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FISCAL IMPACT REPORT

SPONSOR: HJC DATE TYPED: 03/21/03 HB 867/HJCS

SHORT TITLE: Judicial Review of Arbitration Awards SB _____

ANALYST: Hayes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
Administrative Office of the Courts (AOC)

SUMMARY

Summary of Bill

The House Judiciary Committee Substitute for House Bill 867 repeals Section 66-5-303 NMSA 1978 of the Motor Vehicle Code entitled “Uninsured motorist; judicial review of arbitration award,” and proposes new language for Section 66-5-303 allowing the party to an arbitration proceeding to make a motion in district court for an order confirming the award unless the award is modified or corrected pursuant to Section 44-7A-21 or 44-7A-25.

Significant Issues

The following is the current statute being repealed by this legislation:

Any party aggrieved by an arbitration award entered in any controversy arising under an insured motorist provision of a motor vehicle or automobile liability insurance policy may, within thirty days after entry of the arbitration award, appeal to any district court having venue of the action. The appeal shall be “de novo.”

1. A footnote to this statute states that the legislative history of this section and the New Mexico Uniform Arbitration Act, 44-7-1 to 44-7-22 NMSA 1978 lends support to the

view that the latter is intended to supersede this section, which is the *de novo* trial provision of the uninsured motorist insurance law.

(“*De novo*” means “new.” Unlike an appeal where previous trial transcripts, documents, actions, etc., are all re-examined and taken into account in an appeals process, a *de novo* trial starts with a “clean slate;” there are no preconceptions or historical review with a *de novo* trial.)

2. The Uniform Arbitration Act already requires the district court to confirm an arbitration award unless the award is modified or corrected on narrow grounds. (See Sections 44-7A-21 and 44-7A-25 NMSA 1978). The district court may vacate the arbitrator’s award only for a few restricted reasons, such as corruption or partiality by the arbitrator. Repealing Section 66-5-303 pursuant to this legislation would arguably make arbitration awards under an insured motorist provision of an automobile liability insurance policy subject to the same tightly confined confirmation, modification, correction, or vacation actions as all other kinds of arbitration awards presently are.
3. Passage of this bill would preclude the losing party, either the insured or the insurance company, in an arbitration under an insured motorist provision of a motor vehicle or automobile liability insurance policy from using the threat of an appeal to district court and the *de novo* trial of Section 66-5-303 to induce the successful party to settle on less favorable terms than those contained in the arbitrator’s decision.

ADMINISTRATIVE IMPLICATIONS

If HB 867 were enacted, the number of cases litigated may be reduced, thereby reducing the administrative burden on the courts.

CMH/yr