HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 821 International Commercial Arbitration
SPONSOR(S): Insurance, Business & Financial Affairs Policy Committee, Thurston
TIED BILLS: **IDEN./SIM. BILLS:** SB 1114

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee	13 Y, 0 N, As CS	Marra	Cooper
2)	Criminal & Civil Justice Policy Council	12 Y, 0 N	Thomas	Havlicak
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Arbitration is an alternative to litigation, under which parties agree to have their disputes settled by a neutral third party. Parties choose what rules will apply to the arbitration, but uncertainty in the agreement is settled by state or federal law. An arbitration award is binding on the parties and may only be set aside by a court under special circumstances.

Arbitration has become favored for disputes involving international trade because it offers increased certainty as to outcomes and enforceability of awards.

In crafting an arbitration agreement, agreeing to the seat of arbitration is very important. This will be the place where the arbitration will actually occur, whose courts will provide supervisory jurisdiction over the arbitration, and whose procedural law will provide the backdrop of the arbitration. Notably, in the absence of an agreement otherwise, the law of the seat of arbitration is applied. Florida ranks as the second U.S. venue of choice.

International arbitration in Florida is governed by the Florida International Arbitration Act (FIAA). Many other jurisdictions are enacting the Model International Commercial Arbitration Law (Model Law) drafted under the supervision of the United Nations Commission on International Trade Law.

This bill would repeal the FIAA and enact the Model Law.

The FIAA and Model Law are substantially similar, but have key differences in their approach to:

- applicability to certain disputes,
- arbitrator appointment and removal,
- arbitral tribunal authority to issue interim relief,
- termination of proceedings not ending in settlement,
- consolidation of similar arbitration actions,
- parties' right to representation,
- publication of arbitration awards, and
- specific grounds for judicial vacating of arbitration awards.

The bill is expected to have an indeterminable and insignificant fiscal impact due to an increase in circuit court filings.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Arbitration is an alternative to litigation, under which disputes are settled by a neutral third party pursuant to the parties' agreement. Contracting parties are free to choose what rules will apply to the arbitration and where there is uncertainty in the agreement state or federal law fills the gaps. A decision of the arbitrator – or arbitrators – is binding on the parties and may only be set aside by a court under special circumstances.

Arbitration has become favored for disputes involving international trade, where results of litigation can hinge on where the suit is brought and judgments can be difficult to enforce internationally.

Arbitration awards are more easily enforced worldwide under several multi-national agreements, the most prominent of which is the United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention"). The New York Convention, ratified by more than 120 nations, including the United States, obliges member states to recognize and enforce both international commercial arbitration agreements and awards, with limited exceptions. Additionally, most developed trading states have enacted national arbitration legislation that provides for enforcement of international arbitration agreements and awards, limits judicial interference in the arbitration process, and authorizes judicial support for the arbitral process.

The United States, for example, has adopted the Federal Arbitration Act[1] (FAA) governing all arbitration and providing for the enforcement of foreign arbitration awards. Where state law discriminates against arbitration agreements, FAA's federal rules of enforceability preempt the state law;[2] however state law regulating the formation, validity and enforceability of contracts in general is not preempted.[3]

In crafting an arbitration agreement, agreeing to the seat of arbitration is key. This will be the place where the arbitration will actually occur, whose courts will provide supervisory jurisdiction over the

[1] 9 U.S.C. § 1, et seq.

[2] *See* Southland Corp. v. Keating, 465 U.S. 1, 16 (1984)("In creating a substantive rule applicable in state as well as federal courts, Congress intended to foreclose state legislative attempts to undercut the enforceability of arbitration agreements.").

[3] *See* Perry v. Thomas, 482 U.S. 483, 492 n.9 (1987)("Thus state law, whether of legislative or judicial origin, is applicable *if* that law arose to govern issues concerning the validity, revocability, and enforceability of contracts generally. A state-law principle that takes its meaning precisely from the fact that a contract to arbitrate is at issue does not comport with this requirement of § 2.").

arbitration, and whose procedural law will provide the backdrop of the arbitration. Notably, in the absence of an agreement otherwise, the law of the seat of arbitration is applied.[4]

Florida currently ranks as the second U.S. venue of choice for international arbitration, behind New York.[5] Houston and Chicago rank third and fourth, respectively.[6]

Florida adopted the Florida International Arbitration Act (FIAA) in 1986. Many states have since enacted similar laws, and other states,[7] along with 61 countries, are adopting the Model International Commercial Arbitration Law (Model Law) drafted in 1986 under the supervision of the United Nations Commission on International Trade Law (UNCITRAL). In drafting the FIAA, Florida considered the Model Law, which was in draft form at the time.[8]

The FIAA rules, like most rules governing arbitration, establish a framework upon which parties to a dispute may draw in crafting their arbitration process. Many rules may be avoided by the parties' agreement.

Notable differences between current law and that adopted by the bill are highlighted below. Where no difference is noted, current law is substantially similar to the bill.

Proposed Changes

The bill repeals the Florida International Arbitration Act and enacts the Florida International Commercial Arbitration Act, codifying the Model International Commercial Arbitration Law.

Applicability

Under the bill the Act would apply to international arbitration and would be subject to any agreement between the United States and any other country.

The bill only applies to arbitration conducted in the state, except provisions relating to court-enforcement of arbitration awards, requests for interim measures of protection, and grounds for refusing award recognition or enforcement. This is different from current law, which applies regardless of where the arbitration takes place.

The bill defines the scope of international arbitration to include:

- Agreements between parties who have their places of business, or for nonbusinesses - residence, in different countries at the time of the agreement's conclusion.
- Agreements between parties, where one of the following is situated in a different country than a party's place of business:
  - The seat of arbitration,
  - The place where a substantial part of the agreement's obligations is to be performed, or
  - The place where the subject matter of the dispute is most closely connected.
- Agreements under which the parties have expressly agreed that the matter relates to more than one country.

This is different from current law, which specifically excludes from international arbitration disputes over real property within the state, except by express agreement, and any dispute involving domestic relations or of a political nature between two or more governments. Under the bill, parties could agree to submit such claims to international arbitration.

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[4] GARY B. BORN, INTERNATIONAL COMMERCIAL ARBITRATION: COMMENTARY AND MATERIALS 43 (2nd ed. 2001).
[5] New York hosts the International Centre for Dispute Resolution, the international arbitration arm of the American Arbitration Association, which is staffed by specialized attorneys with language skills.
[6] Julie Kay, *Miami Ramps up Efforts to be the Seat of International Arbitration*, SOUTH FLORIDA BUSINESS JOURNAL, Dec. 4, 2009, *available at* http://southflorida.bizjournals.com/southflorida/stories/2009/12/07/focus6.html.
[7] California, Connecticut, Illinois, Louisiana, Oregon and Texas have all adopted the Model Law.
[8] Carlos E. Loumiet, et al., *Proposed Florida International Arbitration Act*, 16 U. MIAMI INTER-AM. L REV. 591, 594 n.2 (1985).

The bill provides definitions for the terms, 'arbitration,' 'arbitration agreement,' and 'court.' It also provides rules of interpretation, including:

- Parties are able to delegate authority to determine issues to third parties, including institutions.
- Parties' ability to adopt alternative procedures under the bill includes the ability to adopt arbitration rules by reference.
- The act should be interpreted in light of its international origin and to promote international uniformity in its application.

The bill provides for the interpretation of arbitration agreements, as follows:

- Arbitration agreements are deemed separate and independent from the underlying contract and may survive even if the contract is deemed invalid.

The bill provides for the substantive resolution of disputes:

- Disputes shall be determined pursuant to substantive rules of law chosen by the parties.
- If the parties fail to choose the applicable law, the tribunal may determine the applicable law by the choice-of-law provision it deems applicable.

The bill includes **procedural rules of arbitration**, including:

Treatment of parties: All parties are to be treated equally and given equal opportunity to present their cases.

No similar provision exists under current law.

Conduct of proceedings: Absent an agreement otherwise, the arbitral tribunal may conduct proceedings as it sees fit, in the language it chooses and has the authority to determine matters of evidence, to choose the place of arbitration, and to appoint experts.

Claims and Defenses: Unless otherwise agreed and within the time agreed to or adopted by the tribunal, the claimant submits a statement of its claim, including the remedy sought. The respondent then submits a statement of its defense. Unless otherwise agreed or determined by the tribunal, parties may amend their statements at any time.

Unless otherwise agreed, if a claimant, without a showing of sufficient cause, fails to provide its statement of claim, the tribunal shall terminate the arbitration. If a respondent fails to provide its defense, the tribunal shall continue the arbitration. The tribunal shall also continue the arbitration if a party fails to appear or produce evidence.

Jurisdiction of the arbitral tribunal: An arbitral tribunal has the ability to rule on its own jurisdiction, including any challenges to the validity of the parties' agreement to arbitrate. Jurisdictional challenges must be submitted with the statement of defense. Claims that the tribunal is exceeding its authority must be raised as soon as such matter arises. The tribunal has discretion to hear justifiably untimely challenges. A party may appeal the tribunal's decisions on jurisdiction to a circuit court.[9]

Arbitrator selection and immunity: There are to be three arbitrators, unless the parties agree otherwise, and a procedure for appointment is provided. Arbitrators shall have the same immunity as a judge.

Under current law, there is to be one arbitrator, unless the parties agree otherwise.

Arbitrator challenges: Circumstances giving rise to justifiable doubts as to an arbitrator's impartiality and independence are grounds for challenging the arbitrator. Arbitrators must continuously disclose any such circumstances. An arbitrator may also be challenged for lacking the qualifications agreed to by the parties. Challenges may only be based on information learned after an arbitrator's appointment. In the

[9] *See* discussion concerning circuit court oversight of arbitration proceedings *infra* p. 7.

absence of an agreement otherwise, the bill provides a process by which arbitrators may be challenged.

No similar provisions exist under current law; however, under s. 684.25(1)(e), F.S., a final award may be vacated if an arbitrator had a material conflict of interest, unless the challenging party had timely notice of the conflict and proceeded without objection.

Arbitrator termination: An arbitrator's mandate terminates if he or she is actually or legally unable to perform or fails to timely perform. The parties may agree to such termination, the arbitrator may withdraw, or a party can seek judicial termination. A substitute arbitrator is appointed using the same procedures used for the initial arbitrator.

No similar provisions exist under current law.

Decisionmaking: In arbitrations with multiple arbitrators, decisions are to be made by a majority of arbitrators, unless otherwise agreed by the parties. Questions of procedures may, however, be decided by the presiding arbitrator, if authorized by the parties or all the members of the arbitral tribunal.

Service: Written communications, outside of court proceedings, are deemed received when delivered personally, or at the addressee's place of business, habitual residence or mailing address.

Current law does not specify when a written communication is deemed to be "received" by a party to the arbitration. However, s. 684.08, F.S., specifies that notice commencing arbitration shall be served on the parties, and s. 48.196, F.S., provides a specific process for service of notice.

Waiver of objections: A party who fails to timely object to a known violation of any requirement of the act or the agreement waives the right to object to such noncompliance.

Interim measures: Unless otherwise agreed by the parties, the tribunal has the ability to issue interim measures at the request of a party. Interim measures are binding on the parties and may be enforced in any court, in any country. The court may only refuse to enforce a measure if the tribunal's order of security has not been met, on one of the grounds for refusing to enforce an arbitration award,[10] or if the court finds that the measure is incompatible with the powers of the court. A court also shares the same authority to issue interim measures as the tribunal.

Interim measures are temporary and may include orders to: (1) maintain or restore the status quo, (2) prevent current or imminent harm or prejudice to the arbitral process, (3) preserve assets out of which a subsequent award may be satisfied, or (4) preserve evidence. The requesting party must prove that: (1) harm not adequately reparable by money damages is likely to result and such harm substantially outweighs harm likely to result from issuing the measure, and (2) there is a reasonable possibility that the requesting party with succeed on the merits.

The tribunal may require the requesting party post security and to disclose any change in the circumstances supporting the measure. The requesting party is liable for costs and damages arising from a granted interim measure that the tribunal later determines should not have been granted.

Preliminary orders: A party requesting an interim measure may also request a preliminary order prohibiting a party from frustrating the purpose of the interim measure. The tribunal may grant such a request if it finds that prior disclosure of the request for the interim measure risks frustrating the measure's purpose and the request meets the same conditions as those applicable for interim measures. A specific process for issuing preliminary orders is detailed. A preliminary order, while binding on the parties, is not enforceable by a court and does not constitute an award.

[10] *See* discussion concerning grounds for setting aside or refusing to enforce an arbitration award *infra* p. 7.

The tribunal must require the requesting party post security and to disclose any change in the circumstances supporting the measure. The requesting party is liable for costs and damages arising from a granted preliminary order that the tribunal later determines should not have been granted.

No similar provisions exist under current law; however, under s. 684.19, F.S., an arbitral tribunal may issue an "interim award," which may be issued in the same manner as any other award. Under s. 684.23(3), F.S., interim relief includes temporary restraining orders, preliminary injunctions, attachments, garnishments, or writs of replevin. The granting of such interim relief is subject to such procedural requirements and other conditions as would apply in a comparable action not pertaining to arbitration.

Modification: An arbitral tribunal may modify, suspend or terminate an interim measure or preliminary order at the request of any party or, in exceptional circumstances and with notice to the parties, at its own initiative.

Settlement: Parties may settle during the arbitration, and if they do so, the tribunal is to terminate the proceeding and, if requested by the parties and not objected to by the tribunal, shall record the settlement as an arbitral award.

Awards: An arbitration award must be made in writing, signed by a majority of the arbitrators, and state the date and place it was made. An award also states the reasons upon which it is based, unless the parties agree otherwise. An award is binding on the parties and enforceable in any court of competent jurisdiction.

A party may request a court set an award aside within three months.[11] A party may also apply to the court to enforce the award.

Termination: A final award terminates the arbitration. A tribunal may also terminate the arbitration by order, if the claimant withdraws his or her claim, absent objection by the respondent, and the tribunal finds the respondent has an interest in a final settlement; the parties agree; or the tribunal finds that continuation of the arbitration has become unnecessary or impossible.

Current law only provides for the termination of arbitration proceedings when a settlement has been reached.

Correction and Interpretation of Awards: Either party may request the tribunal correct any computation, clerical or typographical errors and a detailed process for correction is provided. Either party may also request interpretation of any part of the award.

Current law authorizes an arbitral tribunal to vacate, clarify, correct, or amend an award. Section 684.24(4), F.S., also allows a court reviewing an award to request a tribunal to clarify, modify, or correct an award for any evident miscalculation or mistake in the description of any person or property or for any imperfection of form not affecting the merits.

The bill also provides rules governing the circumstance where both arbitration and a court action are initiated:

- A court hearing a claim that is subject to an arbitration agreement *shall*, if requested by a party in its initial answer, refer the agreement to arbitration, unless it finds the agreement is null and void, inoperative, or incapable of performance.
- If an action has been brought, arbitration may also be commenced or continued, and an arbitration award may be made, while the issue is pending in the court.

[11] *See* discussion concerning circuit court oversight of arbitration proceedings *infra* p. 7.

The bill provides for supervisory oversight by a circuit court in the county where the arbitration is occurring. The court may, at a party's request:

- Unless the parties agree otherwise, appoint an arbitrator, if the party, or arbitrators appointed by the parties, fails to do so as the agreement or act requires. The court's decision is not appealable.
- Hear a challenge to an arbitrator that the arbitral tribunal rejected. The court's decision is not appealable, and the arbitration may continue while the court hears the challenge.
- Determine whether an arbitrator's mandate should be terminated if the arbitrator becomes actually or legally unable to perform or fails to act without undue delay. The party may only make such a request if the parties fail to agree on the arbitrator's termination and the arbitrator fails to withdraw from office. The court's decision is not appealable.
- Decide jurisdictional issues of the arbitral tribunal. The court's decision is not appealable, and the arbitration may continue while the court hears the issue.
- Issue an interim measure of protection (injunction) before or during the arbitration.
- Set aside an arbitral award under certain circumstances. The court may suspend such a hearing to give the tribunal an opportunity to resume arbitration or cure the grounds to set aside the award.
- Enforce or refuse to enforce an arbitral award.

The court may also, at the tribunal's request, assist the tribunal in taking evidence. The court may not intervene otherwise.

The bill provides grounds for setting aside or refusing to enforce an arbitration award, which are limited to:

- The complaining party to the agreement was under some incapacity;
- The arbitration agreement is invalid under the law the parties designated or state law, if no law has been designated;
- The complaining party was not given notice of the appointment of an arbitrator or the proceedings, or was unable to present its case;
- The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration;
- The composition of the tribunal or the procedure violated the parties' agreement, unless the agreement violated law;
- The court finds that the subject matter of the dispute may not be arbitrated under state law or the award is contrary to the public policy of the state; or
- In the case of refusing to enforce an award, a finding that the award has not yet become binding on the parties or has previously been set aside.

Current law also provides grounds for vacating or refusing to confirm an arbitration award, which are limited to:

- There was no written arbitration agreement;
- The arbitration agreement was induced by fraud;
- The complaining party was not given notice of the proceedings;
- The arbitration was conducted so unfairly as to substantially prejudice the rights of the challenging party;
- The award was obtained by corruption, fraud or undue influence or is contrary to the public policy of the United States or this state;
- Any arbitrator had a conflict of interest, unless waived;
- The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration; or
- The composition of the tribunal or the procedure violated the parties' agreement.

The bill expressly does not limit the Legislature's ability to prohibit certain matters from arbitration or to specify the manner in which a specific matter may be arbitrated.

The bill, in repealing the FIAA repeals the following arbitration procedures, which are not expressly addressed by the bill:

Consolidation: If two or more disputes have common questions of law or fact or arise out of a single transaction or enterprise and if at least one of the disputes is subject to the FIAA and the parties agree, the disputes may be consolidated and heard by the tribunal.

While the bill does not directly address consolidation, consolidation is a procedural issue, decided by the arbitral tribunal, so will likely still be possible under the bill.[12]

Representation: A party to an arbitration has a right to be represented by counsel and any waiver of that right before a proceeding is ineffective.

While the bill does not directly address the right to representation, it does require each party be given a full opportunity to present its case.

Publication of Awards: An arbitration award may be made public only if all parties consent in writing, disclosure is necessary by law or disclosure is necessary in connection with judicial or official proceedings concerning the award.

While the bill does not directly address publication of awards, it does allow the parties to agree that no reasons are to be given in the award. Parties may also stipulate to nonpublication requirements in the contract or settlement.

B. SECTION DIRECTORY:

Section 1 amends s. 48.196, F.S., relating to service of process in connection with actions under the Florida International Arbitration Act.

Section 2 creates s. 684.0001, F.S., providing a short title.

Section 3 creates s. 684.0002, F.S., defining the applicability of the act.

Section 4 creates s. 684.0003, F.S., providing definitions and rules of interpretation.

Section 5 creates s. 684.0004, F.S., providing principles for interpretation of the act.

Section 6 creates s. 684.0005, F.S., specifying when written communications are received.

Section 7 creates s. 684.0006, F.S., providing for waivers of the right to object.

Section 8 creates s. 684.0007, F.S., limiting the ability of a court to intervene in an arbitral proceeding.

Section 9 creates s. 684.0008, F.S., authorizing the circuit court to take certain actions.

Section 10 creates s. 684.0009, F.S., requiring courts refer matters governed by an arbitration agreement to arbitration.

Section 11 creates s. 684.001, F.S., authorizing courts to grant interim protection before or during an arbitral proceeding.

Section 12 creates s. 684.0011, F.S., providing for the number of arbitrators, in the absence of an agreement.

[12] *See Protective Life Ins. v. Lincoln Nat. Life Ins,* 873 F.2d 281 (11th Cir. 1989)(Court cannot consolidate proceedings if parties have not agreed to consolidation); *Certain Underwriters at Lloyd's London v. Westchester Fire Inc.*, 489 F.3d 580 (3d Cir. 2007)(In line with decisions out of the 1st, 4th, 7th and 9th circuits, the 3rd circuit held that consolidation is an issue for the arbitrator.)

Section 13 creates s. 684.0012, F.S., specifying procedures for the appointment of an arbitrator.

Section 14 creates s. 684.0013, F.S., requiring certain disclosures and providing grounds to challenge an arbitrator's appointment.

Section 15 creates s. 684.0014, F.S., providing procedures to challenge an arbitrator's appointment.

Section 16 creates s. 684.0015, F.S., terminating an arbitrator's mandate in cases of failure or impossibility to act.

Section 17 creates s. 684.0016, F.S., providing for the appointment of a substitute arbitrator.

Section 18 creates s. 684.0017, F.S., authorizing an arbitral tribunal or a court to determine the tribunal's jurisdiction.

Section 19 creates s. 684.0018, F.S., authorizing an arbitral tribunal to grant an interim measure.

Section 20 creates s. 684.0019, F.S., providing conditions for granting interim measure.

Section 21 creates s. 684.002, F.S., providing conditions for granting interim orders to prevent a party from frustrating the purpose of an interim measure.

Section 22 creates s. 684.0021, F.S., requiring a party to be given notice of and an opportunity to object to an interim measure or preliminary order.

Section 23 creates s. 684.0022, F.S., authorizing an arbitral tribunal to modify, suspend, or terminate an interim measure or preliminary order under certain circumstances.

Section 24 creates s. 684.0023, F.S., authorizing a security requirement as a condition of granting an interim measure or preliminary order.

Section 25 creates s. 684.0024, F.S., requiring certain disclosures as a condition of granting or maintaining an interim measure or preliminary order.

Section 26 creates s. 684.0025, F.S., providing for awards of costs and damages.

Section 27 creates s. 684.0026, F.S., providing for court recognition and enforcement of interim measures.

Section 28 creates s. 684.0027, F.S., specifying grounds under which a court may refuse to enforce an interim measure.

Section 29 creates s. 684.0028, F.S., authorizing a court to grant an interim measure.

Section 30 creates s. 684.0029, F.S., requiring equal treatment and opportunity to be heard for parties.

Section 31 creates s. 684.003, F.S., providing arbitration procedures, in the absence of agreement.

Section 32 creates s. 684.0031, F.S., allowing parties and the tribunal to choose a place of arbitration.

Section 33 creates s. 684.0032, F.S., specifying an arbitral proceeding's date of commencement.

Section 34 creates s. 684.0033, F.S., authorizing parties to agree on the language to be used.

Section 35 creates s. 684.0034, F.S., providing for the submission of claims and defenses.

Section 36 creates s. 684.0035, F.S., providing for the determination of the method by which evidence will be presented before an arbitral proceeding.

Section 37 creates s. 684.0036, F.S., specifying actions constituting a default by a party.

Section 38 creates s. 684.0037, F.S., providing for the use of an expert.

Section 39 creates s. 684.0038, F.S., authorizing the court's assistance in taking evidence.

Section 40 creates s. 684.0039, F.S., providing for the choice of applicable law.

Section 41 creates s. 684.004, F.S., providing for decisionmaking by the arbitrators.

Section 42 creates s. 684.0041, F.S., providing for settlement agreements.

Section 43 creates s. 684.0042, F.S., specifying the form and content of an arbitral award.

Section 44 creates s. 684.0043, F.S., providing for the termination of arbitral proceedings.

Section 45 creates s. 684.0044, F.S., authorizing an arbitral tribunal to correct and interpret an arbitral award or make an additional award under certain conditions.

Section 46 creates s. 684.0045, F.S., providing judicial immunity to arbitrators.

Section 47 creates s. 684.0046, F.S., specifying conditions under which a court may set aside an arbitral award.

Section 48 creates s. 684.0047, F.S., providing for the recognition and enforcement of arbitral awards by a court.

Section 49 creates s. 684.0048, F.S., specifying grounds for a court to refuse to recognize or enforce an arbitral award.

Section 50 repeals parts I, II, and III of ch. 684, F.S., the Florida International Arbitration Act.

Section 51 provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Office of State Courts Administrator reports that the fiscal impact cannot be accurately determined, but expects an increase in circuit civil filings for ancillary legal proceedings. However, any impact is expected to be insignificant.

2. Expenditures:

   The Office of State Courts Administrator reports that the fiscal impact cannot be accurately determined, but expects an increase in circuit civil filings for ancillary legal proceedings. However, any impact is expected to be insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Proponents of the bill, including the International Law Section of the Florida Bar, claim the adoption of the Model Law will make Florida a more attractive seat of arbitration, attracting more visitors who would increase the demand for ancillary legal services, hospitality services, and entertainment. Any such impact is indeterminate at this time.

D. FISCAL COMMENTS:

The bill may have some insignificant impact on court filings. It may also have a positive impact on private sector hospitality, legal and entertainment industries.

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, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 11, 2010, the Insurance, Business & Financial Affairs Policy Committee adopted three amendments, which made the following changes:

- Corrected a cross reference, applying current service of process requirements to the new International Commercial Arbitration Act.

- Made technical changes to clarify the waiver of the right to object and time limits, correct an internal cross reference and remove references to “other authority” throughout the bill.