



May 20, 2013

The Hon. Bob Wieckowski  
Member of the Assembly  
California State Capitol  
Post Office Box 94249  
Sacramento, California 94249-0025

Dear Assembly Member Wieckowski:

Please accept this submission in opposition to **AB 802 Private arbitration companies: disclosures.**

Formed in 1926, American Arbitration Association (AAA) is a not-for-profit dispute resolution service provider that has provided much of the standards, transparency and ethics guidance for arbitration in the USA. In particular the AAA worked with other relevant organizations, such as the ABA, to promulgate Due Process Protocols for Consumer, Employment and Healthcare arbitrations. These Protocols have become the recognized standard for the conduct of arbitrations in each of these subject areas. Additionally, the AAA has offices in San Francisco, San Diego, Fresno and Los Angeles that provide dispute resolution services and information to the residents of California.

AB 802 makes changes to the existing California reporting statute that would make compliance untenable for reputable, not-for-profit providers. Combined with burdensome reporting requirements and ambiguous standards for compliance, AB 802 includes a provision that would allow for a consumer or public prosecutor to bring an action against an arbitration provider based on allegations of non-compliance. Such lawsuits may be rewarded with a grant of attorney fees and substantial fines for reporting inaccuracies that may be beyond the control of the arbitration provider.

AAA already provides much information on its publicly available website and has done so for ten years. AB 802, however, creates additional requirements which are either onerous or are not feasible to provide:

- The amount/range of the employee's wage. This is private information that many parties, including employees, do not wish to divulge. Arbitration providers also have no means to compel a party to provide this information or to confirm the accuracy of the information if it is provided.
- The total number of occasions the non-consumer party has previously been a party in an arbitration. There is no database available for a provider to search for all arbitrations, whether through provider or ad hoc.

- Whether the parties were permitted full discovery... whether the arbitrator was required to follow the rules of evidence, and whether the parties were entitled to all legal remedies. This is not information readily available to an arbitration provider and implies a dissembling of the fundamental advantages of arbitration, namely saving time and cost.

In addition, the AAA is concerned with many of the additional reporting requirements contained in AB 802. The creation of grounds for potentially frivolous lawsuits against a reputable and ethical arbitration provider, in concert with 18 additional data points that are either impossible to provide or are exceptionally onerous in aggregate will likely lead AAA and other organizations to cease administering consumer and employment arbitrations in California. This outcome would seem diametrically opposed to the stated goal of the bill and would be an ultimate irony given the citation of AAA as the standard of best reporting compliance. This bill will provide an impetus for the most ethical consumer and employment arbitration providers to migrate from the State of California, resulting in additional burdens on the state's court systems and additional delays for consumers.

The AAA, understanding the increasing interest in consumer ADR, has taken the lead in making information available. We not only comply with current California requirements, but in fact have made such data available in a sortable report format, and have voluntarily expanded the scope to cover all consumer cases nationally. We would be glad to work with legislators and other interested parties in examining feasible enhancements to California's existing reporting requirements.

Kind regards,



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cc: California Assembly Members