

(LIMITED RUN SHOWING ALL ADDITIONAL SPONSORSHIPS)

SENATE CS FOR CS FOR HOUSE BILL NO. 83(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/21/04

Referred: Rules

Sponsor(s): REPRESENTATIVES BERKOWITZ, Weyhrauch, Moses, Gara, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act adopting a version of the Revised Uniform Arbitration Act; relating to the**
2 **state's existing Uniform Arbitration Act; amending Rules 3, 18, 19, 20, and 21, Alaska**
3 **Rules of Civil Procedure, Rule 601, Alaska Rules of Evidence, and Rule 402, Alaska**
4 **Rules of Appellate Procedure; and providing for an effective date."**

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

6 * **Section 1.** AS 09.43.010 is amended by adding a new subsection to read:

7 (b) Notwithstanding (a) of this section, AS 09.43.010 - 09.43.180 do not apply
8 to an agreement or a contract unless the agreement or contract is entered into before
9 the effective date of AS 09.43.300 - 09.43.595 and is not otherwise subject to
10 AS 09.43.300 - 09.43.595.

11 * **Sec. 2.** AS 09.43 is amended by adding new sections to read:

12 **Article 3. Revised Uniform Arbitration Act.**

13 **Sec. 09.43.300. Application.** (a) AS 09.43.300 - 09.43.595 govern an
14 agreement to arbitrate made on or after January 1, 2005.

1 (b) AS 09.43.300 - 09.43.595 govern an agreement to arbitrate made before
 2 January 1, 2005, if all the parties to the agreement or to the arbitration proceeding
 3 agree in a record that AS 09.43.300 - 09.43.595 govern the agreement.

4 (c) Except as provided by (d) of this section, AS 09.43.300 - 09.43.595 do not
 5 apply to a labor-management contract unless they are incorporated into the contract or
 6 their application is provided for by contract.

7 (d) AS 09.43.300 - 09.43.595 do not apply to a collective bargaining
 8 agreement subject to AS 23.40.070 - 23.40.260, except as provided by AS 23.40.070 -
 9 23.40.260.

10 **Sec. 09.43.310. Effect of agreement to arbitrate; nonwaivable provisions.**

11 (a) Except as otherwise provided in (b) and (c) of this section, a party to an agreement
 12 to arbitrate or arbitration proceeding may waive, or the parties may vary the effect of,
 13 the requirements of AS 09.43.300 - 09.43.595 to the extent permitted by law.

14 (b) Before a controversy arises that is subject to an agreement to arbitrate, a
 15 party to the agreement may not

16 (1) waive or agree to vary the effect of the requirements of
 17 AS 09.43.320, 09.43.330(a) or (b), 09.43.350, 09.43.440(a) or (b), 09.43.530, or
 18 09.43.550;

19 (2) agree to unreasonably restrict the right under AS 09.43.360 to
 20 notice of the initiation of an arbitration proceeding;

21 (3) agree to unreasonably restrict the right under AS 09.43.390 to
 22 disclosure of any facts by a neutral arbitrator; or

23 (4) waive the right under AS 09.43.430 of a party to an agreement to
 24 arbitrate to be represented by an attorney at a proceeding or hearing under
 25 AS 09.43.300 - 09.43.595, but an employer and a labor organization may waive the
 26 right to representation by an attorney in a labor arbitration.

27 (c) A party to an agreement to arbitrate or arbitration proceeding may not
 28 waive, or the parties may not vary the effect of, the requirements of this section,
 29 AS 09.43.300(a), (c), or (d), 09.43.340, 09.43.410, 09.43.450, 09.43.470(d) or (e),
 30 09.43.490, 09.43.500, 09.43.510, 09.43.520, 09.43.560, or 09.43.570.

31 **Sec. 09.43.320. Application for judicial relief.** Except as otherwise provided

1 in AS 09.43.550, an application for judicial relief under AS 09.43.300 - 09.43.595
2 shall be made and heard in the manner provided by the court rules of this state.

3 **Sec. 09.43.330. Validity of agreement to arbitrate.** (a) An agreement
4 contained in a record to submit to arbitration an existing or subsequent controversy
5 arising between the parties to the agreement is valid, enforceable, and irrevocable
6 except upon a ground that exists at law or in equity for the revocation of a contract,
7 and except as provided by (b) of this section.

8 (b) To the extent an agreement that contains an arbitration provision is
9 invalidated on the grounds that a party was induced into entering into the agreement
10 by fraud, the arbitration provision in the agreement is not enforceable, and the party is
11 not required to prove that the party was induced into entering into the arbitration
12 provision by fraud.

13 (c) The court shall decide whether an agreement to arbitrate exists or a
14 controversy is subject to an agreement to arbitrate.

15 (d) An arbitrator shall decide whether a condition precedent to arbitrability has
16 been fulfilled.

17 (e) If a party to a judicial proceeding challenges the existence of, or claims
18 that a controversy is not subject to, an agreement to arbitrate, the arbitration
19 proceeding may continue pending final resolution of the issue by the court, unless the
20 court otherwise orders.

21 **Sec. 09.43.340. Application to compel arbitration; stay of related**
22 **proceedings.** (a) On application of a person showing an agreement to arbitrate and
23 alleging another person's refusal to arbitrate under the agreement,

24 (1) if the refusing party does not appear or does not oppose the
25 application, the court shall order the parties to arbitrate; and

26 (2) if the refusing party opposes the application, the court shall proceed
27 summarily to decide the issue and order the parties to arbitrate unless it finds that there
28 is no enforceable agreement to arbitrate.

29 (b) On application of a person alleging that an arbitration proceeding has been
30 initiated or threatened but that there is not an agreement to arbitrate, the court shall
31 proceed summarily to decide the issue. If the court finds that there is an enforceable

1 agreement to arbitrate, the court shall order the parties to arbitrate.

2 (c) If the court finds that there is not an enforceable agreement, the court may
3 not, under (a) or (b) of this section, order the parties to arbitrate.

4 (d) The court may not refuse to order arbitration because the claim subject to
5 arbitration lacks merit or because grounds for the claim have not been established.

6 (e) If a proceeding involving a claim referable to arbitration under an alleged
7 agreement to arbitrate is pending in court, an application under this section shall be
8 made in that court. Otherwise, an application under this section may be made in any
9 court as provided in AS 09.43.540.

10 (f) If a party makes an application to the court to order arbitration, the court
11 shall, on just terms, stay a judicial proceeding that involves a claim alleged to be
12 subject to the arbitration until the court renders a final decision under this section.

13 (g) If the court orders arbitration, the court shall, on just terms, stay a judicial
14 proceeding that involves a claim subject to the arbitration. If a claim subject to the
15 arbitration is severable, the court may limit the stay to that claim.

16 **Sec. 09.43.350. Provisional remedies.** (a) Before an arbitrator is appointed
17 and is authorized and able to act, the court, upon application of a party to an
18 arbitration proceeding and for good cause shown, may enter an order for provisional
19 remedies to protect the effectiveness of the arbitration proceeding to the same extent
20 and under the same conditions as if the controversy were the subject of a civil action.

21 (b) After an arbitrator is appointed and is authorized and able to act,
22 (1) the arbitrator may issue the orders for provisional remedies,
23 including interim awards, that the arbitrator finds necessary to protect the
24 effectiveness of the arbitration proceeding and to promote the fair and expeditious
25 resolution of the controversy, to the same extent and under the same conditions as if
26 the controversy were the subject of a civil action; and

27 (2) a party to an arbitration proceeding may apply to the court for a
28 provisional remedy only if the matter is urgent and the arbitrator is not able to act
29 timely or the arbitrator cannot provide an adequate remedy.

30 (c) A party does not waive a right of arbitration by making an application
31 under (a) or (b) of this section.

1 **Sec. 09.43.360. Initiation of arbitration.** (a) A person initiates an arbitration
 2 proceeding by giving notice in a record to the other parties to the agreement to
 3 arbitrate in the agreed manner between the parties or, in the absence of agreement, by
 4 certified or registered mail, return receipt requested and obtained, or by service as
 5 authorized for the commencement of a civil action. The notice must describe the
 6 nature of the controversy and the remedy sought.

7 (b) Unless a person objects for lack or insufficiency of notice under
 8 AS 09.43.420(c) not later than the beginning of the arbitration hearing, the person, by
 9 appearing at the hearing, waives any objection to lack or insufficiency of notice.

10 **Sec. 09.43.370. Consolidation of separate arbitration proceedings.** (a)
 11 Except as otherwise provided in (c) of this section, upon application of a party to an
 12 agreement to arbitrate or arbitration proceeding, the court may order consolidation of
 13 separate arbitration proceedings as to all or some of the claims if

14 (1) there are separate agreements to arbitrate or separate arbitration
 15 proceedings between the same persons or one of them is a party to a separate
 16 agreement to arbitrate or a separate arbitration proceeding with a third person;

17 (2) the claims subject to the agreements to arbitrate arise in substantial
 18 part from the same transaction or series of related transactions;

19 (3) the existence of a common issue of law or fact creates the
 20 possibility of conflicting decisions in the separate arbitration proceedings; and

21 (4) prejudice resulting from a failure to consolidate is not outweighed
 22 by the risk of undue delay or prejudice to the rights of or hardship to parties opposing
 23 consolidation.

24 (b) The court may order consolidation of separate arbitration proceedings as to
 25 some claims and allow other claims to be resolved in separate arbitration proceedings.

26 (c) The court may not order consolidation of the claims of a party to an
 27 agreement to arbitrate if the agreement prohibits consolidation.

28 **Sec. 09.43.380. Appointment of arbitrator; service as a neutral arbitrator.**

29 (a) If the parties to an agreement to arbitrate agree on a method for appointing an
 30 arbitrator, that method shall be followed, unless the method fails. If the parties have
 31 not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is

1 unable to act and a successor has not been appointed, the court, on application of a
 2 party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator appointed
 3 by the court has all the powers of an arbitrator designated in the agreement to arbitrate
 4 or appointed under the agreed method.

5 (b) An individual who has a known, direct, and material interest in the
 6 outcome of the arbitration proceeding or a known, existing, and substantial
 7 relationship with a party may not serve as an arbitrator required by an agreement to be
 8 neutral.

9 **Sec. 09.43.390. Disclosure by arbitrator.** (a) Before accepting appointment,
 10 an individual who is requested to serve as an arbitrator shall, after making a reasonable
 11 inquiry, disclose to all parties to the agreement to arbitrate and arbitration proceeding
 12 and to other arbitrators any known facts that a reasonable person would consider likely
 13 to affect the impartiality of the arbitrator in the arbitration proceeding, including

14 (1) a financial or personal interest in the outcome of the arbitration
 15 proceeding; and

16 (2) an existing or past relationship with a party to the agreement to
 17 arbitrate or arbitration proceeding, counsel for or representatives of the parties, a
 18 witness, or another arbitrator.

19 (b) An arbitrator has a continuing obligation to disclose to all parties to the
 20 agreement to arbitrate and arbitration proceeding and to other arbitrators any facts that
 21 the arbitrator learns after accepting appointment that a reasonable person would
 22 consider likely to affect the impartiality of the arbitrator.

23 (c) If an arbitrator discloses a fact required by (a) or (b) of this section to be
 24 disclosed and a party timely objects to the appointment or continued service of the
 25 arbitrator based on the fact disclosed, the objection may be a ground under
 26 AS 09.43.500(a)(2) for vacating an award made by the arbitrator.

27 (d) If the arbitrator did not disclose a fact as required by (a) or (b) of this
 28 section, upon timely objection by a party, the court may, under AS 09.43.500(a)(2),
 29 vacate an award.

30 (e) An arbitrator appointed as a neutral arbitrator who does not disclose a
 31 known, direct, and material interest in the outcome of the arbitration proceeding or a

1 known, existing, and substantial relationship with a party is rebuttably presumed to act
2 with evident partiality under AS 09.43.500(a)(2).

3 (f) If the parties to an arbitration proceeding agree to the procedures of an
4 arbitration organization or other procedures for challenges to arbitrators before an
5 award is made, substantial compliance with those procedures is a condition precedent
6 to an application to vacate an award on that ground under AS 09.43.500(a)(2).

7 **Sec. 09.43.400. Action by majority.** If there is more than one arbitrator, the
8 powers of an arbitrator shall be exercised by a majority of the arbitrators, but all of
9 them shall conduct the hearing under AS 09.43.420(c).

10 **Sec. 09.43.410. Immunity of arbitrator; competency to testify; attorney**
11 **fees and costs.** (a) An arbitrator or an arbitration organization acting in that capacity
12 is immune from civil liability to the same extent as a judge of a court of this state
13 acting in a judicial capacity.

14 (b) The immunity afforded by this section supplements any immunity under
15 other law.

16 (c) The failure of an arbitrator to make a disclosure required by AS 09.43.390
17 does not cause a loss of immunity under this section.

18 (d) In a judicial, administrative, or similar proceeding, an arbitrator or
19 representative of an arbitration organization is not competent to testify and may not be
20 required to produce records as to a statement, conduct, a decision, or a ruling
21 occurring during the arbitration proceeding to the same extent as a judge of a court of
22 this state acting in a judicial capacity. This subsection does not apply to

23 (1) the extent necessary to determine the claim of an arbitrator,
24 arbitration organization, or representative of the arbitration organization against a
25 party to the arbitration proceeding; or

26 (2) a hearing on an application to vacate an award under
27 AS 09.43.500(a)(1) or (2) if the applicant establishes prima facie that a ground for
28 vacating the award exists.

29 (e) If a person commences a civil action against an arbitrator, arbitration
30 organization, or representative of an arbitration organization arising from the services
31 of the arbitrator, organization, or representative, or if a person seeks to compel an

1 arbitrator or a representative of an arbitration organization to testify or produce
 2 records in violation of (d) of this section, and the court decides that the arbitrator,
 3 arbitration organization, or representative of an arbitration organization is immune
 4 from civil liability or that the arbitrator or representative of the organization is not
 5 competent to testify, the court shall award to the arbitrator, organization, or
 6 representative attorney fees and expenses of litigation as determined under the court
 7 rules of this state.

8 **Sec. 09.43.420. Arbitration process.** (a) An arbitrator may conduct an
 9 arbitration in the manner the arbitrator considers appropriate for a fair and expeditious
 10 disposition of the proceeding. The authority conferred upon the arbitrator includes the
 11 power to hold conferences with the parties to the arbitration proceeding before the
 12 hearing and, among other matters, determine the admissibility, relevance, materiality,
 13 and weight of any evidence.

14 (b) An arbitrator may decide a request for summary disposition of a claim or
 15 particular issue

16 (1) if all interested parties agree; or

17 (2) on request of one party to the arbitration proceeding if that party
 18 gives notice to all other parties to the proceeding and the other parties have a
 19 reasonable opportunity to respond.

20 (c) If an arbitrator orders a hearing, the arbitrator shall set a time and place and
 21 give notice of the hearing not less than five days before the hearing begins. Unless a
 22 party to the arbitration proceeding makes an objection to lack or insufficiency of
 23 notice not later than the beginning of the hearing, the party's appearance at the hearing
 24 waives the objection. On request of a party to the arbitration proceeding and for good
 25 cause shown, or on the arbitrator's own initiative, the arbitrator may adjourn the
 26 hearing from time to time as necessary but may not postpone the hearing to a time
 27 later than that fixed by the agreement to arbitrate for making the award unless the
 28 parties to the arbitration proceeding consent to a later date. The arbitrator may hear
 29 and decide the controversy on the evidence produced although a party who was
 30 notified of the arbitration proceeding did not appear. The court, on request, may direct
 31 the arbitrator to conduct the hearing promptly and render a timely decision.

1 (d) At a hearing under (c) of this section, a party to the arbitration proceeding
2 has a right to be heard, to present evidence material to the controversy, and to
3 cross-examine witnesses appearing at the hearing.

4 (e) If an arbitrator ceases or is unable to act during the arbitration proceeding,
5 a replacement arbitrator shall be appointed under AS 09.43.380 to continue the
6 proceeding and to resolve the controversy.

7 **Sec. 09.43.430. Representation by attorney.** A party to an arbitration
8 proceeding may be represented by an attorney.

9 **Sec. 09.43.440. Witnesses; subpoenas; depositions; discovery.** (a) An
10 arbitrator may issue a subpoena for the attendance of a witness and for the production
11 of records and other evidence at a hearing and may administer oaths. A subpoena shall
12 be served in the manner for service of subpoenas in a civil action and, on application
13 to the court by a party to the arbitration proceeding or the arbitrator, enforced in the
14 manner for enforcement of subpoenas in a civil action.

15 (b) In order to make the proceedings fair, expeditious, and cost-effective, on
16 request of a party to or witness in an arbitration proceeding, an arbitrator may permit a
17 deposition of a witness to be taken for use as evidence at the hearing, including a
18 witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator
19 shall determine the conditions under which the deposition is taken.

20 (c) An arbitrator may permit the discovery the arbitrator decides is appropriate
21 in the circumstances, taking into account the needs of the parties to the arbitration
22 proceeding and other affected persons and the desirability of making the proceeding
23 fair, expeditious, and cost-effective.

24 (d) If an arbitrator permits discovery under (c) of this section, the arbitrator
25 may order a party to the arbitration proceeding to comply with the arbitrator's
26 discovery-related orders, issue subpoenas for the attendance of a witness and for the
27 production of records and other evidence at a discovery proceeding, and take action
28 against a noncomplying party to the extent a court could if the controversy were the
29 subject of a civil action in this state.

30 (e) An arbitrator may issue a protective order to prevent the disclosure of
31 privileged information, confidential information, trade secrets, and other information

1 protected from disclosure to the extent a court could if the controversy were the
2 subject of a civil action in this state.

3 (f) All laws compelling a person under subpoena to testify and all fees for
4 attending a judicial proceeding, deposition, or discovery proceeding as a witness apply
5 to an arbitration proceeding as if the controversy were the subject of a civil action in
6 this state.

7 (g) The court may enforce a subpoena or discovery-related order for the
8 attendance of a witness within this state and for the production of records and other
9 evidence issued by an arbitrator in connection with an arbitration proceeding in
10 another state upon conditions determined by the court so as to make the arbitration
11 proceeding fair, expeditious, and cost-effective. A subpoena or discovery-related order
12 issued by an arbitrator in another state shall be served in the manner provided by law
13 for service of subpoenas in a civil action in this state and, on application to the court
14 by a party to the arbitration proceeding or the arbitrator, enforced in the manner
15 provided by law for enforcement of subpoenas in a civil action in this state.

16 **Sec. 09.43.450. Judicial enforcement of preaward ruling by arbitrator.** If
17 an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding,
18 the party may request the arbitrator to incorporate the ruling into an award under
19 AS 09.43.460. A prevailing party may apply to the court for an expedited order to
20 confirm the award under AS 09.43.490, in which case the court shall summarily
21 decide the application. The court shall issue an order to confirm the award unless the
22 court vacates, modifies, or corrects the award under AS 09.43.500 or 09.43.510.

23 **Sec. 09.43.460. Award.** (a) An arbitrator shall make a record of an award.
24 The record must be signed or otherwise authenticated by an arbitrator who concurs
25 with the award. The arbitrator or the arbitration organization shall give notice of the
26 award, including a copy of the award, to each party to the arbitration proceeding.

27 (b) An award shall be made within the time specified by the agreement to
28 arbitrate or, if not specified in the agreement, within the time ordered by the court.
29 The court may extend or the parties to the arbitration proceeding may agree in a record
30 to extend the time. The court or the parties may extend the time within or after the
31 time specified or ordered. A party waives an objection that an award was not timely

1 made unless the party gives notice of the objection to the arbitrator before receiving
2 notice of the award.

3 **Sec. 09.43.470. Change of award by arbitrator.** (a) On motion to an
4 arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct
5 an award

6 (1) on a ground stated in AS 09.43.510(a)(1) or (3);

7 (2) because the arbitrator has not made a final and definite award on a
8 claim submitted by the parties to the arbitration proceeding; or

9 (3) to clarify the award.

10 (b) A motion under (a) of this section shall be made and notice shall be given
11 to all parties within 20 days after the movant receives notice of the award.

12 (c) A party to the arbitration proceeding shall give notice of an objection to the
13 motion within 10 days after receipt of the notice.

14 (d) If an application to the court is pending under AS 09.43.490, 09.43.500, or
15 09.43.510, the court may submit the claim to the arbitrator to consider whether to
16 modify or correct the award

17 (1) on a ground stated in AS 09.43.510(a)(1) or (3);

18 (2) because the arbitrator has not made a final and definite award on a
19 claim submitted by the parties to the arbitration proceeding; or

20 (3) to clarify the award.

21 (e) An award modified or corrected under this section is subject to
22 AS 09.43.460(a) and 09.43.490 - 09.43.510.

23 **Sec. 09.43.480. Remedies; fees and expenses of arbitration proceeding.** (a)
24 An arbitrator may award punitive damages or other exemplary relief if the award is
25 authorized by law in a civil action involving the same claim and the evidence
26 produced at the hearing justifies the award under the legal standards otherwise
27 applicable to the claim.

28 (b) An arbitrator may award reasonable attorney fees and other reasonable
29 expenses of arbitration if the award is authorized by law in a civil action involving the
30 same claim or by the agreement of the parties to the arbitration proceeding.

31 (c) As to all remedies other than those authorized by (a) and (b) of this section,

1 an arbitrator may order the remedies the arbitrator considers just and appropriate under
 2 the circumstances of the arbitration proceeding. The fact that the remedy could not or
 3 would not be granted by the court is not a ground for refusing to confirm an award
 4 under AS 09.43.490 or for vacating an award under AS 09.43.500.

5 (d) An arbitrator's expenses and fees, together with other expenses, shall be
 6 paid as provided in the award.

7 (e) If an arbitrator awards punitive damages or other exemplary relief under
 8 (a) of this section, the arbitrator shall specify in the award the basis in fact justifying
 9 and the basis in law authorizing the award and shall state the amount of the punitive
 10 damages or other exemplary relief separately.

11 **Sec. 09.43.490. Confirmation of award.** After a party to an arbitration
 12 proceeding receives notice of an award, the party may apply to the court for an order
 13 confirming the award, at which time the court shall issue a confirming order unless the
 14 award is modified or corrected under AS 09.43.470 or 09.43.510 or is vacated under
 15 AS 09.43.500.

16 **Sec. 09.43.500. Vacating award.** (a) On application to the court by a party to
 17 an arbitration proceeding, the court shall vacate an award made in the arbitration
 18 proceeding if

19 (1) the award was procured by corruption, fraud, or other undue
 20 means;

21 (2) there was

22 (A) evident partiality by an arbitrator appointed as a neutral
 23 arbitrator;

24 (B) corruption by an arbitrator; or

25 (C) misconduct by an arbitrator prejudicing the rights of a party
 26 to the arbitration proceeding;

27 (3) an arbitrator refused to postpone the hearing on showing of
 28 sufficient cause for postponement, refused to consider evidence material to the
 29 controversy, or otherwise conducted the hearing contrary to AS 09.43.420, so as to
 30 prejudice substantially the rights of a party to the arbitration proceeding;

31 (4) an arbitrator exceeded the arbitrator's powers;

1 (5) there was not an agreement to arbitrate, unless the person
2 participated in the arbitration proceeding without raising the objection under
3 AS 09.43.420(c) not later than the beginning of the arbitration hearing; or

4 (6) the arbitration was conducted without proper notice of the initiation
5 of an arbitration as required under AS 09.43.360 so as to prejudice substantially the
6 rights of a party to the arbitration proceeding.

7 (b) An application under this section shall be filed within 90 days after the
8 applicant receives notice of the award under AS 09.43.460 or within 90 days after the
9 applicant receives notice of a modified or corrected award under AS 09.43.470, unless
10 the applicant alleges that the award was procured by corruption, fraud, or other undue
11 means, in which case the application shall be made within 90 days after the ground is
12 known or, by the exercise of reasonable care, would have been known by the
13 applicant.

14 (c) If the court vacates an award on a ground other than that stated in (a)(5) of
15 this section, it may order a rehearing. If the award is vacated on a ground stated in
16 (a)(1) or (2) of this section, the rehearing shall be before a new arbitrator. If the award
17 is vacated on a ground stated in (a)(3), (4), or (6) of this section, the rehearing may be
18 before the arbitrator who made the award or the arbitrator's successor. The arbitrator
19 shall render the decision in the rehearing within the same time as that provided in
20 AS 09.43.460(b) for an award.

21 (d) If the court denies an application to vacate an award, it shall confirm the
22 award unless an application to modify or correct the award is pending.

23 **Sec. 09.43.510. Modification or correction of award.** (a) On application
24 made within 90 days after the applicant receives notice of the award under
25 AS 09.43.460 or within 90 days after the applicant receives notice of a modified or
26 corrected award under AS 09.43.470, the court shall modify or correct the award if

27 (1) there was an evident mathematical miscalculation or an evident
28 mistake in the description of a person, thing, or property referred to in the award;

29 (2) the arbitrator has made an award on a claim not submitted to the
30 arbitrator and the award may be corrected without affecting the merits of the decision
31 on the claims submitted; or

1 (3) the award is imperfect in a matter of form not affecting the merits
2 of the decision on the claims submitted.

3 (b) If an application made under (a) of this section is granted, the court shall
4 modify or correct and confirm the award as modified or corrected. Otherwise, unless
5 an application to vacate is pending, the court shall confirm the award.

6 (c) An application to modify or correct an award under this section may be
7 joined with an application to vacate the award.

8 **Sec. 09.43.520. Judgment on award.** On granting an order confirming,
9 vacating without directing a rehearing, modifying, or correcting an award, the court
10 shall enter a judgment in conformity with the order. The judgment may be recorded,
11 docketed, and enforced as any other judgment in a civil action.

12 **Sec. 09.43.530. Jurisdiction.** (a) A court of this state having jurisdiction over
13 the controversy and the parties may enforce an agreement to arbitrate.

14 (b) An agreement to arbitrate providing for arbitration in this state confers
15 exclusive jurisdiction on the court to enter judgment on an award under AS 09.43.300
16 - 09.43.595.

17 **Sec. 09.43.540. Venue.** An application to the court under AS 09.43.320 shall
18 be made in the court of the judicial district in which the agreement to arbitrate
19 specifies the arbitration hearing is to be held or, if the hearing has been held, in the
20 court of the judicial district in which it was held. Otherwise, the application may be
21 made in the court of a judicial district in which an adverse party resides or has a place
22 of business or, if no adverse party has a residence or place of business in this state, in
23 the court of any judicial district in this state. All subsequent applications shall be
24 made in the court hearing the initial application unless the court otherwise directs.

25 **Sec. 09.43.550. Appeals.** (a) An appeal may be taken from

- 26 (1) an order denying an application to compel arbitration;
27 (2) an order granting an application to stay arbitration;
28 (3) an order confirming or denying confirmation of an award;
29 (4) an order modifying or correcting an award;
30 (5) an order vacating an award without directing a rehearing; or
31 (6) a final judgment entered under AS 09.43.300 - 09.43.595.

1 (b) An appeal under this section shall be taken as from an order or a judgment
2 in a civil action.

3 **Sec. 09.43.560. Uniformity of application and construction.** In applying
4 and construing AS 09.43.300 - 09.43.595, consideration shall be given to the need to
5 promote uniformity of the law with respect to its subject matter among states that
6 enact the Revised Uniform Arbitration Act.

7 **Sec. 09.43.570. Relationship to Electronic Signatures in Global and
8 National Commerce Act.** The provisions of AS 09.43.300 - 09.43.595 governing the
9 legal effect, validity, and enforceability of electronic records or electronic signatures,
10 and of contracts performed with the use of the records or signatures shall conform to
11 the requirements of 15 U.S.C. 7002 (Electronic Signatures in Global and National
12 Commerce Act).

13 **Sec. 09.43.580. Notice.** (a) Except as otherwise provided in AS 09.43.300 -
14 09.43.595, a person gives notice to another person by taking action that is reasonably
15 necessary to inform the other person in the ordinary course of affairs, whether or not
16 the other person acquires knowledge of the notice.

17 (b) A person has notice if the person has knowledge of the notice or has
18 received notice.

19 (c) A person receives notice when the notice comes to the person's attention or
20 the notice is delivered at the person's place of residence or place of business, or at
21 another location held out by the person as a place of delivery of the communications.

22 **Sec. 09.43.590. Definitions.** In AS 09.43.300 - 09.43.595,

23 (1) "arbitration organization" means an association, agency, board,
24 commission, or other entity that is neutral and initiates, sponsors, or administers an
25 arbitration proceeding or is involved in the appointment of an arbitrator;

26 (2) "arbitrator" means an individual who is appointed to render an
27 award, alone or with others, in a controversy that is subject to an agreement to
28 arbitrate;

29 (3) "court" means a court of competent jurisdiction in this state;

30 (4) "knowledge" means actual knowledge;

31 (5) "person" means an individual, corporation, business trust, estate,

1 trust, partnership, limited liability company, association, joint venture, government;
 2 governmental subdivision, agency, or instrumentality; public corporation; or another
 3 legal or commercial entity;

4 (6) "record" means information that is inscribed on a tangible medium
 5 or that is stored in an electronic or other medium and may be retrieved in perceivable
 6 form.

7 **Sec. 09.43.595. Short title.** AS 09.43.300 - 09.43.595 may be cited as the
 8 Revised Uniform Arbitration Act.

9 * **Sec. 3.** AS 09.55.535(k) is amended to read:

10 (k) The provisions of **AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)**
 11 **or AS 09.43.300 - 09.43.595 (Revised Uniform Arbitration Act)** [THE UNIFORM
 12 ARBITRATION ACT, AS 09.43.010 - 09.43.180,] apply **as provided in**
 13 **AS 09.43.010 and 09.43.300** to arbitrations under this section if they do not conflict
 14 with the provisions of this section; arbitrations under this section shall be conducted in
 15 accordance with procedures established by any rules of court **that** [WHICH] may be
 16 adopted and according to provisions of AS 09.55.540 - 09.55.548, **09.55.554 -**
 17 **09.55.560** [AND AS 09.55.554 - 09.55.560], and AS 09.65.090.

18 * **Sec. 4.** AS 22.15.030(a) is amended to read:

19 (a) The district court has jurisdiction of civil cases, including foreign
 20 judgments filed under AS 09.30.200 and arbitration proceedings under AS 09.43.170
 21 **or 09.43.530 to the extent permitted by AS 09.43.010 and 09.43.300**, as follows:

22 (1) for the recovery of money or damages when the amount claimed
 23 exclusive of costs, interest, and attorney fees does not exceed \$50,000 for each
 24 defendant;

25 (2) for the recovery of specific personal property, when the value of
 26 the property claimed and the damages for the detention do not exceed \$50,000;

27 (3) for the recovery of a penalty or forfeiture, whether given by statute
 28 or arising out of contract, not exceeding \$50,000;

29 (4) to give judgment without action upon the confession of the
 30 defendant for any of the cases specified in this section, except for a penalty or
 31 forfeiture imposed by statute;

1 (5) for establishing the fact of death or cause and manner of death of
2 any person in the manner prescribed in AS 09.55.020 - 09.55.069;

3 (6) for the recovery of the possession of premises in the manner
4 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage to
5 the property does not exceed \$50,000;

6 (7) for the foreclosure of a lien when the amount in controversy does
7 not exceed \$50,000;

8 (8) for the recovery of money or damages in motor vehicle tort cases
9 when the amount claimed exclusive of costs, interest, and attorney fees does not
10 exceed \$50,000 for each defendant;

11 (9) over civil actions for taking utility service and for damages to or
12 interference with a utility line filed under AS 42.20.030;

13 (10) over cases involving protective orders for domestic violence
14 under AS 18.66.100 - 18.66.180.

15 * **Sec. 5.** AS 23.40.200(b) is amended to read:

16 (b) The class in (a)(1) of this section is composed of police and fire protection
17 employees, jail, prison, and other correctional institution employees, and hospital
18 employees. Employees in this class may not engage in strikes. Upon a showing by a
19 public employer or the labor relations agency that employees in this class are engaging
20 or about to engage in a strike, an injunction, restraining order, or other order **that**
21 **[WHICH]** may be appropriate shall be granted by the superior court in the judicial
22 district in which the strike is occurring or is about to occur. If an impasse or deadlock
23 is reached in collective bargaining between the public employer and employees in this
24 class, and mediation has been utilized without resolving the deadlock, the parties shall
25 submit to arbitration to be carried out under AS 09.43.030 **or 09.43.480 to the extent**
26 **permitted by AS 09.43.010 and 09.43.300.**

27 * **Sec. 6.** AS 23.40.200(c) is amended to read:

28 (c) The class in (a)(2) of this section is composed of public utility, snow
29 removal, sanitation, and educational institution employees other than employees of a
30 school district, a regional educational attendance area, or a state boarding school.
31 Employees in this class may engage in a strike after mediation, subject to the voting

1 requirement of (d) of this section, for a limited time. The limit is determined by the
 2 interests of the health, safety, or welfare of the public. The public employer or the
 3 labor relations agency may apply to the superior court in the judicial district in which
 4 the strike is occurring for an order enjoining the strike. A strike may not be enjoined
 5 unless it can be shown that it has begun to threaten the health, safety, or welfare of the
 6 public. A court, in deciding whether or not to enjoin the strike, shall consider the total
 7 equities in the particular class. "Total equities" includes not only the **effect**
 8 [IMPACT] of a strike on the public but also the extent to which employee
 9 organizations and public employers have met their statutory obligations. If an impasse
 10 or deadlock still exists after the issuance of an injunction, the parties shall submit to
 11 arbitration to be carried out under AS 09.43.030 **or 09.43.480 to the extent permitted**
 12 **by AS 09.43.010 and 09.43.300.**

13 * **Sec. 7.** AS 23.40.200(f) is amended to read:

14 (f) The parties to a collective bargaining agreement may provide in the
 15 agreement a contract for arbitration to be conducted solely according to AS 09.43.010
 16 - 09.43.180 (Uniform Arbitration Act) **or AS 09.43.300 - 09.43.595 (Revised**
 17 **Uniform Arbitration Act) to the extent permitted by AS 09.43.010 and 09.43.300**
 18 if **either** [THE] Act is incorporated into the agreement or contract by reference.

19 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
 20 read:

21 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 09.43.370, enacted by sec. 2 of
 22 this Act, has the effect of changing Rules 18, 19, 20, and 21, Alaska Rules of Civil Procedure,
 23 by establishing additional specific situations where the court may order proceedings
 24 consolidated as to all or some claims, and a situation where the court is prohibited from
 25 ordering consolidation.

26 (b) AS 09.43.410(d) and (e), enacted by sec. 2 of this Act, have the effect of changing
 27 Rule 601, Alaska Rules of Evidence, by providing that an arbitrator and a representative of an
 28 arbitration organization are not competent to testify in certain judicial proceedings related to
 29 arbitration.

30 (c) AS 09.43.540, enacted by sec. 2 of this Act, has the effect of changing Rule 3,
 31 Alaska Rules of Civil Procedure, by establishing different venue rules for applications to the

1 court in arbitration proceedings.

2 (d) AS 09.43.550(a)(1) - (5), enacted by sec. 2 of this Act, have the effect of changing
3 Rule 402, Alaska Rules of Appellate Procedure, by providing that an appeal may be taken
4 from superior court interlocutory orders identified in AS 09.43.550(a).

5 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 WAIVER OF EFFECTIVE DATE PROHIBITED. A person may not waive the
8 effective date of a provision of this Act, and a waiver of the effective date of a provision of
9 this Act is void.

10 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 SAVING CLAUSE. This Act does not affect an action or proceeding commenced or
13 right accrued before January 1, 2005.

14 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 CONDITIONAL EFFECT. AS 09.43.370, 09.43.410(d), 09.43.410(e), 09.43.540, and
17 09.43.550(a)(1) - (5), enacted by sec. 2 of this Act, take effect only if sec. 8 of this Act
18 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
19 of the State of Alaska.

20 * **Sec. 12.** This Act takes effect January 1, 2005.