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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by J. W. Wiley.

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## DIGEST

Allain (SB 423)

Present law provides a procedure and time delays for the litigation of judicial demands arising from or alleging environmental damage.

Proposed law provides that all litigation making a judicial demand arising from or alleging environmental damage must be referred to mediation pursuant to the provisions of proposed law.

Proposed law provides that the party filing the litigation or pleading must provide timely notice to the state of Louisiana through the DNR, commissioner of conservation and the attorney general. Further requires the party to file a notice of mediation and the time delays set forth in present law must be stayed for one year upon the filing of the notice of mediation or stayed until either party files a notice of completion of mediation, whichever occurs first.

Proposed law requires the mediation and arbitration to be administered by the American Arbitration Association and resolved in accordance with the Federal Arbitration Act, Title 9 of the United States Code, and, except as is otherwise specified in proposed law, the Commercial Arbitration Rules of the American Arbitration Association.

Proposed law requires the mediator to be chosen by the parties from a list of three nominees submitted by the executive director of the Louisiana Mineral Law Institute. Further requires the mediation to consist of a minimum of three meetings in the parish where the alleged environmental damage occurred.

Proposed law provides for the sole issues to be decided in the mediation.

Proposed law provides that if the parties cannot agree upon either of the issues, then a party may file a notice of completion of mediation and upon such filing the time delays in present law shall apply.

Proposed law provides that if the parties can agree upon the issues and a plan is developed, then the parties will file a notice of arbitration.

Proposed law provides that the results of the mediation, any plan developed, any testing performed, and any settlement offers tendered during the mediation will be treated as settlement negotiations for the purposes of admissibility in a court of law.

Proposed law provides that the sole issue to be decided in any arbitration is the private claims suffered as a result of environmental damage.

Proposed law requires the chief arbitrator to provide a written request to all the parties for the submission of a detailed statement of fact or law in support of their positions and such other documents as the parties deem necessary, which are to be provided to each member of the panel and to the other party within 30 days of the date of the request.

Proposed law requires the chief arbitrator to designate a time and place for a hearing, unless a hearing is specifically waived in writing by both parties and requires the hearing to take place in the parish where the alleged environmental damage occurred.

Proposed law provides that after due consideration of the statements and documents provided to the panel, and any additional submissions required by the panel, and argument and evidence submitted at the hearing, the panel will issue a written decision.

Effective August 1, 2014.

(Adds R.S. 30:29.2)