

SB 45 -- ARBITRATION AGREEMENTS

SPONSOR: Romine

COMMITTEE ACTION: Voted "Do Pass" by the Special Committee on Litigation Reform by a vote of 8 to 2. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 8 to 3.

This bill provides that in arbitration agreements between an employer and an at-will employee the arbitrator must make all initial decisions as to arbitrability, including deciding whether the parties have agreed to arbitrate, whether the arbitration agreement is enforceable, and whether specific claims are arbitrable. For this type of matter, the arbitrator or arbitrators will be selected by mutual agreement of the parties or, if no mutual agreement, by a strike and ranking process. The bill establishes certain criteria for when the arbitrator must determine that the arbitration agreement is valid. On motion by a party showing an arbitration agreement between an employer and an at-will employee that does not expressly delegate the issue of arbitrability to the court, the court must stay any action before the court and order the parties to proceed to arbitration. The provisions of this bill do not apply to or affect enforceability of arbitration provisions in collective bargaining agreements.

This bill is similar to HB 156 (2017).

PROPONENTS: Supporters say that this bill will promote the use of arbitration which is an efficient method to resolve employment disputes. This bill provides balance as the enforceability of arbitration agreements in Missouri has been eroded.

Testifying for the bill were Senator Romine; Je Dunn Construction; National Federation of Independent Business; Burns And McDonnell Engineering; Greater Kansas City Chamber of Commerce; Missouri Insurance Coalition; Associated Industries of Missouri; Janet Mark, Hallmark Cards Inc.; and the Missouri Chamber of Commerce and Industry.

OPPONENTS: Those who oppose the bill say that the parties to these contracts do not have equal bargaining power, and that discovery and evidence rules are not enforced in arbitration proceedings as they would be by a judge. Arbitrators may act in their financial self-interest due to deciding the initial issue of arbitrability. Arbitration allows employers to keep these cases confidential and takes away the power of a jury.

Testifying against the bill were Donna L. Harper; Empower

Missouri; Steven Kushner; Webster Davis, NAACP; Pat Rowe Kerr;
Robert D. Curran; and Suzanne Huntoon.