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106TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 106–181

TO MAKE TECHNICAL AMENDMENTS TO SECTION 10 OF TITLE 9, UNITED STATES CODE

JUNE 10, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GEKAS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 916]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 916) to make technical amendments to section 10 of title 9, United States Code, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 916 makes technical corrections to subsection 10(a) of title 9 of the United States Code.

69–006

BACKGROUND AND NEED FOR THE LEGISLATION

On March 2, 1999, Representative George Gekas (R-Pa.) introduced H.R. 916 for the purpose of making certain technical amendments to subsection 10(a) of title 9 of the United States Code.

Title 9 of the United States Code pertains to domestic and international arbitration law. Chapter 1 of title 9 contains the title's general provisions, including section 10. Subsection 10(a) enumerates the grounds for which a federal district court may vacate an arbitration award.[1] It also authorizes the court to order a rehearing, under certain circumstances.

As drafted, subsection 10(a) consists of five paragraphs, four of which enumerate the grounds for vacating an arbitration award. The fifth paragraph, however, is clearly intended to be a separate provision of subsection 10(a) as it specifies the basis of the court's authority to direct a rehearing by the arbitrator.

H.R. 916 simply corrects this drafting error, which has existed from the legislation's original enactment in 1925.[2] The bill simply converts the fifth paragraph into a separate subsection of section 10, namely, subsection 10(b), and makes conforming grammatical and technical revisions to section 10.

H.R. 916 is identical to H.R. 2440, which was introduced by Representative George W. Gekas on September 9, 1997 along with Representative Jerrold Nadler (D-NY) as an original cosponsor. After the Committee reported H.R. 2440 on November 5, 1997,[3] the House passed the bill under suspension of the rules by voice vote on November 12, 1997.[4] On the last day of the 105th Congress, the Senate passed H.R. 2440 with an unrelated amendment by unanimous consent.[5]

HEARINGS

No hearings were held on H.R. 916.

COMMITTEE CONSIDERATION

On March 24, 1999, the Subcommittee on Commercial and Administrative Law met in open session and ordered favorably reported the bill, H.R. 916, without amendment by voice vote, a quorum being present. Thereafter, the Committee met in open session on May 4, 1999 and ordered favorably reported the bill, H.R. 916, without amendment by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Rep-

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[1] For example, the court, under this provision, may vacate an arbitrator's award procured by corruption, fraud, or undue means. 9 U.S.C. § 10(a)(1). An arbitrator's award may also be vacated if there is evidence that the arbitrator was guilty of specified misconduct. 9 U.S.C. § 10(a)(3).

[2] Act of Feb. 12, 1925, ch. 213, § 10, 43 Stat. 885.

[3] H.R. Rep. No. 105-381 (1997).

[4] 143 Cong. Rec. H10663 (daily ed. Nov. 12, 1997).

[5] 144 Cong. Rec. S12942-43 (daily ed. Oct. 21, 1998). The amendment pertained to various provisions of the Missing Children's Assistance Act, 42 U.S.C. §§ 5771-80 (1994 & Supp. 1997).

resentatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform were received as referred to in clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 916, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 11, 1999.

Hon. HENRY J. HYDE, *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 916, a bill to make technical amendments to section 10 of title 9, United States Code.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

H.R. 916.—A bill to make technical amendments to section 10 of title 9, United States Code.

CBO estimates that enacting H.R. 916 would not have any impact on the federal budget. Because enactment of H.R. 916 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. The bill does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no effect on state, local, or tribal governments.

H.R. 916 would correct punctuation errors and make other minor wording changes to section 10 of title 9, United States Code, which specifies the grounds under which a federal judge can vacate an arbitrator's award. Because these changes are technical and would make no substantive changes to the laws affecting arbitration, CBO estimates that enacting H.R. 916 would not have any budgetary impact.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8 of the United States Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Vacation of Awards. Section 1 of the bill redesignates paragraph (5) of subsection 10(a) as subsection 10(b) and replaces the word "Where" with "If" in that provision. It also makes a conforming change by redesignating subsection (b) of section 10 as subsection (c). In addition, section 1 adjusts the indentation margins for paragraphs (1) through (4) of subsection (a); corrects punctuation and capitalization errors; and makes other minor conforming corrections.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 10 OF TITLE 9, UNITED STATES CODE

§ 10. Same; vacation; grounds; rehearing

(a) In any of the following cases the United States court in and for the district wherein the award was made may make an order vacating the award upon the application of any party to the arbitration——

(1) **[**Where**]** *where* the award was procured by corruption, fraud, or undue means**[**.**]***;*

(2) **[**Where**]** *where* there was evident partiality or corruption in the arbitrators, or either of them**[**.**]***;*

(3) **[**Where**]** *where* the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced**[**.**]***; or*

(4) **[**Where**]** *where* the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

[(5) Where**]** *(b) If* an award is vacated and the time within which the agreement required the award to be made has not expired, the court may, in its discretion, direct a rehearing by the arbitrators.

[(b)**]** *(c)* The United States district court for the district wherein an award was made that was issued pursuant to section 580 of title 5 may make an order vacating the award upon the application of

a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 572 of title 5.

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