.

(c) In vacating an award on a ground other than that set forth in subsection (a)(5), the court may order a rehearing before a new arbitrator. If the award is vacated on the ground stated in subsection (a)(3), (4), or (6), the court may order a rehearing before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in section 572B.19, subsection (b), for an award.

(d) If a motion to vacate an award is denied and a motion to modify or correct the award is not pending, the court shall confirm the award.

Sec. 24. [572B.24] MODIFICATION OR CORRECTION OF AWARD.

(a) Upon motion filed within 90 days after the movant receives notice of the award in a record pursuant to section 572B.19 or within 90 days after the movant receives notice of an arbitrator's award in a record on a motion to modify or correct an award pursuant to section 572B.20, the court shall modify or correct the award if:

(1) there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;

(2) the arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(3) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(b) If a motion filed under subsection (a) is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, the court shall confirm the award.

(c) A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

Sec. 25. [572B.25] JUDGMENT ON AWARD; ATTORNEY FEES AND LITIGATION EXPENSES.

(a) Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

(b) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

14.1 (c) On application of a prevailing party to a contested judicial proceeding under
14.2 section 572B.22, 572B.23, or 572B.24, the court may add to a judgment confirming,
14.3 vacating without directing a rehearing, modifying, or correcting an award, attorney fees
14.4 and other reasonable expenses of litigation incurred in a judicial proceeding after the
14.5 award is made.

14.6 Sec. 26. **[572B.26] JURISDICTION.**

14.7 (a) A court of this state having jurisdiction over the dispute and the parties may
14.8 enforce an agreement to arbitrate.

14.9 (b) An agreement to arbitrate providing for arbitration in this state confers exclusive
14.10 jurisdiction on the court to enter judgment on an award under sections 572B.01 to 572B.31.

14.11 Sec. 27. **[572B.27] VENUE.**

14.12 A motion pursuant to section 572B.05 must be filed in the court of the county in
14.13 which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the
14.14 hearing has been held, in the court of the county in which it was held. Otherwise, the
14.15 motion must be filed in any county in which an adverse party resides or has a place of
14.16 business or, if no adverse party has a residence or place of business in this state, in the
14.17 court of any county in this state. All subsequent motions must be filed in the court hearing
14.18 the initial motion unless the court otherwise directs.

14.19 Sec. 28. **[572B.28] APPEALS.**

14.20 (a) An appeal may be taken from:

14.21 (1) an order denying a motion to compel arbitration;

14.22 (2) an order granting a motion to stay arbitration;

14.23 (3) an order confirming or denying confirmation of an award;

14.24 (4) an order modifying or correcting an award;

14.25 (5) an order vacating an award without directing a rehearing; or

14.26 (6) a final judgment entered pursuant to sections 572B.01 to 572B.31.

14.27 (b) An appeal under this section must be taken as from an order or a judgment in
14.28 a civil action.

14.29 Sec. 29. **[572B.29] UNIFORMITY OF APPLICATION AND CONSTRUCTION;**
14.30 **NO-FAULT AUTOMOBILE INSURANCE ACT; CONFLICT; PREVAILING LAW.**

(a) In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(b) When provisions of sections 572B.01 to 572B.31 are in conflict with provisions of sections 65B.41 to 65B.71, the provisions of sections 65B.41 to 65B.71 shall prevail.

Sec. 30. **[572B.30] SAVINGS CLAUSE.**

Sections 572B.01 to 572B.31 do not affect an action or proceeding commenced or right accrued before sections 572B.01 to 572B.31 take effect.

Sec. 31. **[572B.31] RELATIONSHIP TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

The provisions of sections 572B.01 to 572B.31 governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act.

Sec. 32. **REPEALER.**

Minnesota Statutes 2008, sections 572.08; 572.09; 572.10; 572.11; 572.12; 572.13; 572.14; 572.15; 572.16; 572.17; 572.18; 572.19; 572.20; 572.21; 572.22; 572.23; 572.24; 572.25; 572.26; 572.27; 572.28; 572.29; and 572.30, are repealed.

Sec. 33. **EFFECTIVE DATE.**

Sections 1 to 32 are effective August 1, 2009.

ARTICLE 2
CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2008, section 80C.146, subdivision 2, is amended to read:

Subd. 2. **Building alterations.** (a) A motor fuel franchise agreement entered into or renewed, extended, or modified, after April 27, 1988, must comply with this subdivision if it allows the franchisor to modify, remodel, or alter a full-service station operated by a franchisee by eliminating one or more service bays. The agreement must provide that if the motor fuel franchisor eliminates one or more service bays during the term of the agreement, the franchisor must first pay to the franchisee in cash an amount that fairly and adequately compensates the franchisee for the loss of the service and repair business. The amount of compensation must be determined without regard to:

(1) the income or loss the franchisee may realize as a result of any subsequent or replacement business the franchisee may be entitled to operate on the premises leased from the motor fuel franchisor; or

(2) the income or loss the franchisee may realize by relocating the franchisee service and repair business or by acquiring another service and repair business.

(b) The commissioner shall require inclusion of the provision specified in paragraph (a) in the franchise agreement as a condition of registration of the agreement. An agreement subject to this subdivision that does not contain the provision is deemed to contain the provision. The provision may not be waived or modified except in a writing signed by the franchisee that is executed at least 30 days after the execution of the franchise agreement, is separate and independent from the franchise agreement, and is based upon adequate consideration. Adequate consideration may include, without limitation, an agreement to purchase the entire business operated by the franchisee or an agreement to provide equivalent repair facilities for use by the franchisee.

(c) If the franchisor and the franchisee are unable to agree on the amount of compensation, and either the franchisor or the franchisee demands arbitration, the matter must be submitted to binding arbitration in accordance with sections ~~572.08 to 572.30~~ 572B.01 to 572B.31 and the rules of the American Arbitration Association. Within 30 days after the demand for arbitration, the franchisor and the franchisee shall each select an arbitrator. The two arbitrators shall select a third arbitrator within 45 days after the demand for arbitration. The franchisor and the franchisee shall pay the fees and expenses of the arbitrator each selects, and the franchisor and franchisee shall share equally the fees and expenses of the third arbitrator.

(d) Nothing in this subdivision prohibits a motor fuel franchisor from altering, modifying, or remodeling a full-service station, without payment to the franchisee, following the expiration of the franchise relationship based upon termination or nonrenewal of the franchise relationship in accordance with United States Code, title 15, section 2802(b)(3)(D).

Sec. 2. Minnesota Statutes 2008, section 122A.40, subdivision 15, is amended to read:

Subd. 15. **Hearing and determination by arbitrator.** A teacher whose termination is proposed under subdivision 7 on grounds specified in subdivision 9, or whose discharge is proposed under subdivision 13, may elect a hearing before an arbitrator instead of the school board. The hearing is governed by this subdivision.

(a) The teacher must make a written request for a hearing before an arbitrator within 14 days after receiving notification of proposed termination on grounds specified

in subdivision 9 or within ten days of receiving notification of proposed discharge under subdivision 13. If a request for a hearing does not specify that the hearing be before an arbitrator, it is considered to be a request for a hearing before the school board.

(b) If the teacher and the school board are unable to mutually agree on an arbitrator, the board must request from the bureau of mediation services a list of five persons to serve as an arbitrator. If the matter to be heard is a proposed termination on grounds specified in subdivision 9, arbitrators on the list must be available to hear the matter and make a decision within a time frame that will allow the board to comply with all statutory timelines relating to termination. If the teacher and the board are unable to mutually agree on an arbitrator from the list provided, the parties shall alternately strike names from the list until the name of one arbitrator remains. The person remaining after the striking procedure must be the arbitrator. If the parties are unable to agree on who shall strike the first name, the question must be decided by a flip of a coin. The teacher and the school board must share equally the costs and fees of the arbitrator.

(c) The arbitrator shall determine, by a preponderance of the evidence, whether the grounds for termination or discharge specified in subdivision 9 or 13 exist to support the proposed termination or discharge. A lesser penalty than termination or discharge may be imposed by the arbitrator only to the extent that either party proposes such lesser penalty in the proceeding. In making the determination, the arbitration proceeding is governed by sections ~~572.11 to 572.17~~ 572B.15 to 572B.28 and by the collective bargaining agreement applicable to the teacher.

(d) An arbitration hearing conducted under this subdivision is a meeting for preliminary consideration of allegations or charges within the meaning of section 13D.05, subdivision 3, paragraph (a), and must be closed, unless the teacher requests it to be open.

(e) The arbitrator's award is final and binding on the parties, subject to sections ~~572.18 to 572.26~~ 572B.18 to 572B.28.

Sec. 3. Minnesota Statutes 2008, section 122A.41, subdivision 13, is amended to read:

Subd. 13. **Hearing and determination by arbitrator.** A teacher against whom charges have been filed alleging any cause for discharge or demotion specified in subdivision 6, clause (1), (2), (3), or (4), may elect a hearing before an arbitrator instead of the school board. The hearing is governed by this subdivision.

(a) The teacher must make a written request for a hearing before an arbitrator within ten days after receiving a written notice of the filing of charges required by subdivision 7. Failure to request a hearing before an arbitrator during this period is considered acquiescence to the board's action.

(b) If the teacher and the school board are unable to mutually agree on an arbitrator, the board must request from the Bureau of Mediation Services a list of five persons to serve as an arbitrator. If the teacher and the school board are unable to mutually agree on an arbitrator from the list provided, the parties shall alternately strike names from the list until the name of one arbitrator remains. The person remaining after the striking procedure must be the arbitrator. If the parties are unable to agree on who shall strike the first name, the question must be decided by a flip of a coin. The teacher and the board must share equally the costs and fees of the arbitrator.

(c) The arbitrator shall determine, by a preponderance of the evidence, whether the causes specified in subdivision 6, clause (1), (2), (3), or (4), exist to support the proposed discharge or demotion. A lesser penalty than discharge or demotion may be imposed by the arbitrator only to the extent that either party proposes such lesser penalty in the proceeding. In making the determination, the arbitration proceeding is governed by sections ~~572.11 to 572.17~~ 572B.15 to 572B.28 and by the collective bargaining agreement applicable to the teacher.

(d) An arbitration hearing conducted under this subdivision is a meeting for preliminary consideration of allegations or charges within the meaning of section 13D.05, subdivision 3, paragraph (a), and must be closed, unless the teacher requests it to be open.

(e) The arbitrator's decision is final and binding on the parties, subject to sections ~~572.18 to 572.26~~ 572B.18 to 572B.28.

Sec. 4. Minnesota Statutes 2008, section 179.09, is amended to read:

179.09 ARBITRATION.

When a labor dispute arises which is not settled by mediation such dispute may, by written agreement of the parties, be submitted to arbitration on such terms as the parties may specify, including among other methods the arbitration procedure under the terms of sections ~~572.08 to 572.26~~ 572B.01 to 572B.31 and arbitration under the Voluntary Industrial Arbitration Tribunal of the American Arbitration Association. If such agreement so provides, the commissioner of mediation services may act as a member of any arbitration tribunal created by any such agreement and, if the agreement so provides, the commissioner may appoint one or more of such arbitrators. Either or both of the parties to any such agreement or any arbitration tribunal created under any such agreement may apply to the commissioner to have the tribunal designated as a temporary arbitration tribunal and, if so designated, the temporary arbitration tribunal shall have power to administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and the production of evidence, which subpoenas shall be enforced in the same manner as

H.F. No. 1692, as introduced - 86th Legislative Session (2009-2010) [09-0206]

19.1 subpoenas issued by the commission under section 179.08. Any such temporary arbitration
19.2 tribunal shall file with the commissioner a copy of its report, duly certified by its chair.

19.3 Sec. 5. Minnesota Statutes 2008, section 325E.37, subdivision 5, is amended to read:

19.4 Subd. 5. **Arbitration.** (a) The sole remedy for a manufacturer, wholesaler,
19.5 assembler, or importer who alleges a violation of any provision of this section is to submit
19.6 the matter to arbitration. A sales representative may also submit a matter to arbitration,
19.7 or in the alternative, at the sales representative's option prior to the arbitration hearing,
19.8 the sales representative may bring the sales representative's claims in a court of law, and
19.9 in that event the claims of all parties must be resolved in that forum. In the event the
19.10 parties do not agree to an arbitrator within 30 days after the sales representative demands
19.11 arbitration in writing, either party may request the appointment of an arbitrator from
19.12 the American Arbitration Association. Each party to a sales representative agreement
19.13 shall be bound by the arbitration. In the event that the American Arbitration Association
19.14 declines to appoint an arbitrator, the arbitration shall proceed under chapter ~~572~~ 572B. The
19.15 cost of an arbitration hearing must be borne equally by both parties unless the arbitrator
19.16 determines a more equitable distribution. Except as provided in paragraph (c), the
19.17 arbitration proceeding is to be governed by the Uniform Arbitration Act, sections ~~572-08~~
19.18 ~~to 572.30~~ 572B.01 to 572B.31.

19.19 (b) The arbitrator may provide any of the following remedies:

- 19.20 (1) sustainment of the termination of the sales representative agreement;
19.21 (2) reinstatement of the sales representative agreement, or damages;
19.22 (3) payment of commissions due under subdivision 4;
19.23 (4) reasonable attorneys' fees and costs to a prevailing sales representative;

19.24 (5) reasonable attorneys' fees and costs to a prevailing manufacturer, wholesaler,
19.25 assembler, or importer, if the arbitrator finds the complaint was frivolous, unreasonable,
19.26 or without foundation; or

19.27 (6) the full amount of the arbitrator's fees and expenses if the arbitrator finds that the
19.28 sales representative's resort to arbitration or the manufacturer's, wholesaler's, assembler's,
19.29 or importer's defense in arbitration was vexatious and lacking in good faith.

19.30 (c) The decision of any arbitration hearing under this subdivision is final and binding
19.31 on the sales representative and the manufacturer, wholesaler, assembler, or importer. The
19.32 district court shall, upon application of a party, issue an order confirming the decision.

19.33 Sec. 6. Minnesota Statutes 2008, section 325F.665, subdivision 6, is amended to read:

Subd. 6. **Alternative dispute settlement mechanism.** (a) Any manufacturer doing business in this state, entering into franchise agreements for the sale of its motor vehicles in this state, or offering express warranties on its motor vehicles sold or distributed for sale in this state shall operate, or participate in, an informal dispute settlement mechanism located in the state of Minnesota which complies with the provisions of the Code of Federal Regulations, title 16, part 703, and the requirements of this section. The provisions of subdivision 3 concerning refunds or replacement do not apply to a consumer who has not first used this mechanism before commencing a civil action, unless the manufacturer allows a consumer to commence an action without first using this mechanism.

(b) An informal dispute settlement mechanism provided for by this section shall, at the time a request for arbitration is made, provide to the consumer and to each person who will arbitrate the consumer's dispute, information about this section as approved and directed by the attorney general, in consultation with interested parties. The informal dispute settlement mechanism shall permit the parties to present or submit any arguments based on this section and shall not prohibit or discourage the consideration of any such arguments.

(c) If, in an informal dispute settlement mechanism, it is decided that a consumer is entitled to a replacement vehicle or refund under subdivision 3, then any refund or replacement offered by the manufacturer or selected by a consumer shall include and itemize all amounts authorized by subdivision 3. If the amount of excise tax refunded is not separately stated, or if the manufacturer does not apply for a refund of the tax within one year of the return of the motor vehicle, the Department of Public Safety may refund the excise tax, as determined under subdivision 3, paragraph (h), directly to the consumer and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles.

(d) No documents shall be received by any informal dispute settlement mechanism unless those documents have been provided to each of the parties in the dispute at or prior to the mechanism's meeting, with an opportunity for the parties to comment on the documents either in writing or orally. If a consumer is present during the informal dispute settlement mechanism's meeting, the consumer may request postponement of the mechanism's meeting to allow sufficient time to review any documents presented at the time of the meeting which had not been presented to the consumer prior to the meeting.

(e) The informal dispute settlement mechanism shall allow each party to appear and make an oral presentation in the state of Minnesota unless the consumer agrees to submit the dispute for decision on the basis of documents alone or by telephone, or unless the party fails to appear for an oral presentation after reasonable prior written notice. If the consumer agrees to submit the dispute for decision on the basis of documents alone, then

21.1 manufacturer or dealer representatives may not participate in the discussion or decision
21.2 of the dispute.

21.3 (f) Consumers shall be given an adequate opportunity to contest a manufacturer's
21.4 assertion that a nonconformity falls within intended specifications for the vehicle by
21.5 having the basis of the manufacturer's claim appraised by a technical expert selected and
21.6 paid for by the consumer prior to the informal dispute settlement hearing.

21.7 (g) Where there has been a recent attempt by the manufacturer to repair a consumer's
21.8 vehicle, but no response has yet been received by the informal dispute mechanism from the
21.9 consumer as to whether the repairs were successfully completed, the parties must be given
21.10 the opportunity to present any additional information regarding the manufacturer's recent
21.11 repair attempt before any final decision is rendered by the informal dispute settlement
21.12 mechanism. This provision shall not prejudice a consumer's rights under this section.

21.13 (h) If the manufacturer knows that a technical service bulletin directly applies to the
21.14 specific mechanical problem being disputed by the consumer, then the manufacturer shall
21.15 provide the technical service bulletin to the consumer at reasonable cost. The mechanism
21.16 shall review any such technical service bulletins submitted by either party.

21.17 (i) A consumer may be charged a fee to participate in an informal dispute settlement
21.18 mechanism required by this section, but the fee may not exceed the conciliation court
21.19 filing fee in the county where the arbitration is conducted.

21.20 (j) Any party to the dispute has the right to be represented by an attorney in an
21.21 informal dispute settlement mechanism.

21.22 (k) The informal dispute settlement mechanism has all the evidence-gathering
21.23 powers granted an arbitrator under section ~~572.14~~ 572B.17.

21.24 (l) A decision issued in an informal dispute settlement mechanism required by
21.25 this section may be in writing and signed.

21.26 Sec. 7. Minnesota Statutes 2008, section 469.1762, is amended to read:

21.27 **469.1762 ARBITRATION OF DISPUTES OVER COUNTY COSTS.**

21.28 If the county and the authority or municipality are unable to agree on either (1)
21.29 the need for or cost of road improvements under section 469.175, subdivision 1a, or
21.30 (2) the amount of county administrative costs under section 469.176, subdivision 4h,
21.31 and the county or municipality demands arbitration, the matter must be submitted to
21.32 binding arbitration in accordance with sections ~~572.08 to 572.30~~ 572B.01 to 572B.31 and
21.33 the rules of the American Arbitration Association. Within 30 days after the demand for
21.34 arbitration, the parties shall each select an arbitrator or agree upon a single arbitrator. If
21.35 the parties each select an arbitrator, the two arbitrators shall select a third arbitrator within

H.F. No. 1692, as introduced - 86th Legislative Session (2009-2010) [09-0206]

22.1 45 days after the demand for arbitration. Each party shall pay the fees and expenses of the
22.2 arbitrator it selected and the parties shall share equally the expenses of the third arbitrator
22.3 or an arbitrator agreed upon mutually by the parties.

22.4 Sec. 8. Minnesota Statutes 2008, section 572A.02, subdivision 1, is amended to read:

22.5 Subdivision 1. **Submittal to binding arbitration.** If a dispute remains unresolved
22.6 after the close of mediation, the dispute shall be submitted to binding arbitration within
22.7 60 days of issuance of the mediation report pursuant to the terms of this section and
22.8 the Uniform Arbitration Act, sections ~~572.08 to 572.30~~ 572B.01 to 572B.31, except the
22.9 period may be extended for an additional 15 days as provided in this section. In the event
22.10 of a conflict between the provisions of the Uniform Arbitration Act and this section,
22.11 this section controls.

APPENDIX
Article locations in 09-0206

ARTICLE 1 UNIFORM ARBITRATION ACT Page.Ln 1.11

ARTICLE 2 CONFORMING AMENDMENTS Page.Ln 15.21

572.08 VALIDITY OF ARBITRATION AGREEMENTS, APPLICATION TO SPECIFIC AGREEMENTS.

A written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable, and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract. The provisions of sections 572.08 to 572.30 shall apply to controversies arising out of any contract for the construction or repair of state trunk highways when such contract specifically provides for arbitration or when the parties agree to submit an existing controversy to arbitration. Sections 572.08 to 572.30 also apply to arbitration agreements between employers and employees or between their respective representatives unless otherwise provided in the agreement.

572.09 PROCEDURE TO COMPEL OR STAY ARBITRATION.

(a) On application of a party showing an agreement described in section 572.08, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue so raised and shall order arbitration if found for the moving party, otherwise, the application shall be denied.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be forthwith and summarily tried and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue referable to arbitration under the alleged agreement is in an action or proceeding pending in a court having jurisdiction to hear applications under clause (a), the application shall be made therein. Otherwise and subject to section 572.25, the application may be made in any court of competent jurisdiction.

(d) Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under this section or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

(e) An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown.

572.10 APPOINTMENT OF ARBITRATORS; DISCLOSURE REQUIRED.

Subdivision 1. **Appointment by the court.** If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and a successor has not been duly appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

Subd. 2. **Disclosure by a neutral arbitrator.** (a) A "neutral arbitrator" is the only arbitrator in a case or is one appointed by the court, by the other arbitrators, or by all parties together in agreement. A neutral arbitrator does not include one selected by fewer than all parties even though no other party objects.

(b) Except for arbitrations under the American Arbitration Association, prior to selection, a neutral arbitrator shall disclose any relationships the person has with any of the parties, their counsel, insurers, or representatives and any conflict of interest, or potential conflict of interest, the person may have.

(c) In all arbitrations:

(1) after a neutral arbitrator has been selected, any relationship, conflict of interest, or potential conflict of interest that arises must be immediately disclosed by the arbitrator in writing to all parties, and a party may move the district court or the arbitration tribunal for removal of the neutral arbitrator;

(2) the disclosure required under this section is in addition to that which may be required by applicable rules of law, ethics, or procedure; and

APPENDIX

Repealed Minnesota Statutes: 09-0206

(3) if the neutral arbitrator fails to disclose a conflict of interest or material relationship, it is grounds for vacating an award for fraud as provided in section 572.19.

572.11 MAJORITY ACTION BY ARBITRATORS.

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by sections 572.08 to 572.30.

572.12 HEARING.

Unless otherwise provided by the agreement:

(a) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by certified mail not less than five days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on a request of a party and for good cause, or upon their own motion may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(b) The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(c) The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

572.13 REPRESENTATION BY ATTORNEY.

A party has the right to be represented by an attorney at any proceeding or hearing under sections 572.08 to 572.30. A waiver thereof prior to the proceeding or hearing is ineffective.

572.14 WITNESSES, SUBPOENAS, DEPOSITIONS.

(a) The arbitrators may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Subpoenas so issued shall be served, and upon application to the court by a party or the arbitrators, enforced, in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be the same as for a witness in the district court.

572.15 AWARD.

(a) The award shall be in writing and signed by the arbitrators joining in the award. The award must include interest, except this does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees. The arbitrators shall deliver a copy to each party personally or by certified mail, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of an objection prior to the delivery of the award to the party.

572.16 CHANGE OF AWARD BY ARBITRATORS.

Subdivision 1. **Application of party.** On application of a party, the arbitrator may modify or correct the award:

APPENDIX

Repealed Minnesota Statutes: 09-0206

- (1) upon the grounds stated in section 572.20, subdivision 1;
- (2) for the purpose of clarifying the award; or
- (3) where the award is based on an error of law.

Subd. 2. **Submission by court.** If an application to the court is pending under section 572.18, 572.19, or 572.20, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in section 572.20, subdivision 1, or for the purpose of clarifying the award.

Subd. 3. **Procedure.** For purposes of subdivision 1 or 2, the application shall be made within 20 days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that the opposing party must serve objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of sections 572.18, 572.19 and 572.20.

572.17 FEES AND EXPENSES OF ARBITRATION.

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.

572.18 CONFIRMATION OF AN AWARD.

Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in sections 572.19 and 572.20.

572.19 VACATING AN AWARD.

Subdivision 1. **Application.** Upon application of a party, the court shall vacate an award where:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 572.12, as to prejudice substantially the rights of a party; or
- (5) There was no arbitration agreement and the issue was not adversely determined in proceedings under section 572.09 and the party did not participate in the arbitration hearing without raising the objection;

But the fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

Subd. 2. **Time limit for application.** An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within 90 days after such grounds are known or should have been known.

Subd. 3. **Rehearings.** In vacating the award on grounds other than stated in clause (5) of subdivision 1, the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with section 572.10, or, if the award is vacated on grounds set forth in clauses (3) and (4) of subdivision 1, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 572.10. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

Subd. 4. **Confirm award.** If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

572.20 MODIFICATION OR CORRECTION OF AWARD.

Subdivision 1. **Modification of award.** Upon application made within 90 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

- (1) 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;

APPENDIX

Repealed Minnesota Statutes: 09-0206

(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or
(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

Subd. 2. **Court disposition.** If the application is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

Subd. 3. **Joinder in alternative.** An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

572.21 JUDGMENT OR DECREE ON AWARD.

Upon the granting of an order confirming, modifying or correcting an award, judgment or decree shall be entered in conformity therewith and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.

572.22 JUDGMENT ROLL, DOCKETING.

Subdivision 1. **Judgment roll.** On entry of judgment or decree, the court administrator shall prepare the judgment roll consisting, to the extent filed, of the following:

- (1) the agreement and each written extension of the time within which to make the award;
- (2) the award;
- (3) a copy of the order confirming, modifying or correcting the award; and
- (4) the judgment or decree.

Subd. 2. **Docketed; action.** The judgment or decree may be docketed as if rendered in an action.

572.23 APPLICATIONS TO COURT.

Except as otherwise provided, an application to the court under this chapter shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an action.

572.24 COURT, JURISDICTION.

The term "court" means any court of competent jurisdiction of this state. The making of an agreement described in section 572.08 providing for arbitration in this state confers jurisdiction on the court to enforce the agreement under sections 572.08 to 572.30 and to enter judgment on an award thereunder.

572.25 VENUE.

An initial application shall be made to the court of the county in which the agreement provides the arbitration hearing shall be held or, if the hearing has been held, in the county in which it was held. Otherwise the application shall be made in the county where the adverse party resides or has a place of business if there is one or the other in this state; if not, then to the court of any county. All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.

572.26 APPEALS.

Subdivision 1. **Authorization of appeal.** An appeal may be taken from:

- (1) an order denying an application to compel arbitration made under section 572.09;
- (2) an order granting an application to stay arbitration made under section 572.09(b);
- (3) an order confirming or denying confirmation of an award;
- (4) an order modifying or correcting an award;
- (5) an order vacating an award without directing a rehearing; or
- (6) a judgment or decree entered pursuant to the provisions of this chapter.

APPENDIX

Repealed Minnesota Statutes: 09-0206

Subd. 2. **Manner.** The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

572.27 ACT NOT RETROACTIVE.

This chapter applies only to agreements made subsequent to the taking effect of this chapter.

572.28 UNIFORMITY OF INTERPRETATION.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

572.29 SEVERABILITY.

If any provision of sections 572.08 to 572.30 or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given without the invalid provision or application, and to this end the provisions of this chapter are severable.

572.30 CITATION, UNIFORM ARBITRATION ACT.

Subdivision 1. **Citation.** Sections 572.08 to 572.30 may be cited as the Uniform Arbitration Act.

Subd. 2. **Nonapplication.** Section 358.06 does not apply to an arbitration proceeding coming within the provisions of this chapter.

Subd. 3. **Superseding court rule.** Rule 26.07, Rules of Civil Procedure for district courts, is superseded by the provisions of this chapter, insofar as inconsistent therewith.