

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer

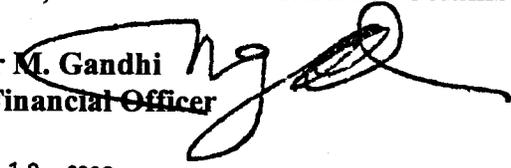


2006 NOV 13 PM 3:05

CHAIRMAN CROPP

MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: NOV 13 2006

SUBJECT: Fiscal Impact Statement: "Uniform Arbitration Act Revision Act of 2006"

REFERENCE: Bill Number 16-146 as Introduced

Conclusion

Funds are sufficient in the FY 2007 through FY 2010 budget and financial plan to implement the provisions of the proposed legislation. No additional staff or resources will be required.

Background

The proposed legislation amends local law to conform it to the federal Revised Uniform Arbitration Act (RUAA).¹ The proposed legislation would authorize that before the selection of an arbitrator, a court may order provisional remedies to protect the effectiveness of the arbitration. After an arbitrator is selected, the arbitrator has this express power. In addition, an arbitrator may consolidate or separate related arbitration proceedings.

The proposed legislation expressly becomes a default act, allowing many of its provisions to be waived or varied by contract. However, certain necessary provisions may not be waived or varied in order to protect the parties in whatever agreement is executed between them.

1. Federal Arbitration Act, 9 USC, Section 1 *et sequitor*, as amended, 68 Statute 1233; Public Law Number 91-368, 84 Statute 692, enacting 9 USC Section 201 *et sequitor* [Chapter 2 added July 31, 1970 (84 Statute 692); Chapter 3 added August 15, 1990 (104 Statute 448)].

The proposed legislation provides that before accepting appointment as an arbitrator, one must disclose any known facts that could affect his or her impartiality, such as financial or personal interests in the outcome. Lack of this required disclosure may be a ground for vacating an arbitration award. In addition, arbitrators would have express immunity from civil liability to the same extent a judge acting in his judicial capacity would be immune. The proposed legislation also contains a number of provisions intended to place arbitrators on the same level as judges. Such provisions include:

1. Giving an arbitrator the express authority to make summary dispositions of claims or issues;
2. Use of discovery processes as necessary; and
3. The authority to otherwise conduct proceedings as appropriate to aid in a fair and expeditious disposition of the proceedings.

Under the provisions of the proposed legislation arbitrators are expressly authorized to give punitive damages or other exemplary relief when appropriate. In addition, attorney's fees may be awarded accordingly. The provisions of the proposed legislation have all or in part been adopted by many jurisdictions in this country including the State of Maryland, the State of Indiana, the State of Arizona, the State of Idaho, the State of Oregon, the State of Missouri and the State of Nevada. Uniform Arbitration is practiced by all 50 states, the District of Columbia and Puerto Rico.

Financial Plan Impact

Funds are sufficient in the FY 2007 through FY 2010 budget and financial plan implement the proposed legislation. No additional staff or resources will be required. The proposed legislation generally impacts parties outside of the District government.

The proposed legislation would only impact the District if the District of Columbia becomes party to an arbitration proceeding. In such an event, the Office of the Attorney General of the District of Columbia has sufficient staff and resources to undertake any litigious matter that might come about in any fiscal year. In the event of an arbitration regulated by the provisions of the proposed legislation OAG may achieve cost avoidances. Such cost avoidances cannot be quantified at this time.