

House Bill 2205

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows state agency to provide services of employee as mediator or facilitator to other agency or federal government. Allows state agency to use services of other agency employee or federal government employee for purpose of mediation or facilitation.

A BILL FOR AN ACT

1
2 Relating to dispute resolution; amending ORS 183.502.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 183.502 is amended to read:

5 183.502. (1) Unless otherwise prohibited by law, agencies may use alternative means of dispute
6 resolution in rulemaking proceedings, contested case proceedings, judicial proceedings in which the
7 agency is a party, and any other decision-making process in which conflicts may arise. The alter-
8 native means of dispute resolution may be arbitration, mediation or any other collaborative
9 problem-solving process designed to encourage parties to work together to develop mutually agree-
10 able solutions to disputes. Use of alternative means of dispute resolution by an agency does not af-
11 fect the application of ORS 192.410 to 192.505 to the agency, or the application of ORS 192.610 to
12 192.690 to the agency.

13 (2) An agency that elects to utilize alternative means of dispute resolution shall inform and may
14 consult with the Mark O. Hatfield School of Government, the Department of Justice and the Oregon
15 Department of Administrative Services in developing a policy or program for implementation of al-
16 ternative means of dispute resolution.

17 (3) The Attorney General, in consultation with the Mark O. Hatfield School of Government and
18 the Oregon Department of Administrative Services, may develop for agencies model rules for the
19 implementation of alternative means of dispute resolution. An agency may adopt all or part of the
20 model rules by reference without complying with the rulemaking procedures of ORS 183.325 to
21 183.410. Notice of the adoption of all or part of the model rules must be filed by the agency with
22 the Secretary of State in the manner provided by ORS 183.355 for the filing of rules.

23 (4) When an agency reviews the standard agreements, forms for contracts and forms for applying
24 for grants or other assistance used by the agency, the agency shall determine whether the agree-
25 ments and forms should be amended to authorize and encourage the use of alternative means of
26 dispute resolution in disputes that arise under the agreement, contract or application.

27 (5) The Department of Justice, the Mark O. Hatfield School of Government, the Oregon De-
28 partment of Administrative Services and the Governor shall collaborate to increase the use of al-
29 ternative dispute resolution to resolve disputes involving the State of Oregon by:

30 (a) Assisting agencies to develop a policy for alternative means of dispute resolution;

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) Assisting agencies to develop or expand flexible and diverse agency programs that provide
 2 alternative means of dispute resolution; and

3 (c) Providing assistance in the efficient and effective selection of mediators or facilitators.

4 (6) Agencies with alternative dispute resolution programs shall seek to identify cases appropri-
 5 ate for mediation and other means of alternative dispute resolution and to design systems and pro-
 6 cedures to resolve those cases.

7 (7) The purpose of the agency alternative dispute resolution programs is to:

8 (a) Increase agency efficiency;

9 (b) Increase public and agency satisfaction with the process and results of dispute resolution;
 10 and

11 (c) Decrease the cost of resolving disputes.

12 **(8) An agency may use the services of an employee of another agency or of the federal**
 13 **government to serve as a mediator or facilitator, and may provide the services of an agency**
 14 **employee to another agency or to the federal government to serve as a mediator or**
 15 **facilitator. An agency may enter into an agreement with another agency or with the federal**
 16 **government to determine reimbursement for services of an employee acting as a mediator**
 17 **or facilitator under the provisions of this subsection.**

18 **SECTION 2.** ORS 183.502, as amended by section 27a, chapter 791, Oregon Laws 2003, is
 19 amended to read:

20 183.502. (1) Unless otherwise prohibited by law, agencies may use alternative means of dispute
 21 resolution in rulemaking proceedings, contested case proceedings, judicial proceedings in which the
 22 agency is a party, and any other decision-making process in which conflicts may arise. The alter-
 23 native means of dispute resolution may be arbitration, mediation or any other collaborative
 24 problem-solving process designed to encourage parties to work together to develop mutually agree-
 25 able solutions to disputes. Use of alternative means of dispute resolution by an agency does not af-
 26 fect the application of ORS 192.410 to 192.505 to the agency, or the application of ORS 192.610 to
 27 192.690 to the agency.

28 (2) An agency that elects to utilize alternative means of dispute resolution shall inform and may
 29 consult with the Department of Justice and the Oregon Department of Administrative Services in
 30 developing a policy or program for implementation of alternative means of dispute resolution.

31 (3) The Attorney General, in consultation with the Oregon Department of Administrative Ser-
 32 vices, may develop for agencies model rules for the implementation of alternative means of dispute
 33 resolution. An agency may adopt all or part of the model rules by reference without complying with
 34 the rulemaking procedures of ORS 183.325 to 183.410. Notice of the adoption of all or part of the
 35 model rules must be filed by the agency with the Secretary of State in the manner provided by ORS
 36 183.355 for the filing of rules.

37 (4) When an agency reviews the standard agreements, forms for contracts and forms for applying
 38 for grants or other assistance used by the agency, the agency shall determine whether the agree-
 39 ments and forms should be amended to authorize and encourage the use of alternative means of
 40 dispute resolution in disputes that arise under the agreement, contract or application.

41 (5) The Department of Justice, the Oregon Department of Administrative Services and the Gov-
 42 ernor shall collaborate to increase the use of alternative dispute resolution to resolve disputes in-
 43 volving the State of Oregon by:

44 (a) Assisting agencies to develop a policy for alternative means of dispute resolution;

45 (b) Assisting agencies to develop or expand flexible and diverse agency programs that provide

1 alternative means of dispute resolution; and

2 (c) Providing assistance in the efficient and effective selection of mediators or facilitators.

3 (6) Agencies with alternative dispute resolution programs shall seek to identify cases appropri-
4 ate for mediation and other means of alternative dispute resolution and to design systems and pro-
5 cedures to resolve those cases.

6 (7) The purpose of the agency alternative dispute resolution programs is to:

7 (a) Increase agency efficiency;

8 (b) Increase public and agency satisfaction with the process and results of dispute resolution;
9 and

10 (c) Decrease the cost of resolving disputes.

11 **(8) An agency may use the services of an employee of another agency or of the federal**
12 **government to serve as a mediator or facilitator, and may provide the services of an agency**
13 **employee to another agency or to the federal government to serve as a mediator or**
14 **facilitator. An agency may enter into an agreement with another agency or with the federal**
15 **government to determine reimbursement for services of an employee acting as a mediator**
16 **or facilitator under the provisions of this subsection.**

17