

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1069

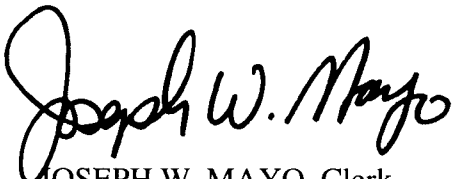
H.P. 772

House of Representatives, March 28, 1995

An Act to Promote the Use of Alternative Dispute Resolution in State Government.

Reported by Representative TREAT for the Interim Advisory Committee on Alternative Dispute Resolution in the Public Sector pursuant to Public Law 1993, chapter 401, section 4, subsection 4.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under Joint Rule 20.


JOSEPH W. MAYO, Clerk

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §8051, as amended by PL 1989, c. 297, §1, is further amended to read:

§8051. Adoption of rules of practice

In addition to other rule-making requirements imposed by law, each agency shall adopt rules of practice governing the conduct of adjudicatory proceedings, licensing proceedings and the rendering of advisory rulings, except to the extent that such rules are provided by law. Any agency rule of practice ~~which~~ that imposes a time period or deadline for the filing of any submission or for the service of any paper ~~shall~~ must provide that filing or service is complete:

1. **Upon an agency.** Upon an agency, when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or

2. **Upon a party.** Upon a party, when the paper is mailed to the party or the party's attorney, ~~upon~~ by in-hand delivery to the recipient or by delivery to the recipient's office.

The first time after October 1, 1995 that an agency proposes to adopt or modify the rules of practice governing the conduct of adjudicatory proceedings or licensing proceedings, the agency shall also propose any rules reasonably necessary to promote, when appropriate, the efficient and cost-effective use of alternative dispute resolution techniques, including the use of neutral facilitators, mediators or arbitrators. If the agency determines that it is unnecessary or inappropriate to propose these rules, it shall so state in the notice of rulemaking required under section 8053. A written explanation of the reasons for the agency's determination must be included in the basis statement of rule.

STATEMENT OF FACT

This bill requires all state agencies with responsibility for holding adjudicatory proceedings to consider the need for amending the agency's procedural rules to promote the cost-effective use of alternative dispute resolution techniques. These techniques involve the use of neutral facilitators and mediators to resolve disputes without the formality or expense of hearings.

By encouraging the cost-effective use of alternative dispute resolution, the bill does not intend to limit the use of

2 alternative dispute resolution to only those situations when
alternative dispute resolution is the lowest-cost means of
4 resolving the dispute. Instead, the bill recognizes that
alternative dispute resolution may be cost-effective because it
contains advantages, including integration of concerns of
6 affected parties, which make it a better means of resolving
disputes than formal adjudication.

8
10 Finally, the bill avoids placing an excessive burden on
state agencies by not requiring them to go through a separate
rule-making proceeding. Instead, the agencies are allowed to
12 defer alternative dispute resolution rulemaking until the next
time the agency is engaged in amending its procedural rules and
14 to include in those rules provisions for alternative dispute
resolution only when appropriate.
16