

2003

State Legislative Update

Mark G. Boyko

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State Legislative Update*

Mark G. Boyko**

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* The Journal of Dispute Resolution is proud to introduce a new feature, the State Legislative Update. This new feature will be published annually and can additionally be found on our website in a searchable format, <http://www.law.missouri.edu/journal/update.html>. The Catalog provides readers with a listing of pertinent state legislation in the broad category of ADR. It also provides slightly more in-depth coverage of certain bills because of their importance and/or novelty, as well as a more detailed analysis and history behind three selected bills, introduced and passed in the specified state legislature. This project culminates research conducted over the last year for *Dispute Resolution Magazine*. Articles under this project appeared previously in the Spring 2003 and Fall 2003 editions of *Dispute Resolution Magazine*. If you have comments or suggestions about this new feature, please feel free to e-mail the Journal editorial board at umclawjournal@missouri.edu.

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I. STATE LEGISLATIVE FOCUS

A. *Mandatory Arbitration – Employment: California Assembly Bill 1715*¹

Bill Number: Ca. A.B. 1715

Summary: This bill would have invalidated mandatory arbitration agreements where the employee claimed a right under the Fair Employment and Housing Act and the employer required that the employee sign the arbitration agreement as a condition of employment.

Status: Vetoed by Governor, October 14, 2003

i. Introduction

This bill would have prevented employers from requiring employees to arbitrate disputes arising under the Fair Employment and Housing Act (FEHA).² In doing so, it would have changed the established law in California that written agreements to arbitrate disputes are valid and enforceable.³ Specifically, this bill would have invalidated arbitration agreements between employers and employees if the employer required the employee to sign the agreement as a condition of employment.⁴ A.B. 1715 would have applied to employers with five or more employees.⁵

A similar measure, S.B. 1538, passed the California Legislature on August 30, 2002, but was vetoed by then Governor Gray Davis.⁶ That bill would have prohibited all pre-dispute arbitration agreements in employment contracts.⁷ The Governor noted that “in these difficult economic times I am not prepared to place additional burdens on employers by preventing them from requiring alternative dispute resolution of employment claims.”⁸

The California General Assembly’s Committee on Judiciary wrote A.B. 1715 and read it for the first time on February 26, 2003.⁹ After several amendments,

1. A.B. 1715, 2003-2004 Reg. Sess. (Ca. 2003).

2. *Id.*

3. CAL. CIV. PROC. § 1281 (West 2002).

4. A.B. 1715 (3)(c), Ca. 2003-2004 Reg. Sess. (relating to employment arbitration).

5. CAL. GOV’T. CODE § 12926(d) (West 1999).

6. S. Floor Analysis, A.B. 1715, at 3 (Aug. 20, 2003), available at http://www.leginfo.ca.gov/pub/bill/asm/ab_1701-1750/ab_1715_cfa_20030820_150015_sen_floor.html [hereinafter Ca. S. Floor Analysis].

7. See Staff Reporters, *Davis Vetoes Limits on Mandatory Employment Arbitration Clauses*, ADRWORLD.COM (Oct. 15, 2003), at <http://www.adrworld.com/opendocument.asp?Doc=66DTRkCeX8&code=1IS6CJyr>.

8. See *Davis Nixes Anti-Arbitration Bill*, BALANCE (Civil Justice Ass’n of California), Fourth Quarter 2002, at 2.

9. Complete Bill History, A.B. No. 1715, available at http://www.leginfo.ca.gov/pub/bill/asm/ab_1701-1750/ab_1715_bill_20031012_history.html (last visited Nov. 17, 2003).

the bill passed the Committee on Judiciary after a 10 – 4 vote in late April.¹⁰ On May 7, the bill passed the Committee on Appropriations after a 16 – 7 vote.¹¹ On May 19, the bill was read for a third time on the Assembly floor and passed 44 – 33.¹² On July 9, the bill passed the Senate’s Committee on Judiciary.¹³ On August 27, the bill, with the support of the Democrats, passed the Senate after a 23 – 15 party-line vote.¹⁴ The final bill was enrolled and sent to the Governor on September 9, and he vetoed it on October 14, 2003.¹⁵

ii. The Bill

A.B. 1715 provided that as of January 1, 2004, it would be an unlawful employment practice to require an employee to waive his or her rights under the Fair Employment and Housing Act.¹⁶ Notably, this included the right to file a civil action or a complaint with the State Department of Fair Employment and Housing.¹⁷ The bill would have applied to agreements “entered into, altered, modified, renewed, or extended” on or after January 1, 2004.¹⁸ After that date, employers could still have asked an employee to waive his or her rights to pursue a civil action or file a complaint with the department, but such waiver must have been made knowingly, voluntarily, and could not have been made as a condition of employment.¹⁹ Furthermore, the bill placed the burden of proving that a waiver complied with these requirements on the employer.²⁰

iii. Support

Support for A.B. 1715 came primarily from the AARP of California and the Fair Employment and Housing Commission.²¹ Several other groups backed the bill, including the ACLU, California Dispute Resolution Council, the California Labor Federation, AFL-CIO, California’s chapter of the National Organization for Women, and the State Attorney General’s Office.²²

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.* See also Votes – Roll Call, at http://www.leginfo.ca.gov/pub/bill/asm/ab_1701-1750/ab_1715_vote_20030827_1003AM_sen_floor.html (last visited Nov. 17, 2003).

15. *Id.*

16. A.B. 1715 (3)(a).

17. *Id.*

18. A.B. 1715 (3)(d).

19. A.B. 1715 (3)(c).

20. A.B. 1715 (3)(d).

21. Ca. S. Floor Analysis, *supra* note 6.

22. *Id.* Support for the bill was also registered by the California Conference Board of Amalgamated Transit Union, California Conference of Machinists, California Employment Lawyers Association, California Nurses Association, California School Employees Association, California State Council of Hotel Employees and Restaurant Employees, California Teamsters Public Affairs Council, Chinese for Affirmative Action, Consumer Attorneys of California, Engineers and Scientists of California, Hotel Employees, Restaurant Employees International Union, Hotel Employees, Restaurant Employees, Local 49, Mexican American Legal Defense and Education Fund, Peace Officers Research Association of California, Professional and Technical Engineers 21, Protection & Advocacy, Inc., and the United Food & Commercial Workers Region 8 States Council. *Id.*

The Fair Employment and Housing Commission asserted several arguments in support of A.B. 1715.²³ Not surprisingly, the Commission was concerned that workers were being required to sign away their civil rights under the FEHA because arbitration lacks many of the procedural protections granted under the FEHA.²⁴ In essence, its argument was that rights and procedures under the FEHA are tied to civil rights, which is a matter of public policy.²⁵ Because the state has an interest in these matters, employers should not be able to coerce employees into giving them up.²⁶ The Commission also noted that several other states, including Arkansas, Georgia, Kansas, North Carolina, and Wisconsin, have restricted involuntary, pre-dispute arbitration agreements. Additionally, it noted that this version of the bill encompassed a smaller scope than past measures, which sought to invalidate all pre-dispute arbitration agreements in employment contracts.²⁷

iv. *Opposition*

Opposition to the bill came from several organizations, including the California Chamber of Commerce, Employment Law Council, and the Civil Justice Association of California.²⁸ The primary arguments in opposition of the bill cited the benefits of mandatory arbitration of employment disputes in terms of fairness, speed, and cost-effectiveness.²⁹ The Civil Justice Association had expressed concern about a similar bill, and noted that courts would likely find the measure void under state and federal case law and the Federal Arbitration Act (FAA).³⁰ Opponents also argued that employees, or prospective employees, who would not like to submit to mandatory arbitration are free to seek employment with employers who do not require arbitration.³¹ Furthermore, opponents noted that employees who arbitrate claims are more satisfied with the process than those who litigate.³² Other arguments in opposition to the bill were that arbitration does not offer advantages to repeat players, contrary to the claims of many, and that arbitration relieves overcrowded court dockets.³³ In his veto message, Governor Davis expressed concern “about adversely affecting the ability of California business to cost effectively resolve disputes.”³⁴

23. *Id.* at 4-5.

24. *Id.* at 5.

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.* at 4. Opposition was also registered by California Employment Law Council, California Healthcare Association, California Manufacturers and Technology Association, California Motor Car Dealers Association, Citizens Against Lawsuit Abuse – Central California, Northern California, Los Angeles, Orange County, Silicon Valley and San Diego County Chapters, the Motion Picture Association of America, California Group, and the Northern California Human Resources Association. *Id.*

29. *Id.* at 6.

30. *Davis Nixes Anti-Arbitration Bill*, *supra* note 8, at 2.

31. Ca. S. Floor Analysis, *supra* note 6, at 3.

32. *Id.*

33. Many of these arguments in favor of arbitration have been made in numerous other forums. See Brief of Amici Curiae Nat’l Arbitration Forum, *Green Tree Financial Corp.-Alabama v. Randolph*, 531 U.S. 79 (U.S. 2000) (No. 99-1235).

34. See Staff Reporters, *supra* note 7.

B. Uniform Mediation Act: Nebraska Rev. Stat. §25-2930 & Illinois Public Act 93-399

Bill Numbers: Ill. H.B. 2146
Neb. L.B. 255

Summary: The Uniform Mediation Act (UMA) sets standards for the confidentiality of mediation communications.³⁵ It provides that, in general, mediation communications are privileged. The UMA also includes several notable exceptions. Finally, the UMA codifies the mediator's duty to disclose conflicts of interests and qualifications.

Effective Date: Illinois: January 1, 2004
Nebraska: August 31, 2003

i. Introduction

The National Conference of Commissioners on Uniform State Laws (NCCUSL) promulgated the Uniform Mediation Act (UMA) in August 2001.³⁶ Six months later, it was approved by the American Bar Association.³⁷ As of October 21, 2003, two states, Nebraska and Illinois, have adopted the UMA, and several others have introduced the UMA in their state legislatures.³⁸

The UMA attempts to "promote candor of parties through confidentiality of the mediation process, subject only to the need for disclosure to accommodate specific and compelling societal interests."³⁹ In doing so, the UMA declares that mediation communications are generally privileged.⁴⁰ Section 4 of the UMA frames the scope of the privilege.⁴¹ Under that section, a "mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication."⁴² The mediator, meanwhile, "may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication *of the mediator*."⁴³ In this way, parties enjoy a greater ability to control the disclosure of mediation communications. Finally, nonparty participants have the fewest rights under Section 4 in that they can only prevent statements they made in the mediation from being disclosed by themselves or others.⁴⁴

Section 5 of the UMA generally provides that the privilege is waived only upon the express agreement of all parties in the mediation and the individual who made the statement.⁴⁵ In other words, in a two-party mediation, the privilege

35. UNIF. MEDIATION ACT, 7AII U.L.A. 80 (Supp. 2003).

36. *Id.*

37. *Id.*

38. *See infra* Part III.

39. UMA, Prefatory Note.

40. *Id.* at § 4(a).

41. *Id.*

42. *Id.* at § 4(b)(1).

43. *Id.* at § 4(b)(2) (emphasis added).

44. *Id.* at 4(b)(3).

45. *Id.* at § 5(a).

would not be waived for a mediation communication by party A unless both party A and party B expressly waived it. If the communication was made by the mediator, then it could be disclosed if both parties and the mediator expressly waived the privilege.⁴⁶

Exceptions to the privilege are listed in Section 6.⁴⁷ These exceptions exist where the drafters felt that public policy strongly supported disclosure.⁴⁸ This includes everything from a written agreement signed by all parties to the agreement,⁴⁹ to communications involving the threat or plan to inflict bodily injury or commit a violent crime.⁵⁰ Interestingly, the UMA provides for each state to choose different alternatives for some of these exceptions. One exception to the privilege arises where the mediation communication is “sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party.”⁵¹ However, the UMA holds that states should provide an exception to the exception, and thus make privileged certain communications.⁵² One alternative is to apply the privilege if a public agency designed to protect the helpless victim participates in the mediation.⁵³ Another alternative is to apply the privilege only where the public agency participates and the case was referred to mediation by a court.⁵⁴

States also have a choice in providing an exception to the privilege in cases where the party seeking to introduce the communication can show that the need for the evidence “substantially outweighs the interest in protecting confidentiality.”⁵⁵ The party must also show that the evidence is not otherwise available.⁵⁶ Finally, the evidence must be sought or offered either in regard to a contract claim where the contract arose from the mediation, or in regard to a court proceeding involving a criminal charge.⁵⁷ In one alternative, this can apply to felony or misdemeanor proceedings. In the other exception, it would only be available in felony cases.⁵⁸

Section 7 of the UMA would generally prohibit mediators from reporting to a court or other authority that “may make a ruling on the dispute that is the subject of the mediation.”⁵⁹ However, mediators are permitted to disclose to the authority mediation communications as permitted under Section 6 and mediation communications “evidencing abuse, neglect, abandonment, or exploitation of an individually to a public agency responsible for protecting individuals against such mistreatment.”⁶⁰ Finally, a mediator can report on the status of the mediation, includ-

46. *See Id.* at § 5, cmt. 1.

47. *Id.* at § 6.

48. *Id.* at §6, cmt. 1.

49. *Id.* at § 6(a)(1).

50. *Id.* at § 6(a)(3).

51. *Id.* at § 6(a)(7).

52. *Id.* at § 6.

53. *Id.*

54. *Id.*

55. *Id.* at § 6(b).

56. *Id.*

57. *Id.*

58. *Id.* at § 6(b)(1); *see* Richard C. Reuben, *The Sound of Dust Settling: A Response to Criticisms of the UMA*, 2003 J. DISP. RESOL. 99, 123.

59. UMA, § 7(a).

60. *Id.* at § 7(b)(3).

ing whether the mediation has begun or ended, who attended the mediation, and whether the parties reached a settlement.⁶¹

The privileges listed above prevent most disclosures in judicial and quasi-judicial proceedings. Section 8 of the UMA extends this security outside of the judicial sphere by providing that “mediation communications are confidential to the extent agreed by the parties or provided by other law or rule.”⁶²

Section 9 of the UMA covers mediator conflicts of interest and background.⁶³ It applies to any individual “who is requested to serve as a mediator,”⁶⁴ but it does not apply to individuals acting as a judge.⁶⁵ Before accepting the mediation, the would-be mediator must make a reasonable inquiry to determine if there is a conflict of interest and must disclose any conflicts to the parties before accepting the mediation.⁶⁶ If the mediator learns of a conflict during the mediation, he must disclose the conflict as soon as practicable.⁶⁷ Furthermore, Section 9 allows a party to the mediation to require the mediator to disclose his mediation qualifications.⁶⁸

Section 9 also contains optional language that may or may not be included at the state’s discretion. Under Section 9(g), “A mediator must be impartial, unless after disclosure of the facts...the parties agree otherwise.”⁶⁹ Although requiring mediator impartiality seems like a logical choice at first glance, the drafters of the UMA were concerned about the prudence of such a requirement for three reasons.⁷⁰ First, it might subject mediators to unwarranted exposure to civil lawsuits by disgruntled parties.⁷¹ Second, impartiality may not be helpful in cases where the mediator also has some duty to a party, such as with long-term care ombudsmen.⁷² Finally, the parties themselves may wish for the mediator to be somewhat partial.⁷³ One example would be where the parties before a domestic mediator might prefer a mediator who must protect the interest of the child.⁷⁴ As a result of these concerns, states can adopt the UMA with or without requiring mediator impartiality.⁷⁵

iii. Legislative Histories

In Nebraska, Senator David M. Landis introduced the UMA on January 15, 2003.⁷⁶ It sailed through the Committee on Judiciary after a 7 - 0 vote.⁷⁷ The

61. *Id.* at § 7(b)(1).

62. *Id.* at § 8.

63. *Id.* at § 9.

64. *Id.* at § 9(a).

65. *Id.* at § 9(e).

66. *Id.* at § 9(a).

67. *Id.* at § 9(a)(2).

68. *Id.* at § 9(c).

69. *Id.* at § 9(g).

70. *Id.* at § 9, cmt. 5.

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

75. *See id.*

76. Bill Status, available at <http://www.unicam.state.ne.us/scripts/dbBSInfo.asp?Prefix=LB&BillNumber=255&Suffix=&Session=> (last visited Nov. 17, 2003).

committee recorded support for the bill from the NCCUSL and the Nebraska Bar Association.⁷⁸ L.B. 255 passed the Nebraska Legislature on May 8 by a vote of 47 - 0, and was approved by the governor five days later.⁷⁹ During the legislative process, the Committee on Judiciary added an amendment to its bill clarifying that that UMA “is intended to address issues of privilege and does not diminish any other mediation requirements of the statutes of Nebraska.”⁸⁰

In Illinois, Representative James D. Brosnahan filed H.B. 2146, the UMA, on February 11, 2003.⁸¹ The bill passed the Committee on Judiciary – Civil Law Committee on March 6.⁸² On March 19, the bill passed the full Illinois House with a vote of 115 - 0.⁸³ On May 9, the Senate passed the measure 55 - 0.⁸⁴ The UMA was approved by the Governor, Rod Blagojevich, on July 31.⁸⁵ Illinois also added an amendment to the UMA in order to expressly provide that the UMA govern all mediations under the Condominium Property Act.⁸⁶

iv. Legislative Choices

As previously mentioned, the UMA is set up so that states can adopt the Act while choosing between certain options for some of its provisions. Two such provisions concern an exception to the general rule that mediation communications are privileged. Pursuant to Section 6(a)(7), mediation communications are not privileged if “sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party.”⁸⁷ However, that exception contains one of two exceptions of its own. Under the UMA as passed in Nebraska, these communications would still be privileged as long as the child or adult protective services agency is a party.⁸⁸ Under the UMA in Illinois, such communications would be privileged only if the protective services agency is a party *and* the case was referred to me-

77. See 98th Legislature - First Session -2003 Committee Statement L.B. 255, *available at* http://www.unicam.state.ne.us/PDF/CommitteeStatement_LB255.pdf (last visited Nov. 17, 2003).

78. *Id.* The Committee also recorded support for the bill coming from Senator Landis, the Advisory Committee to the Office of Dispute Resolution, the Nebraska Mediation Center Association, the Office of Dispute Resolution, and John Gradwohl. The Committee did not record anyone in opposition of the bill. *Id.*

79. *Id.*

80. AM0141, *available at* http://www.unicam.state.ne.us/Amendment/AM_141.pdf (last visited Nov. 24, 2003).

81. Bill Status of H.B. 2146, *available at* <http://www.legis.state.il.us/legislation/billstatus.asp?GAID=3&DocNum=2146&DocTypeID=HB&SessionID=3&LegID=2951> (last visited Nov. 17, 2003).

82. *Id.*

83. State of Illinois 93rd General Assembly House Roll Call House Bill 2146 Uniform Mediation Act, *at* http://www.legis.state.il.us/legislation/votehistory/93/house/09300HB2146_03192003_009000T.pdf (last visited Nov. 17, 2003).

84. State of Illinois 93rd General Assembly Senate Vote House Bill 2146, *available at* http://www.legis.state.il.us/legislation/votehistory/93/senate/09300HB2146_05092003_079000T.pdf (last visited Nov. 17, 2003).

85. Bill Status, *supra* note 76.

86. 765 ILL. COMP. STAT. 605/32(b-5) (2003).

87. UMA § 6(a)(7).

88. NEB. REV. STAT. §25-2935(a)(7) (2003).

diation by a court.⁸⁹ In this way, Nebraska's UMA provides a greater mediation privilege than that of Illinois.

As for the other two main areas left by the drafters for legislative choice, both Nebraska and Illinois passed identical versions of the UMA. Both state versions contain the requirement that a mediator be impartial, unless, after the mediator discloses any conflict of interest, the parties agree to allow for some impartiality.⁹⁰ Additionally, both state versions would limit the exception to the mediation privilege contained in Section 6(b) so that the court proceeding exception could be considered only if the proceeding involves a felony.⁹¹ The more expansive exception, which neither state adopted, would have also allowed for an exception, in certain situations, during court proceedings involving misdemeanors.⁹²

C. Dispute Resolution Commission Transferred: Oregon Session Law 791⁹³

Bill Numbers: Or. S.B. 904

Summary: Abolishes Oregon's Dispute Resolution Commission. Transfers the duties of the Commission to the Hatfield School of Government at Portland State University and the University of Oregon School of Law.

Effective Date: September 22, 2003

i. Introduction

With fiscal concerns high on the mind of state governments, it is not altogether surprising to find public dispute resolution programs affected. This law will continue Oregon's dispute resolution program while allowing the state to save an estimated \$800,000 for its judicial branch.⁹⁴ This law accomplishes these feats by transferring the public policy related functions of the Dispute Resolution Commission to the Hatfield School of Government at Portland State University and the oversight and support of Oregon's twenty-three community mediation programs to the University of Oregon School of Law.⁹⁵

The Oregon legislature created the Dispute Resolution Commission in 1989 in order to develop ADR programs in Oregon.⁹⁶ Although the legislature did not express disapproval toward the work of the commission in its debate concerning

89. 710 ILL. COMP. STAT. 35/6(a)(7) (2003) (emphasis added).

90. See 710 ILL. COMP. STAT. 35/9(g) (2003); NEB. REV. STAT. §25-2938(g) (2003).

91. See 710 ILL. COMP. STAT. 35/6(b)(1) (2003); NEB. REV. STAT. §25-2935(b)(1) (2003).

92. UMA § 6(b)(1).

93. 2003 Or. Laws 791.

94. Telephone interview with Jane Gordon, Director, Appropriate Dispute Resolution Program, University of Oregon School of Law (Oct. 29, 2003).

95. *Id.*

96. 72nd Oregon Legislative Assembly – 2003 Reg. Sess. Staff Measure Summary, S.B. 904, available at <http://www.leg.state.or.us/comm/sms/SMS03Frameset.html> (last visited Nov. 17, 2003) [hereinafter Staff Measure Summary].

S.B. 904, the legislators felt that the program should be abolished for two reasons.⁹⁷ First, the legislators believed that transferring the programs would save a great deal of money.⁹⁸ Second, they perceived the universities to be better suited for continuing and expanding the programs.⁹⁹

ii. Legislative History

S.B. 904 was introduced on June 23, 2003.¹⁰⁰ The bill passed the Senate after a 29 - 0 vote on August 22 and passed the House following a vote of 56 - 0, five days later.¹⁰¹ Governor Ted Kulongoski signed the bill into law on September 22, 2003.¹⁰²

iii. Analysis

Oregon's decision to shift responsibility for dispute resolution services from the Dispute Resolution Commission to two public universities should gain the interest of other state legislatures battling to save programs while at the same time cutting costs. If the universities are able to operate the program successfully, the net result should be an \$800,000 savings to the state with no loss of services.¹⁰³ Meanwhile, the bill may well provide students and faculty of the Hatfield School of Government at Portland State University and the University of Oregon School of Law with greater opportunities to practice dispute resolution in an academic environment. With this greater responsibility, students and faculty are "excited and interested" about their new role.¹⁰⁴ At the University of Oregon's Appropriate Dispute Resolution Center, this new law will provide \$125,000 over two-and-a-half years for the oversight and support of Oregon's community mediation programs.¹⁰⁵ To handle its responsibility, the Center plans to hire one new staff person as well as utilize the assistance of students.¹⁰⁶ The Hatfield School of Government at Portland State University will also receive \$125,000 in state funding to operate the public policy functions of the Commission.¹⁰⁷

Without the new law, funding for the Dispute Resolution Commission would have been eliminated under Oregon's new budget¹⁰⁸ and its functions transferred to the Oregon Department of Justice.¹⁰⁹ In the past, the Commission received approximately \$2 million for the biennium in filing fee revenue to operate its pro-

97. *Id.*

98. *Id.*

99. *Id.*

100. S.B. 904, bill history, available at <http://www.leg.state.or.us/searchmeas.html> (last visited Nov. 17, 2003).

101. *Id.*

102. *Id.*

103. Staff Measure Summary, *supra* note 96.

104. Telephone Interview with Jane Gordon, *supra* note 94.

105. *Id.*

106. *Id.*

107. *Id.*

108. *Senate committee sends Dispute Resolution Commission to UO*, GOVERNMENTAL AFFAIRS UPDATE (University of Oregon Office of Governmental Affairs), July 22, 2003, available at <http://oga.uoregon.edu/Update20.pdf> (last visited Nov. 17, 2003).

109. Telephone Interview with Jane Gordon, *supra* note.

grams.¹¹⁰ Under S.B. 904, \$800,000 will be allocated to Oregon's judicial budget for the biennium.¹¹¹ The University of Oregon supported S.B. 904.¹¹² In the end, a combination of the economic crisis facing many states and the ability of the two universities to develop their ADR programs should influence legislators in other states who may consider measures such as this in order to cut costs.

II. HIGHLIGHTS

A. *The Revised Uniform Arbitration Act*¹¹³

The Revised Uniform Arbitration Act (RUAA) has now been enacted in eight states. These states are: Hawaii, New Jersey, New Mexico, Nevada, North Carolina, North Dakota, Oregon, and Utah.¹¹⁴ The act represents the default rule in those states and updates the original Uniform Arbitration Act (UAA)¹¹⁵ to deal with such matters as preemption under the FAA,¹¹⁶ consolidation of arbitrations, arbitrator immunity, and many other areas of the law inadequately provided for under the original Uniform Arbitration Act passed in 1955.¹¹⁷

B. *California Senate Concurrent Resolution 34*¹¹⁸

This measure urges the State Bar of California to test applicants for an understanding of alternative dispute resolution.¹¹⁹ The resolution also requests that law school curriculum and continuing legal education requirements focus on ADR to a greater extent. S.C.R. 34 announces "the goal of the Legislature [is] to promote fair, efficient, swift, and economical means by which California residents may resolve claims, conflicts, and disputes."¹²⁰ This legislation was introduced by state Senator Jackie Speier, a bay-area attorney.¹²¹ Her measure died in the Senate's Committee on Judiciary in June 2003.¹²²

110. *Id.*

111. *Id.*

112. *Senate committee sends Dispute Resolution Commission to UO, supra* note 108, at 2.

113. RUAA, 7 U.L.A. 1 (Supp. 2003).

114. Mark Boyko, *State Legislative Update*, DISP. RES. MAG., Spring 2003, at 29, 29; Mark Boyko, *State Legislative Update*, DISP. RES. MAG., Fall 2003, at 30, 30.

115. UAA, 7 U.L.A. 55 (Supp. 2003).

116. FAA, 9 U.S.C. §§ 1-16 (2000).

117. UAA, 7 U.L.A. 55 (Supp. 2003).

118. S. Con. Res. 34, 2003 - 2004 Reg. Sess. (Ca. 2003), available at http://www.leginfo.ca.gov/pub/bill/sen/sb_0001-0050/scr_34_bill_20030605_introduced.pdf (last visited Nov. 17, 2003).

119. *Id.*

120. *Id.*

121. Complete Bill History, at http://www.leginfo.ca.gov/pub/bill/sen/sb_0001-0050/scr_34_bill_20030619_history.html (last visited Nov. 17, 2003).

122. *Id.*

*C. Texas Senate Bill 997*¹²³

Under this bill, arbitration awards in Texas would have become public records.¹²⁴ The bill announced “[i]t is this state’s policy to provide open access to the records of all decisions in civil disputes, whether adjudicated or arbitrated.”¹²⁵ If passed, the bill would have eliminated one of the primary reasons why parties prefer arbitration over civil litigation. However, the bill died this spring in the Senate Committee on Jurisprudence.¹²⁶

*D. Louisiana House Bill 1228*¹²⁷

This bill amends the Children’s Code to allow hearing officers to accept any agreement reached in a court-ordered mediation as a judgment of the court.¹²⁸ This bill applies in parishes with a population of more than 440,000.¹²⁹ The bill was introduced by Representative Glenn Ansardi and became Act No. 664 when it was signed by Governor M.J. Foster, Jr. on June 27, 2003.¹³⁰

III. 2003 CATALOG OF STATE LEGISLATION

The following is a list by state of measures introduced during the first eleven months of 2003 concerning alternative dispute resolution.

Alabama

Bills Enacted – S.B. 2A (employment, teacher disciplinary appeal); S.B. 3A (employment, disciplinary appeal).

Other Legislation – E.O. 10 (insurance arbitration); E.O. 13 (employment ADR); S.B. 268 (nursing facilities / patient DR); H.B. 17A (employment, teacher disciplinary appeal); H.B. 27A (employment, disciplinary appeal); H.B. 604 (counties and municipalities contract bidding); S.B. 443 (mediation confidentiality); S.B. 494 (credit rating DR).

Alaska

Bill Enacted – H.B. 250 (arbitrating state construction contract claims).

Other Legislation – H.B. 83 (RUAA).

123. Tex. S.B. 997, 78th Leg. (Tex. 2003).

124. *Id.*

125. *Id.*

126. History, available at <http://www.capitol.state.tx.us/cgi-bin/db2www/tlo/billhist/billhist.d2w/report?LEG=78&SESS=R&CHAMBER=S&BILLTYPE=B&BILLSUFFIX=00997> (last visited Nov. 17, 2003).

127. H.B. 1228, Reg. Sess. (La. 2003).

128. *Id.*

129. *Id.*

130. History, at http://www.legis.state.la.us/leg_docs/03RS/CVT2/OUT/H0009230.PDF (last visited Nov. 17, 2003).

Arizona

Bills Enacted – H.B. 2145 (real estate); H.B. 2466 (illegal drug laboratory site mediation).

Other Legislation – S.B. 1102 (RUAA); S.B. 1245 (arbitration).

Arkansas

Bills Enacted – S.B. 216 (authorizes court mandated ADR); S.B. 717 (nursing facilities); H.B. 1358 (arbitration in health care).

Other Legislation – None.

California

Bills Enacted – A.B. 1712 (arbitration procedure); A.B. 1304 (Dept. of Food and Agriculture collective bargaining); S.B. 940 (arbitrator ethics); S.B. 333 (liability insurance); S.B. 113 (mechanic's lien, waiver of arbitration); A.B. 1382 (arbitrator's ability to order specific performance of contract); S.B. 418 (streambed alteration arbitration); S.B. 440 (city / county rejection of arbitration decision for employment disputes involving firefighters and police); S.B. 549 (ombuds for prisoner residents of nursing facilities); S.B. 911 (telecommunications); S.B. 75 (agriculture mediation); A.B. 512 (resolution of assessment disputes under Davis-Stirling Common Interest Development Act).

Other Legislation – A.B. 1714 (consumer arbitration agreements); A.B. 1715 (employment arbitration agreements); S.B. 636 (special education DR); A.B. 1258 (employment grievance procedure, Dept. of Corrections & Dept. of Youth Authority); S.B. 494 (awarding future damages in arbitration); A.B. 979 (employment grievance procedure, Dept. of Corrections & Dept. of Youth Authority); A.B. 473 (Contractors' State License Board, arbitration award compliance); A.B. 1448 (elder abuse arbitration); A.B. 1231 (real estate licensees, arbitration); A.B. 1713 (consumer arbitration agreements); A.B. 899 (ADR for employment disputes involving firefighters and police); S.B. 298 (ADR for New Motor Vehicle Board); S.B. 354 (ADR for disputed medical treatment services); A.B. 1686 (billing disputes between physician group and non-contracting physician); S.B. 922 (public water supply, mediation of replacement water claims); S.C.R. 34 (urges Bar Exam to test on ADR); S.B. 3D (Expands applicability of dispute resolution process for workers' compensation).

Colorado

Bills Enacted – H.B. 1077 (land annexation disputes between local governments).

Other Legislation – None.

Connecticut

Bills Enacted – S.B. 366 (ADR before Commission on Human Rights and Opportunities).

Other Legislation – S.B. 51 (RUAA); S.B. 950 (RUAA); S.B. 979 (state highway and public works contracts); H.B. 5891 (gives guidance to arbitrators in a bad economy); H.B. 5889 (time frames for negotiation, mediation, arbitration in public employee collective bargaining); H.B. 5541 (binding arbitration of private sector labor disputes); H.B. 5543 (witness lists for arbitration, municipal employment arbitration); H.B. 5544 (Increases number of neutral arbitrators); H.B. 5555 (financial capability as a factor for arbitration damages); H.B. 5562 (municipal rejection of arbitration award); H.B. 5563 (binding arbitration for municipal employees, teachers); S.B. 297 (clean water fund, arbitration); H.B. 5198 (gives arbitrators flexibility in disputes between teachers and board of education); H.B. 5807 (automobile Lemon Law arbitrators); H.B. 5884 (arbitrator rotation for public employment disputes); H.B. 5886 (limits state employment binding arbitration awards).

Delaware

Bills Enacted – H.B. 1 (binding arbitration for collective bargaining agreements with teachers); H.B. 283 (extends arbitration for employment disputes with police and firefighters); S.B. 58 (ADR by Court of Chancery for technology disputes); S.B. 71 (health insurance arbitration).

Other Legislation – H.B. 81 (mediation and arbitration under the Public Employment Relations Act); H.B. 169 (procedure for disputing credit report); H.B. 278 (extends arbitration for employment disputes with police and firefighters); H.R. 25 (establishes mediation technology task force).

District of Columbia

Bills Enacted – None.

Other Legislation - B15-289 (UMA); B14-0209 (RUAA); B14-0157 (Electronic Insurance Commerce Amendment Act); PR13-0116 (employee compensation, Commission on Mental Health Services).

Florida

Bills Enacted – H.B. 513 (ADR disputed property insurance, defines “claim”); S.B. 472 (provides ADR concerning mining explosives); S.B. 642 (elections); S.B. 50A (workers’ compensation).

Other Legislation – H.B. 1723 (nursing home voluntary binding arbitration); S.B. 1796 (anti-mandatory arbitration for some insurers, managed care providers and prepaid health care); H.B. 1107 (family mediation if child is threatened); H.B. 971 (medical malpractice mediation); H.B. 723 (anti-mandatory arbitration for some insurers, managed care providers and prepaid health care); H.B. 531 (repeals part of Insurance Consumer Protection Act regarding insurer mandated arbitration, rate filings); S.B. 1570 (exempts mediation communication from public records law); S.B. 708 (repeals part of Insurance Consumer Protection Act regarding insurer mandated arbitration, rate filings); S.B. 734 (limits arbitration concerning rate filing with Dept. of Insurance); S.B. 636 (limited arbitration concerning rate filing with Dept. of Insurance); S.B. 2120 (mandates mediation of medical mal-

practice claims); H.B. 145A (limits binding arbitration requirements in health-care); H.B. 1819 (ADR between health care practitioners and insurers); S.B. 128 (family mediation if child is threatened); S.B. 560 (medical malpractice); S.B. 564 (nursing home ombuds); S.B. 1500 (creates Commission on Family Law & Children); S.B. 1574 (requires mediation or arbitration of medical malpractice claims); S.B. 2750 (nursing home healthcare); H.B. 21 (Insurance Consumer Protection Act); S.B. 2C (medical malpractice, voluntary arbitration); S.B. 452 (land disputes between local governments).

Georgia

Bills Enacted – H.B. 792 (revises civil procedure regarding dispute resolution).

Other Legislation – H.B. 459 (creates a division of school board mediation); H.B. 91 (challenges to neutrality of arbitrator, vacation of award based on arbitrator's manifest disregard of the law).

Hawaii

Bills Enacted – S.B. 1075 (mandates mediation for contested case hearings); S.B. 768 (reinstates binding arbitration for certain bargaining units); S.B. 1439 (appropriations for collective bargaining costs); S.B. 1442 (appropriations for collective bargaining costs).

Other Legislation – S.B. 1590 (preserves unemployment benefits for striking workers while dispute is arbitrated); H.B. 1318 (reinstates binding arbitration for certain bargaining units); S.B. 1128 (mandates arbitrator for certain job classes); S.B. 1129 (collective bargaining for police); S.B. 1159 (excludes some public employees covered by collective bargaining from parts of UAA); H.B. 779 (excludes some public employees covered by collective bargaining from parts of UAA); H.B. 780 (collective bargaining for police); H.B. 781 (collective bargaining for police); S.B. 1021 (arbitration awards); H.B. 305 (capricious actions by Department of Labor and Industrial Relations); H.R. 158 (long-term care ombuds).

Idaho

Bill Enacted – H.B. 72 (amends Small Lawsuit Reduction Act).

Other Legislation – None.

Illinois

Bills Enacted – H.B. 2146 (UMA); H.B. 1640 (ADR to resolve errors in credit information used by insurers); H.B. 1469 (amends Illinois Not-For-Profit Dispute Resolution Center Act," qualified centers cannot charge for court refereed mediation); S.B. 1207 (arbitration is binding to uninsured motorist claims); S.B. 874 (Road Fund, technical changes).

Other Legislation – H.B. 3211 (RUAA); S.B. 278 (UMA); H.B. 2418 (amends Illinois Public Labor Relations Act to require use of grievance and arbi-

tration procedure); H.B. 1316 (service of process and notice under Employee Arbitration Act); S.B. 551 (service of process and notice under Employee Arbitration Act); H.B. 1481 (expands Office of the State Long Term Care Ombudsman); H.B. 3820 (New Vehicle Buyer Protection Act of 2004, disputes between new car buyers and manufacturers); S.B. 1067 (expands Officer of the State Long Term Care Ombudsman).

Indiana

Bills Enacted – H.B. 1034 (county-run, family ADR programs); S.B. 219 (Indiana Seed Arbitration Council); S.B. 396 (ADR for nursing homes and home health agencies); S.B. 332 (mediating de minimis consumer complaints).

Other Legislation – S.B. 194 (RUAA); S.B. 500 (UMA); S.B. 491 (wetland protection); H.B. 1797 (Indiana Seed Arbitration Council); H.B. 1585 (county-run, family ADR programs); S.B. 305 (police salaries); S.B. 306 (final offer mediation-arbitration in school collective bargaining disputes).

Iowa

Bills Enacted – None.

Other Legislation – S.F. 409 (premarital and marital mediation agreements); H.S.B. 258 (arbitration agreements, remedies); H.F. 488 (arbitration agreements, remedies); S.S.B. 1149 (premarital and marital mediation agreements).

Kansas

Bills Enacted – None.

Other Legislation – H.B. 2172 (adult care homes).

Kentucky

Bills Enacted – None.

Other Legislation – H.B. 458 (oil and natural gas); H.B. 316 (health care); SB 1 (health care); H.B. 98 (ADR for monetary claims against nonprofits); B.R. 324 (ADR for monetary claims against nonprofits); B.R. 448 (health care).

Louisiana

Bills Enacted – H.B. 1228 (juvenile mediation agreements as judgments of the court); H.B. 1564 (family law, mediation); H.B. 1898 (workers compensation).

Other Legislation – S.B. 115 (prohibits mandatory arbitration clauses on consumer credit cards); H.B. 730 (mandates non-binding arbitration in certain cases); H.B. 249 (right of direct action against insurer); H.B. 1780 (permits arbitration clauses in contracts between insurers); S.B. 454 (court ordered ADR).

Maine

Bills Enacted – H.P. 664 (arbitration under Lemon Law); S.P. 413 (agricultural marketing and bargaining).

Other Legislation – L.D. 1218 (RUAA); L.R. 468 (RUAA); H.P. 892 (RUAA); L.D. 1295 (UMA); S.P. 426 (UMA); L.R. 464 (UMA); H.P. 460 (prohibits mandatory arbitration in health carrier contracts); L.D. 575 (ADR for worker's compensation); L.R. 1116 (prohibits mandatory arbitration in health carrier contracts); H.P. 81 (Children's Ombudsman Program); H.P. 438 (workers' compensation, mediation); H.P. 464 (Main / Canada Ombudsman); H.P. 791 (extends duties of children's ombudsman); S.P. 190 (workers' compensation, mediation).

Maryland

Bills Enacted – H.B. 651 (continues State Mediation and Conciliation Service); S.B. 590 (Housing Authority of Baltimore City, collective bargaining ADR); H.B. 383 (Washington Suburban Sanitation Commission, collective bargaining ADR); S.B. 524 (child support enforcement).

Other Legislation – H.B. 969 (ombudsman program in the Department of the Environment); H.B. 813 (collective bargaining arbitration); H.B. 832 (arbitration of future economic damages, healthcare); S.B. 559 (collective bargaining arbitration); H.B. 443 (Housing Authority of Baltimore, third party arbitration); S.B. 303 (extends sunset on State Mediation and Conciliation Service).

Massachusetts

Bills Enacted – None.

Other Legislation – H.B. 95 (RUAA); H.B. 96 (UMA); S.B. 306 (arbitration in teacher dismissals); S.B. 1596 (collective bargaining arbitration); S.B. 1608 (binding arbitration, firefighters and police); S.B. 1447 (interest arbitration for State Police Association); S.B. 923 (compensates intervenors in insurance matters); S.B. 1503 (interest arbitration for publicly employed health care professionals); H.B. 937 (repeals law providing for medical malpractice screening); H.B. 1192 (binding arbitration in public employee disputes); H.B. 1360 (ADR for emergency medical technicians); H.B. 1935 (binding arbitration, firefighters and police); H.B. 3050 (arbitration of prohibited practice charges involving public employees); H.B. 3054 (ADR for mid-term bargaining of public employees); H.B. 2614 (ADR for mid-term bargaining of public employees); H.B. 2320 (arbitrating public employee labor disputes); H.B. 2516 (arbitration for fire fighters and police); H.B. 2870 (interest arbitration, state police); H.B. 3038 (arbitration for fire fighters and police); H.B. 3077 (public works construction claims); S.B. 326 (dispute resolution in public school curriculum); H.D. 4489 (judicial mediation); H.B. 2820 (arbitration with insurance companies for damage to vehicles).

Michigan

Bills Enacted – H.B. 4750 (funding for Community Dispute Resolution Centers).

Other Legislation – H.B. 4097 (groundwater conflicts); S.B. 31 (mandatory arbitration of labor disputes for correctional officers); S.B. 33 (mandatory arbitration of labor disputes for university police); H.B. 4810 (penalizes party that re-

jected mediation / settlement); S.B. 451 (funding for Community Dispute Resolution Centers); H.B. 4096 (makes Officer of Children's Ombudsman more independent).

Minnesota

Bills Enacted – None.

Other Legislation – S.F. 100 (RUAA); S.F. 900 (exempts harassment restraining order from mandatory ADR); H.F. 913 (exempts harassment restraining order from mandatory ADR); H.F. 996 (insurance, no-fault arbitration).

Mississippi

Bills Enacted – S.B. 2001 (environmental protection).

Other Legislation – None.

Missouri

Bills Enacted – None.

Other Legislation – H.B. 573 (residential construction); S.B. 491 (highway construction arbitration); H.B. 461 (highway construction arbitration); S.B. 280 (tort reform, requires mediation in most cases); S.B. 377 (taxes awards and settlements in medical malpractice cases).

Montana

Bills Enacted – H.B. 580 (ADR for Public Service Commission); S.B. 381 (streambed and land preservation act arbitration).

Other Legislation – M.D. 2015 (ADR for Public Service Commission); M.D. 1975 (construction contracts).

Nebraska

Bills Enacted – L.B. 255 (UMA).

Other Legislation – L.B. 316 (child custody determination); L.B. 699 (adds dispute resolution fee to court costs).

Nevada

Bills Enacted – None.

Other Legislation – A.B. 279 (abolishes mandatory arbitration for teachers, grants authority to strike); S.B. 162 (court fees).

New Hampshire

Bills Enacted – H.B. 646 (relative to liquor licenses and fees, arbitration).

Other Legislation – H.B. 308 (UMA); L.S.R. 794 (UMA); L.S.R. 2234 (public employee labor relations); H.B. 1298 (public employee labor relations); H.B. 508 (participation of insured defendants in superior court).

New Jersey

Bills Enacted – S.B. 514 (RUAA).

Other Legislation – A.B. 3542 (UMA); S.B. 2768 (UMA); S.B. 2346 (School Employees Contract Resolution and Equity Act); A.B. 2847 (arbitration agreements); A.B. 3898 (victim-juvenile mediation); S.B. 675 (ombudsman, Abused and Neglected Children Act); A.B. 2819 (ombudsman, Abused and Neglected Children Act).

New Mexico

Bills Enacted – H.B. 867 (judicial review of arbitration awards); S.B. 114 (mediation fee in civil cases); S.B. 46 (Public Employee Bargaining Act).

Other Legislation – H.B. 375 (ADR in charter schools); H.B. 204 (water rights); H.B. 553 (family mediation funding); S.B. 288 (creates Office of Public Facilitation); S.M. 57 (plans Commission of Dispute Resolution).

New York

Bills Enacted – A.B. 4971 (extends dispute resolution in collective negotiations); S.B. 2316 (extends collective negotiation provision); A.B. 3090 (collective bargaining arbitration for police); A.B. 5187 (collective bargaining for deputy sheriffs).

Other Legislation – S.B. 1340 (UMA); A.B. 6957 (public employee discipline); A.B. 7095 (mediation of child custody disputes); S.B. 1969 (mediation of child custody disputes); A.B. 6801 (injunctive relief in arbitration); A.B. 5952 (requires arbitrator to consider employers ability to pay); A.B. 7190 (public employee grievance arbitration); S.B. 3066 (collective negotiation for police); S.B. 3065 (eases limits on police arbitration); A.B. 7313 (investment banking and securities); A.B. 5924 (eases restrictions on police arbitration); A.B. 5983 (arbitrator issuance of subpoenas); A.B. 6528 (consumer arbitration); A.B. 6471 (consumer arbitration, attorney's fees); A.B. 6395 (no-fault insurance arbitration); A.B. 5576 (arbitration for public employees, right to strike); A.B. 5654 (binding arbitration for security officers); A.B. 5857 (grievances by handicapped to Department of Education); A.B. 5179 (landlord and tenant); A.B. 4969 (public employment collective bargaining); A.B. 4972 (court employee collective bargaining); S.B. 2296 (arbitration regarding no-strike provision, public employees); S.B. 2185 (creates the Parent Mediation Program); A.B. 4435 (binding arbitration for court employees); A.B. 4704 (mandatory binding arbitration for police officers of the Port Authority); A.B. 4336 (arbitration in no-fault insurance cases); A.B. 4143 (arbitration of attorney/client fee disputes); A.B. 4099 (encourages mediation in schools); S.B. 1720 (addressing discriminatory practices by hospitals); A.B. 3575 (venue of arbitration proceedings); A.B. 2307 (establishes New York State Committee on Public Dispute Resolution); A.B. 2181 (real estate securities arbitration); A.B. 2621 (lim-

ited profit housing companies); S.B. 1118 (non-binding arbitration between condominium owners and board of managers); A.B. 1087 (child custody ADR); A.B. 939 (commercial lease arbitration); A.B. 96 (court modification of arbitration award); S.B. 116 (binding arbitration for court clerks); A.B. 2350 (publication of nursing home ombud information); A.B. 5862 (creates health care ombuds); A.B. 8403 (binding arbitration for state correctional officers); A.B. 8589 (gas station limitations); S.B. 3836 (public employee grievance arbitration); S.B. 4090 (deputy/sheriff employment disputes); S.B. 4210 (dispute resolution of medical bills); S.B. 4617 (securities arbitration); S.B. 5371 (public employee disciplinary arbitration); S.B. 5406 (court annexed mediation communication confidentiality); S.B. 5516 (binding arbitration for police officers of the Port Authority); A.B. 4491 (dispute resolution in collective negotiations, public employment); S.B. 5618 (credit information used by personal line insurers); S.B. 5744 (health insurance).

North Carolina

Bills Enacted – S.B. 716 (RUAA); H.B. 952 (family arbitration); S.B. 775 (insurance mediation).

Other Legislation – S.B. 161 (restricts court ordered non-binding arbitration); S.B. 796 (disputes between boards of education and boards of county commissioners).

North Dakota

Bills Enacted – S.B. 2061 (RUAA); S.B. 2107 (confidentiality of Personnel Division mediation records).

Other Legislation – H.C.R. 3012 (road construction arbitration).

Ohio

Bills Enacted – None.

Other Legislation – H.B. 2279 (RUAA); H.B. 303 (UMA); S.B. 45 (enforcement of arbitration agreements); H.B. 61 (landfill arbitration); H.B. 51 (probate mediation).

Oklahoma

Bills Enacted – S.B. 608 (police and firefighter collective bargaining); S.B. 535 (property damage from oil and gas exploration).

Other Legislation – S.B. 475 (RUAA); S.B. 259 (municipal collective bargaining); H.B. 1720 (Nursing Facility Mediation Act); S.B. 813 (Voluntary Alternative Mediation Act); S.B. 559 (workers' compensation mediation); S.B. 594 (requirements for valid arbitration clause); H.B. 1751 (use of credit information in Personal Insurance Act); H.B. 1507 (agricultural mediation).

Oregon

Bills Enacted – H.B. 2279 (RUAA); S.B. 909 (residential construction defects); S.B. 904 (ADR surcharge); H.B. 2694 (farming equipment); H.B. 2759 (increases court fees to fund mediation); S.B. 216 (unclaimed property); S.B. 470 (Mental Health Disabilities Program Mediation); S.B. 757 (workers' compensation); S.B. 5531 (long-term care ombudsman).

Other Legislation – S.B. 444 (collective bargaining, public employees); S.B. 495 (collective bargaining, public employees); H.B. 2389 (residential construction defects); H.B. 3663 (ADR surcharge); H.B. 3550 (domestic relations); H.B. 3650 (mediation injuries); H.B. 3364 (auto-insurer disputes with medical providers); H.B. 3390 (health care dispute resolution); H.B. 3518 (agriculture dispute resolution); S.B. 269 (binding arbitration for Office of Emergency Management); S.B. 5515 (financial administration of the Dispute Resolution Commission).

Pennsylvania

Bills Enacted – None.

Other Legislation – S.B. 446 (regulating credit information); H.B. 158 (medical malpractice arbitration); H.B. 1330 (real estate cooperatives); H.B. 1337 (manufactured housing ombudsman); H.B. 1417 (medical malpractice arbitration); H.B. 1466 (municipal authority ombudsman); H.B. 1621 (child protection ombudsman); S.B. 770 (mediation and arbitration of government construction contracts); H.B. 1875 (construction defect ADR); H.B. 1254 (government construction contracts, mediation); H.B. 1840 (municipal planning).

Rhode Island

Bills Enacted – H.B. 5510 (mediation teams for commission on disabilities); H.B. 5841 (long-term care ombudsmen); S.B. 876 (long-term care ombudsmen); S.B. 395 (mediation teams for commission on disabilities).

Other Legislation – S.B. 609 (highway construction); S.B. 611 (municipal employment contract mediation); S.B. 612 (school mediation); S.B. 613 (mandatory labor mediation, free for parties); S.B. 614 (mandatory labor mediation, free for parties); S.B. 615 (municipal employment mediation); S.B. 616 (motions to vacate, modify or correct an award); H.B. 5656 (arbitration awards accrue 12% interest from award date); H.B. 5770 (school employment mediation); H.B. 5526 (correctional officers arbitration act); S.B. 289 (municipal employment arbitration); H.B. 5464 (firefighter employment arbitration); S.B. 207 (vacating arbitrator's award); H.B. 5253 (arbitrating auto accident claims); H.B. 5265 (vacating labor arbitration award); S.B. 131 (standards for labor arbitration); H.B. 5203 (last-best offer arbitration for school employees); S.B. 64 (correctional officers, arbitration); H.B. 6429 (visual aids in arbitration); H.B. 6552 (collective bargaining arbitration, correctional officers).

South Carolina

Bills Enacted – S.B. 204 (administrative law judges use state mediation rules).

Other Legislation – S.B. 90 (State Board of Education as mediator between district board and superintendent); H.B. 4291 (nursing disputes).

South Dakota

Bills Enacted – H.B. 1047 (health carries grievance system).

Other Legislation – None.

Tennessee

Bills Enacted – S.B. 195 (municipal utilities).

Other Legislation – S.B. 1836 (mediator standards to review rejected growth plans); H.B. 1830 (mediator standards to review rejected growth plans); S.B. 1522 (mediation of police collective bargaining disputes); S.B. 1244 (time limits for filing arbitration award); H.B. 693 (time limits for filing arbitration award); S.B. 356 (certain appeals under UAA are appeals as of right); S.B. 260 (binding arbitration of disputes over existing agreements by substituting the words "shall include" for the words "may include"); H.B. 210 (binding arbitration of disputes over existing agreements by substituting the words "shall include" for the words "may include").

Texas

Bills Enacted – H.B. 3168 (workers' compensation, medical disputes); H.B. 884 (family law); S.B. 275 (economic development and tourism); H.B. 1189 (ADR in police departments); S.B. 905 (reimbursement for land removed from emergency service districts determined through ADR); H.B. 1398 (arbitrating seed performance disputes); H.B. 730 (residential construction); H.B. 145 (workers' compensation); H.B. 1538 (Funeral Service Commission); S.B. 1070 (unemployment compensation); S.B. 1147 (extends sunset on State Officer of Administrative Hearings); H.C.R. 210 (long term care ombudsmen); H.C.R. 283 (fixes typo in HB 730).

Other Legislation – H.B. 3430 (enforcing arbitration agreements and awards); S.B. 1785 (construction contracts); H.B. 2920 (revises arbitration laws); H.B. 2369 (arbitration between rapid transit authority and employees); S.B. 997 (makes arbitration awards open records); S.B. 998 (registration of arbitrators); H.B. 538 (ADR funding); S.B. 986 (contract claims against the state); S.B. 1573 (workers' compensation medical disputes); S.B. 1692 (ADR in police departments); S.B. 1767 (workers' compensation medical disputes); S.B. 1779 (authorizes Public Utility Commission to resolve disputes); S.B. 383 (residential construction); S.B. 328 (requiring post-arbitration filing by arbitrator); S.B. 184 (funding ADR); H.B. 359 (restrictions on mandatory arbitration of employment disputes); H.B. 371 (restrictions on arbitration of employment disputes); H.B. 101 (mediation of unfair

competition claims in insurance industry); H.B. 4 (physician-patient arbitration agreements).

Utah

Bills Enacted – S.B. 187 (property law, eminent domain ADR); S.B. 138 (allows health care providers and patient to negotiate arbitration agreement in non-emergency situations).

Other Legislation – H.B. 357 (amends arbitration statute); H.B. 115 (construction contract claims).

Vermont

Bills Enacted – None.

Other Legislation – H.B. 226 (RUAA); S.B. 96 (RUAA); S.B. 227 (UMA); S.B. 97 (UMA); H.B. 398 (consumer arbitration, defective used cars); H.B. 264 (establishment of vessel arbitration board); H.B. 270 (medical malpractice); S.B. 156 (medical malpractice).

Virginia

Bills Enacted – H.B. 2721 (telecommunications services arbitration); H.B. 2544 (binding arbitration, home protection companies); S.B. 732 (partnerships and corporations).

Other Legislation – H.B. 1927 (mandatory mediation of medical malpractice claims); H.B. 1965 (limits state-funded mediation of child custody claims); H.B. 1966 (limits state-funded mediation of child custody claims).

Washington

Bills Enacted – None.

Other Legislation – S.B. 5086 (water-related appeals before the Pollution Control Hearings Board); S.B. 5664 (negotiation and mediation in collective bargaining); H.B. 1927 (mandatory mediation and arbitration of health care claims); S.B. 5808 (interest arbitration panel); S.B. 5754 (mandatory mediation of health care claims); H.B. 1649 (requires public agencies to submit interagency disputes to mediation, arbitration).

West Virginia

Bills Enacted – None.

Other Legislation – H.B. 2053 (RUAA); S.B. 138 (RUAA); H.B. 3112 (mandatory arbitration, police and fire departments); H.B. 3153 (medical malpractice arbitration); S.B. 409 (compromise and settlement of wrongful death actions).

Wisconsin

Bills Enacted – None.

Other Legislation – A.B. 82 (open end consumer credit arbitrations); A.B. 337 (authorizes binding arbitration under State Employment Labor Relations Act); A.B. 279 (family mediator, domestic violence training); S.B. 284 (employment displacement grievance under Wisconsin Works program); A.B. 617 (employment displacement grievance under Wisconsin Works program).

Wyoming

Bills Enacted – None.

Other Legislation – H.B. 305 (medical malpractice).

