

AMENDED IN SENATE APRIL 13, 2016

SENATE BILL

No. 1007

Introduced by Senator Wieckowski

February 10, 2016

An act to amend Section 1286.2 ~~of~~ *of*, and to add Section 1282.5 to, the Code of Civil Procedure, relating to arbitration.

LEGISLATIVE COUNSEL'S DIGEST

SB 1007, as amended, Wieckowski. Arbitration ~~awards~~: *transcription by certified shorthand reporter.*

Existing law establishes standards for arbitration, and requires a court to vacate an arbitration award if it makes certain findings.

This bill ~~would, in addition,~~ *would provide that a party to an arbitration has the right to have a certified shorthand reporter transcribe any deposition, proceeding, or hearing as the official record. The bill would require the party requesting the transcript to incur the expense of the certified shorthand reporter, except as specified in a consumer arbitration. The bill would also require a court to* ~~dismiss~~ *vacate* an arbitration award if the court determines that ~~the rights of a party were substantially prejudiced by the refusal of the arbitrators to allow the party, at the party's expense, an arbitrator refused a party's request to have a certified shorthand reporter transcribe any deposition, proceeding, or hearing as the official record.~~ *hearing.*

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 1282.5 is added to the Code of Civil*
 2 *Procedure, to read:*

3 1282.5. (a) *A party to an arbitration has the right to have a*
 4 *certified shorthand reporter transcribe any deposition, proceeding,*
 5 *or hearing. The transcript shall be the official record of the*
 6 *deposition, proceeding, or hearing.*

7 (b) *If an arbitration agreement does not provide for a certified*
 8 *shorthand reporter, the party requesting the transcript shall incur*
 9 *the expense of the certified shorthand reporter. However, in a*
 10 *consumer arbitration, a certified shorthand reporter shall be*
 11 *provided upon request of an indigent consumer, as defined in*
 12 *Section 1284.3, at the expense of the nonconsumer party.*

13 (c) *If an arbitrator refuses to allow a party to have a certified*
 14 *shorthand reporter transcribe any deposition, proceeding, or*
 15 *hearing pursuant to this section and an award is made, the court*
 16 *shall vacate the award under paragraph (7) of subdivision (a) of*
 17 *Section 1286.2.*

18 **SECTION 1.**

19 **SEC. 2.** *Section 1286.2 of the Code of Civil Procedure is*
 20 *amended to read:*

21 1286.2. (a) *Subject to Section 1286.4, the court shall vacate*
 22 *the award if the court determines any of the following:*

23 (1) *The award was procured by corruption, fraud, or other undue*
 24 *means.*

25 (2) *There was corruption in any of the arbitrators.*

26 (3) *The rights of the party were substantially prejudiced by*
 27 *misconduct of a neutral arbitrator.*

28 (4) *The arbitrators exceeded their powers and the award cannot*
 29 *be corrected without affecting the merits of the decision upon the*
 30 *controversy submitted.*

31 (5) *The rights of the party were substantially prejudiced by the*
 32 *refusal of the arbitrators to postpone the hearing upon sufficient*
 33 *cause being ~~shown~~; shown, by the refusal of the arbitrators to hear*
 34 *evidence material to the ~~controversy~~; by the refusal of the*
 35 *arbitrators to allow a party, at the party's expense, to have a*
 36 *certified shorthand reporter transcribe any deposition, proceeding,*
 37 *or hearing as the official record; ~~controversy~~, or by other conduct*
 38 *of the arbitrators contrary to the provisions of this title.*

1 (6) An arbitrator making the award either: (A) failed to disclose
2 within the time required for disclosure a ground for disqualification
3 of which the arbitrator was then aware; or (B) was subject to
4 disqualification upon grounds specified in Section 1281.91 but
5 failed, upon receipt of timely demand, to disqualify himself or
6 herself as required by that provision. However, this subdivision
7 does not apply to arbitration proceedings conducted under a
8 collective bargaining agreement between employers and employees
9 or between their respective representatives.

10 (7) *An arbitrator refused a party's request under Section 1282.5*
11 *for a shorthand reporter.*

12 (b) Petitions to vacate an arbitration award pursuant to Section
13 1285 are subject to the provisions of Section 128.7.

O