

HCS HB 534 -- CLASS ACTIONS

SPONSOR: Diehl

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Emerging Issues by a vote of 13 to 0. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 8 to 0.

The following is a summary of the House Committee Substitute for HB 534.

This bill makes changes to the Missouri Supreme Court Rule 52.08 so that it can mirror the Federal Rules of Civil Procedure. This bill also provides that an order certifying a class action must define the class and the class claims, issues, or defenses and will appoint a class counsel. An order granting or denying class certification can be altered or amended before final judgment or can be combined with orders for actions taken at the case management conference.

Notices to class members for certain class actions can be sent by United States Mail, electronic means, or other appropriate means. Additionally, the rule states that the notice must clearly and concisely state in plain, easily understood language the following:

- (1) The nature of the action;
- (2) The definition of the class certified;
- (3) The class claims, issues, or defenses;
- (4) That a class member can enter an appearance through an attorney if the member so desires;
- (5) That the court will exclude from the class any member who requests exclusion;
- (6) The time and manner for requesting exclusion; and
- (7) The binding effect of a class judgment on members.

Currently, Missouri Supreme Court Rule 52.08 provides that a class action will not be dismissed or compromised without the approval of the court and notice of the proposed dismissal or compromise must be given to all members of the class in such manner as the court directs. This bill repeals this provision and provides that the claims, issues, or defenses of a certified class, or a proposed

class, can be settled, voluntarily dismissed, or compromised only with the court's approval.

This bill also states that the parties must provide the court with information sufficient to determine whether to give notice of the proposal to the class and that the court must direct notice in a reasonable manner to all class members who would be bound by the proposal if giving notice is justified by the parties' showing that the court will likely be able to approve the proposal and certify the class for purposes of judgment on the proposal.

If the proposal would bind class members, the court can approve it only after a hearing and only on finding that it is fair, reasonable, and adequate after considering whether:

- (1) The class representatives and class counsel have adequately represented the class;
- (2) The proposal was negotiated at arm's length;
- (3) The relief provided for the class is adequate, taking into account the costs, risks, and delay of trial and appeal, the effectiveness of any proposed method of distributing relief to the class, the terms of any proposed award of attorney's fees, and any agreement required to be identified by the Rule; and
- (4) The proposal treats class members equitably relative to each other.

This bill also requires the parties seeking approval to file a statement identifying any agreement made in connection with the proposal. If the class action was previously certified, the court can refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so. Any class member can object to the proposal if it requires court approval and such objection will state whether it applies only to the objector, to a specific subset of the class, or to the entire class. The grounds for the objection must be specified. Unless approved by the court after a hearing, no payment or other consideration will be provided in connection with forgoing or withdrawing an objection, or forgoing, dismissing, or abandoning an appeal from a judgment approving the proposal.

This bill also requires that a court certifying a class must appoint a class counsel, and in appointing such counsel, the court will consider:

- (1) The work that the counsel has done in identifying or investigating potential claims in the action;
- (2) The counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (3) The counsel's knowledge of the applicable law; and
- (4) The resources that counsel will commit to representing the class.

Additionally, the court can consider any other matter pertinent to the counsel's ability to fairly and adequately represent the interests of the class and can order potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and non-taxable costs. Furthermore, the court can include in the appointing order provisions about the award of attorney's fees or non-taxable costs and can make any further orders in connection with the appointment.

If more than one adequate applicant seeks appointment as a class counsel, the court must appoint the applicant best able to represent the interest of the class. Additionally, the Rule provides that the court can designate an interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action. The Rule requires that class counsel fairly and adequately represent the interests of the class.

In a certified class action, the court can award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement. The Rule provides the following procedures for an award of fees and costs:

- (1) A claim for an award must be made by motion at a time the court sets. The notice of the motion will be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner;
- (2) A class member, or a party from whom payment is sought, can object to the motion;
- (3) The court can hold a hearing and must find the facts and state its legal conclusions; and
- (4) The court can refer issues related to the amount of the award to a special master.

This bill is similar to SB 47 (2025).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this bill simply changes the procedures to match the federal rules covering class action lawsuits. Supporter further say that this bill will provide an even playing field for both parties to the suit, which will in turn improve the chances of more out-of-state businesses relocating to this state, because those businesses will not have to devote so much time, money, and resources to defending against such suits. Supporters further say that many class action suits are brought by out-of-state law firms who shop for the right plaintiffs in Missouri so as to take advantage of the existing rules. As a result, the current rules governing class actions in Missouri need to be updated.

Testifying in person for the bill were Representative Diehl; Brad Jones, NFIB; Dana Frese, Missouri Organization of Defense Lawyers; Missouri Hospital Association; Associated Industries of Missouri; Ford Motor Company; Missouri Insurance Coalition; American Tort Reform Assoc.; Missouri Chamber of Commerce and Industry; Matt Price, Diamond Pet Foods; Missouri Civil Justice Reform Coalition, Inc; American Property Casualty Insurance Association.

OPPONENTS: Those who oppose the bill say that class actions suits provide a meaningful way for citizens to collectively put forward their claims in an efficient, meaningful way.

Testifying in person against the bill was Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.