

SENATE BILL NO. 15

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATOR TAYLOR

Introduced: 1/13/97

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to punitive damages in a civil action for discrimination related
2 to employment; relating to arbitration in a civil action; amending Rules 79(b) and
3 82(b), Alaska Rules of Civil Procedure, and repealing Rule 72.1, Alaska Rules of
4 Civil Procedure; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 09.55.535 is repealed and reenacted to read:

7 **Sec. 09.55.535. Mandatory arbitration.** (a) A person who files an action for
8 personal injury, death, or property damage shall also submit the claim to the court for
9 arbitration unless the action is excluded under (b) of this section.

10 (b) A person is not required to comply with (a) of this section if the

11 (1) amount in controversy, excluding interest, costs, and attorney fees,
12 exceeds \$100,000;

13 (2) parties have, under a written agreement made before the accrual of
14 the action, agreed to submit the claim to arbitration; or

- 1 (3) action
- 2 (A) is a class action;
- 3 (B) seeks equitable or declaratory relief;
- 4 (C) concerns the title to real property;
- 5 (D) is a probate action;
- 6 (E) is an appeal from a court of limited jurisdiction;
- 7 (F) involves divorce or domestic relations;
- 8 (G) is an appeal from action by an administrative agency.

9 (c) When a claim is submitted as required by (a) of this section, the court shall
10 appoint an arbitrator to review the claim. The arbitrator appointed to review the claim
11 shall interview the parties and examine all records or materials relating to the claim
12 and may compel the attendance of witnesses, interview the parties, or consult with
13 medical specialists.

14 (d) An arbitrator appointed under this section shall conduct a prehearing
15 settlement conference within 30 days after the appointment. The arbitrator shall
16 establish a period for discovery and a date for a hearing. The hearing date may not
17 be more than 120 days after the settlement conference.

18 (e) An arbitrator shall render a decision within 30 days after hearing a claim
19 under (d) of this section. The decision must contain findings of fact and conclusions
20 of law. The decision of the arbitrator may be rejected by a party.

21 (f) If the decision of the arbitrator is rejected by a party, the action may
22 proceed in the appropriate court. The arbitrator's decision is admissible in that action
23 to the extent allowed under the Alaska Rules of Evidence and may be used by a party
24 to support or oppose a claim of damages. If a party rejects the decision of the
25 arbitrator and litigates the action in court but is not the prevailing party in the action,
26 the court shall award actual costs and attorney fees to the opposing party.

27 (g) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)
28 apply to an arbitration under this section to the extent the provisions do not conflict
29 with the provisions of this section.

30 * **Sec. 2.** AS 18.80 is amended by adding a new section to read:

31 **Sec. 18.80.225. Punitive damages for unlawful employment practices.** (a)

1 In an action against an employer to recover damages for an unlawful employment
2 practice prohibited by AS 18.80.220, the amount of punitive damages awarded by the
3 court or jury may not exceed

4 (1) \$50,000 if the employer has less than 101 employees;

5 (2) \$100,000 if the employer has more than 100 but less than 201
6 employees;

7 (3) \$200,000 if the employer has more than 200 but less than 501
8 employees;

9 (4) \$300,000 if the employer has more than 500 employees.

10 (b) This section may not be construed to allow an award of punitive damages
11 against the state.

12 (c) In this section, "employees" means persons employed in each of 20 or
13 more calendar weeks in the current or preceding calendar year.

14 * **Sec. 3.** AS 22.10.020(i) is amended to read:

15 (i) The superior court is the court of original jurisdiction over all causes of
16 action arising under the provisions of AS 18.80. A person who is injured or
17 aggrieved by an act, practice, or policy **that** [WHICH] is prohibited under AS 18.80
18 may apply to the superior court for relief. The person aggrieved or injured may
19 maintain an action on behalf of that person or on behalf of a class consisting of all
20 persons who are aggrieved or injured by the act, practice, or policy giving rise to the
21 action. In an action brought under this subsection, the court may grant relief as to any
22 act, practice, or policy of the defendant **that** [WHICH] is prohibited by AS 18.80,
23 regardless of whether each act, practice, or policy, with respect to which relief is
24 granted, directly affects the plaintiff, so long as a class or members of a class of which
25 the plaintiff is a member are or may be aggrieved or injured by the act, practice, or
26 policy. The court may enjoin any act, practice, or policy **that** [WHICH] is illegal
27 under AS 18.80 and may, **subject to AS 18.80.225**, order any other relief, including
28 the payment of money, that is appropriate.

29 * **Sec. 4.** AS 08.64.326(a)(12); AS 08.68.270(10); AS 09.55.536, 09.55.560(2), and
30 09.55.560(3) are repealed.

31 * **Sec. 5.** Rule 72.1, Alaska Rules of Civil Procedure, is repealed.

1 * **Sec. 6.** AS 09.55.535(f), enacted in sec. 1 of this Act, has the effect of amending
2 Rule 79(b), Alaska Rule of Civil Procedure, by allowing the award of actual costs in certain
3 actions.

4 * **Sec. 7.** AS 09.55.535(f), enacted in sec. 1 of this Act, has the effect of amending
5 Rule 82(b), Alaska Rule of Civil Procedure, by allowing the award of actual attorney fees in
6 certain actions.

7 * **Sec. 8.** This Act takes effect July 1, 1997.