

SUBJECT: Interlocutory appeals in cases subject to the Federal Arbitration Act

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 6 ayes — B. Cook, Strama, P. King, Madden, Raymond, Talton

0 nays

3 absent — Martinez Fischer, Miller, Woolley

SENATE VOTE: On final passage, April 26 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Interlocutory orders are temporary orders issued during the course of litigation. Because of the non-final nature of such orders, interlocutory appeals are rare. Civil Practice and Remedies Code, sec. 171.098 permits an interlocutory appeal of a lower court's denial of a petition to compel arbitration in state court cases subject to the Texas General Arbitration Act (TGAA). Currently, state court cases subject to the Federal Arbitration Act (FAA) are only appealable by writ of mandamus, not interlocutory appeal. This procedural difference results in duplicative filings, double the filing costs, and two proceedings on one docket for state court cases subject to both the TGAA and FAA.

DIGEST: SB 1167 would provide a right of appeal in a state court case subject to the Federal Arbitration Act (9 U.S.C., sec. 1 et seq.). A person could take an appeal or writ of error to the court of appeals from the judgment or interlocutory order of a district court, county court at law, or county court under the same circumstances that an appeal from a federal district court's order or decision would be permitted under the Federal Arbitration Act.

The bill would take effect September 1, 2007.