

HB0349S01 compared with HB0349

~~{deleted text}~~ shows text that was in HB0349 but was deleted in HB0349S01.

inserted text shows text that was not in HB0349 but was inserted into HB0349S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Brian S. King proposes the following substitute bill:

EXPEDITED JURY TRIALS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a new part in Title 78B, Chapter 3, allowing for expedited jury trials.

Highlighted Provisions:

This bill:

- ▶ creates Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, as a pilot project;
- ▶ defines terms;
- ▶ requires that all parties to an action agree to participate;
- ▶ requires the Judicial Council to create rules ~~{ regarding:~~

—• ~~content of consent orders;~~

—• ~~time limits for jury selection and trial;~~

—• ~~presentation of evidence and testimony; and~~

—• ~~other procedures necessary to implement expedited jury trials;~~

HB0349S01 compared with HB0349

{

- ▶ allows parties to set limits on damages;

{ ~~requires the court to approve if a party is self-represented, a minor, or incompetent;~~

}

- ▶ limits post-trial motions;
- ▶ ~~{}~~ requires a report to the Judiciary Interim Committee in ~~{2015}~~2016; and
- ▶ is repealed January 1, 2017.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-278, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

78B-3-901, Utah Code Annotated 1953

78B-3-902, Utah Code Annotated 1953

78B-3-903, Utah Code Annotated 1953

78B-3-904, Utah Code Annotated 1953

78B-3-905, Utah Code Annotated 1953

78B-3-906, Utah Code Annotated 1953

78B-3-907, Utah Code Annotated 1953

78B-3-908, Utah Code Annotated 1953

78B-3-909, Utah Code Annotated 1953

~~{ **78B-3-910**, Utah Code Annotated 1953~~

~~— **78B-3-911**, Utah Code Annotated 1953~~

~~— **78B-3-912**, Utah Code Annotated 1953~~

}

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63I-2-278** is amended to read:

63I-2-278. Repeal dates, Title 78A and Title 78B.

HB0349S01 compared with HB0349

(1) Section 78A-9-103, Practicing law without a license, is repealed May 3, 2012.

(2) [Subsections 78B-12-301(1) and 78B-12-302(1) are repealed January 1, 2010.]

Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1, 2017.

Section 2. Section **78B-3-901** is enacted to read:

Part 9. Expedited Jury Trial

78B-3-901. Title.

This part is known as the "Expedited Jury Trial Act."

Section 3. Section **78B-3-902** is enacted to read:

78B-3-902. ~~Definitions.~~

~~For purposes of this part:~~

~~(1) "Consent order" means an order signed by all;~~ **Pilot project -- Rules and procedures.**

The Judicial Council shall by rule create and provide procedures for a pilot project for expedited jury trials in civil actions.

(1) The program shall comply with all constitutional and statutory requirements for jury trials.

(2) All parties to an action ~~and the court granting a motion for~~ shall agree to participation in an expedited jury trial.

~~(2) "Expedited jury trial" means a consensual, binding jury trial before a reduced jury panel and a judge.~~

~~(3) "High/low agreement" means a written agreement entered into by the parties that specifies a minimum amount of damages a plaintiff is guaranteed to receive from the defendant, and a maximum amount of damages the defendant will be liable for, regardless of the ultimate verdict returned by the jury;~~ **(3) Any matters not expressly addressed in this part, in the implementing rules of the court, or in an agreement authorized by this part, are governed by applicable statutes and rules governing civil actions.**

Section 4. Section **78B-3-903** is enacted to read:

78B-3-903. ~~Pilot project -- Rules and procedures.~~

~~Beginning January 1, 2013, the Judicial Council shall authorize a pilot project using;~~ **Agreement.**

(1) An agreement to participate in an expedited jury ~~trials as follows:~~

HB0349S01 compared with HB0349

~~(1) All parties to an action shall agree to participation in~~ trial under this part may be entered into only after a dispute has arisen and an action has been filed.

(2) Any party to an action may file a motion with the court for an expedited jury trial.

~~(2)3) This part and rules promulgated by the Judicial Council pursuant to this part shall apply to~~ Notice of the motion shall be served on all other parties.

(4) All parties agreeing to participate in an expedited jury trials:

~~(3) Any matters not expressly addressed in this part, in the implementing rules of the court, or in a consent order authorized by this part and the implementing rules, are governed by applicable statutes and rules governing civil actions~~ trial and, if represented, their counsel shall sign the agreement filed with the court.

(5) The agreement to participate in the expedited jury trial process is binding upon the parties.

(6) The conditions of the agreement shall include:

(a) waiver of the right to appeal the verdict;

(b) waiver of the right to move for a directed verdict;

(c) waiver of the right to file post trial motions, except as permitted by rule and Section 78B-3-906; and

(d) an agreed-upon range of monetary damages that will be awarded, regardless of the verdict, if liability and allocation of fault are proved.

(7) The Judicial Council may by rule impose additional reasonable conditions.

(8) If the jury verdict is within the agreed range of monetary damages, the court shall enter the verdict as rendered. If the jury verdict is outside the agreed range of monetary damages the court shall, as appropriate, increase or decrease the damages to the minimum or maximum agreed amount.

Section 5. Section **78B-3-904** is enacted to read:

78B-3-904. ~~Consent order -- High/low agreement.~~

~~(1) An agreement to participate in an~~ Juries.

~~(1) Juries in~~ expedited jury trial ~~under this part may be entered into only after a dispute has arisen and an action has been filed.~~

~~(2) Any party to an action may file a motion with the court for an expedited jury trial.~~ The motion shall be accompanied by a consent order, including a proposed high/low

HB0349S01 compared with HB0349

agreement.

~~—— (3) Notice of the motion shall be served on all other parties with the consent order and proposed high/low agreement.~~

~~—— (4) All parties agreeing to participate in an expedited jury trial and, if represented, their counsel shall sign the consent order granting an expedited jury trial.~~

~~—— (5) The agreement to participate in the expedited jury trial process is binding upon the parties unless:~~

~~—— (a) all parties stipulate to end the agreement to participate; or~~

~~—— (b) the court, on its own motion or at the request of a party by noticed motion, finds that good cause exists for the action not to proceed under the provisions of this part.~~

~~—— (6) The proposed consent order submitted to the court shall include:~~

~~—— (a) a preliminary statement that each named party and any insurance carrier responsible for providing coverage or defense on behalf of that party, individually identified in the proposed consent order have:~~

~~—— (i) been informed of the rules and procedures for an expedited jury trial;~~

~~—— (ii) been provided with a Judicial Council information sheet regarding expedited jury trials;~~

~~—— (iii) agreed to take part in or, in the case of a responsible insurance carrier, not object to the expedited jury trial process; and~~

~~—— (iv) agreed to all the specific provisions set forth in the consent order; and~~

~~—— (b) the parties' signed agreement that:~~

~~—— (i) all parties waive all rights to appeal, to move for directed verdict, or make any post-trial motions, except as provided in Sections 78B-3-908 and 78B-3-909;~~

~~—— (ii) each side is limited to three hours in which to present its case;~~

~~—— (iii) the jury} cases shall be composed of {eight or fewer} no less than six jurors with no alternates {; and}.~~

~~—— (iv) each side is limited to three peremptory challenges, unless the court permits an additional challenge in cases with more than two sides as provided in Section 78B-3-905.~~

~~—— (7) The court shall grant the consent order as proposed by the parties, unless the court finds good cause why the action should not proceed through the expedited jury trial process, in which case the court shall deny the proposed consent order in its entirety} 2) Nothing in this~~

HB0349S01 compared with HB0349

part is intended to preclude a jury from deliberating as long as needed.

Section 6. Section **78B-3-905** is enacted to read:

78B-3-905. Juries.

~~(1) Juries in expedited jury trial cases shall be composed of eight jurors with no alternates, unless the parties have agreed to fewer.~~

~~(2) Each side shall be allowed three peremptory challenges. If the court determines there are more than two parties in a case and more than two sides, the parties may request one additional peremptory challenge each, which may be granted by the court in its discretion.~~

~~(3) Neither the existence of, nor the amounts contained in any high/low agreements, may be disclosed to the jury.~~

~~(4) Nothing in this part is intended to preclude a jury from deliberating as long as needed.~~

~~Section 7. Section 78B-3-906 is enacted to read:~~

~~78B-3-906. Rules of evidence.~~

~~(1) The rules of evidence apply in expedited jury trials, unless the parties stipulate otherwise.~~

~~(2) Any stipulation by the parties to use relaxed rules of evidence may not be construed to eliminate or affect the right of a witness or party to invoke any applicable privilege or other law protecting confidentiality.~~

~~(3) The right to issue subpoenas and notices to appear to secure the attendance of witnesses or the production of documents at trial shall be in accordance with the Utah Rules of Civil Procedure.~~

Section 7. Section **78B-3-906** is enacted to read:

78B-3-906. Post-trial motions -- Appeals.

(1) A party may move for a new trial or appeal a judgment only on the following grounds:

(a) judicial misconduct that materially affected the substantive rights of a party;

(b) misconduct of the jury; or

(c) corruption, fraud, or other undue means employed in the proceedings of the court, jury, or adverse party that prevented a party from having a fair trial.

HB0349S01 compared with HB0349

(2) Parties may file post-trial motions:

(a) relating to costs and attorney fees;

(b) to correct a clerical error in a judgment; and

(c) to enforce a judgment.

Section 8. Section **78B-3-907** is enacted to read:

78B-3-907. ~~§~~ Verdict.

~~— (1) The verdict in an~~ **Attorney fees.**

~~Unless the parties otherwise agree in the consent order, all statutes and rules governing costs and attorney fees apply in expedited jury ~~trial case is binding, subject to any written high/low agreement or other stipulations concerning the amount of the award agreed upon by the parties.~~~~

~~— (2) A vote of six of the eight jurors is required for a verdict;~~ **trials.**

Section 9. Section **78B-3-908** is enacted to read:

78B-3-908. ~~§~~ Directed verdict not allowed -- Verdict not to be set aside.

~~— (1) By agreeing to participate in the expedited jury trial process, the parties agree to waive any motions:~~

~~— (a) for a directed verdict;~~

~~— (b) to set aside the verdict or any judgment rendered by the jury; or~~

~~— (c) for a new trial on the basis of inadequate or excessive damages.~~

~~— (2) Except for the grounds stated in Section 78B-3-909, the court may not:~~

~~— (a) set aside any verdict or any judgment;~~

~~— (b) direct that judgment be entered in favor of a party entitled to judgment as a matter of law; or~~

~~— (c) order a new trial;~~ **Judicial Council to make rules.**

~~The Judicial Council shall, on or before July 1, 2012, adopt rules and forms to establish uniform procedures implementing the provisions of this part, including:~~

~~(1) additional content of proposed agreements;~~

~~(2) pretrial exchanges and submissions;~~

~~(3) pretrial conferences;~~

~~(4) time limits for jury selection;~~

~~(5) time limits for trial, including presentation of evidence and argument;~~

HB0349S01 compared with HB0349

(6) presentation of evidence and testimony; and

(7) any other procedures necessary to implement this part.

Section 10. Section **78B-3-909** is enacted to read:

~~{ **78B-3-909. Post-trial motions -- Appeals.**~~

~~—— (1) Except as provided in this section, a party waives all rights to post-trial motions or appeals from a verdict in an expedited jury trial.~~

~~—— (2) A party may move for a new trial or appeal a judgement only on the following grounds:~~

~~—— (a) judicial misconduct that materially affected the substantial rights of a party;~~

~~—— (b) misconduct of the jury; or~~

~~—— (c) corruption, fraud, or other undue means employed in the proceedings of the court, jury, or adverse party that prevented a party from having a fair trial.~~

~~—— (3) Within 10 days of the entry of a jury verdict, a party may file with the clerk and serve on each adverse party a notice of the party's intention to move for a new trial on any of the grounds specified in Subsection (2). The notice shall be considered a motion for a new trial.~~

~~—— (4) Parties may file post-trial motions:~~

~~—— (a) relating to costs and attorney fees;~~

~~—— (b) to correct a clerical error in a judgment; and~~

~~—— (c) to enforce a judgment.~~

~~—— (5) Before filing an appeal, a party shall file a motion for a new trial under Subsection (3). If the motion for a new trial is denied, the party may appeal the judgment to the appropriate court with appellate jurisdiction and seek a new trial on any grounds specified in Subsection (2).~~

~~—— Section 11. Section **78B-3-910** is enacted to read:~~

~~—— **78B-3-910. Attorney fees.**~~

~~—— Unless the parties otherwise agree in the consent order, all statutes and rules governing costs and attorney fees apply in expedited jury trials.~~

~~—— Section 12. Section **78B-3-911** is enacted to read:~~

~~—— **78B-3-911. Judicial Council to make rules.**~~

~~—— The Judicial Council shall, on or before January 1, 2013, adopt rules and forms to~~

HB0349S01 compared with HB0349

~~establish uniform procedures implementing the provisions of this part, including:~~

- ~~—— (1) additional content of proposed consent orders;~~
- ~~—— (2) pretrial exchanges and submissions;~~
- ~~—— (3) pretrial conferences;~~
- ~~—— (4) time limits for jury selection;~~
- ~~—— (5) time limits for trial, including presentation of evidence and argument;~~
- ~~—— (6) presentation of evidence and testimony; and~~
- ~~—— (7) any other procedures necessary to implement this part.~~

~~—— Section 13. Section ~~78B-3-912~~ is enacted to read:~~

‡ ~~{78B-3-912}~~ **78B-3-909**. **Report to Legislature -- Repeal date.**

~~(1) The Administrative Office of the Courts shall present a report to the Judiciary Interim Committee not later than September 2016 regarding the program. The report shall include:~~

- ~~(a) the number of expedited jury trials held;~~
 - ~~(b) the number of appeals from expedited jury trials;~~
 - ~~(c) the approximate cost increase or cost savings experienced by using expedited jury trials; and~~
 - ~~(d) a recommendation to continue or sunset ~~{the}~~ this part.~~
- ~~(2) This part is repealed January 1, 2017.~~

‡

Legislative Review Note

~~—— as of 2-4-11 9:33 AM~~

~~—— Office of Legislative Research and General Counsel}~~