

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1569                      Arbitrator Compensation  
**SPONSOR(S):** Goodlette  
**TIED BILLS:** None                      **IDEN./SIM. BILLS:** SB 1862

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| REFERENCE    | ACTION | ANALYST  | STAFF DIRECTOR |
|--------------|--------|----------|----------------|
| 1) Judiciary |        | Jaroslav | Havlicak       |
| 2)           |        |          |                |
| 3)           |        |          |                |
| 4)           |        |          |                |
| 5)           |        |          |                |

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**SUMMARY ANALYSIS**

Current law imposes a \$200 per-day cap on the compensation of court-appointed nonbinding arbitrators, although parties may jointly agree to higher fees if authorized by the court. This bill eliminates this cap.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Section 44.1011(1), F.S., defines the term “arbitration” as:

A process whereby a neutral third person or panel, called an arbitrator or arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding....

State court arbitration is statutorily divided into two areas: court-ordered nonbinding arbitration and voluntary binding arbitration.<sup>1</sup> Section 44.103, F.S., relates to court-ordered, nonbinding arbitration. The Florida Supreme Court governs practice and procedure relating to court-ordered, nonbinding arbitration.<sup>2</sup> A court may refer any contested civil action filed in circuit or county court to nonbinding arbitration, in accordance with Supreme Court rules.<sup>3</sup>

Judges may assign nonbinding arbitration cases to a single arbitrator (who must be an attorney) or a panel of three (of whom the chief arbitrator must be an attorney, but the other two arbitrators may be non-attorneys, upon written agreement of the parties).<sup>4</sup> In 1994, the Florida Supreme Court adopted the Florida Rules for Court-Appointed Arbitrators, which contain qualifications, standards of professional conduct and rules of discipline for court-appointed arbitrators.<sup>5</sup> To qualify as arbitrators, individuals must complete a training session which has been approved by the Florida Supreme Court or be a former Florida trial court judge.<sup>6</sup>

Current law limits compensation for court-appointed arbitrators to \$200 a day, unless otherwise agreed to by the parties and approved by the court, paid by the county or by the parties.<sup>7</sup> The Florida Supreme Court is authorized by statute to adopt rules governing selection and compensation of arbitrators.<sup>8</sup> Pursuant to this grant of authority, the court adopted Rule 1.810 of the Florida Rules of Civil Procedure, which further provides, in pertinent part:

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<sup>1</sup> Voluntary binding arbitration is governed by s. 44.104, F.S.

<sup>2</sup> See s. 44.103(1), F.S.

<sup>3</sup> See s. 44.103(2), F.S.

<sup>4</sup> See FLA. ARB. R. 11.010.

<sup>5</sup> See *In re Florida Rules of Civil Procedure, Florida Rules For Certified And Court-Appointed Mediators, and Proposed Florida Rules For Court-Appointed Arbitrators*, 641 So.2d 343 (Fla. 1994).

<sup>6</sup> See FLA. ARB. R. 11.020.

<sup>7</sup> See s. 44.103(3), F.S.

<sup>8</sup> See *id.*

(b) Compensation. The chief judge of each judicial circuit shall establish the compensation of arbitrators subject to the limitations in section 44.103 (3), Florida Statutes.

### **Proposed Changes**

This bill amends s. 44.103(3), F.S., to eliminate the \$200-per-day cap on arbitrators' fees.

#### **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 44.103(3), F.S., to eliminate the cap on arbitrators' fees.

**Section 2.** Provides an effective date of upon becoming law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The \$200 cap on arbitrators' fees has not been changed since 1989.<sup>9</sup> It is possible that eliminating the cap may attract more arbitrators.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to

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<sup>9</sup> See ch. 89-31, s. 3, L.O.F. Before 1989, the cap was \$75 per day plus 20 cents per mile traveled. Adjusting for inflation by applying the Cost-of-Living Calculator of the American Institute for Economic Research reveals that \$200 in 1989 had the purchasing power of \$298.71 in present dollars. See <http://www.aier.org/cgi-aier/colcalculator.cgi>.

raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Because Rule 1.810 of the Florida Rules of Civil Procedure is expressly tied to the limitations imposed in s. 44.103, F.S., eliminating the statutory cap will indirectly authorize the chief judges of each judicial circuit to promulgate local rules or administrative orders allowing for higher fees.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A