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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by McHenry Lee.

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SB 79 Engrossed

DIGEST  
2015 Regular Session

Allain

Present law provides that immediately upon the filing or amendment of any litigation or pleading making a judicial demand arising from or alleging environmental damage, the party filing same shall provide timely notice to the commissioner of conservation and the attorney general. The litigation will be stayed with respect to any such judicial demand until 30 days after such notice is issued and return receipt is filed with the court.

Proposed law provides that within 60 days after the end of stay required in present law, the parties must meet and confer to assess the dispute, narrow the issues, and reach agreements useful or convenient for the litigation of the action.

Proposed law provides that on any party's motion filed subsequent to the close of all discovery or 550 days after commencement of the action, whichever occurs first, the court will enter an order compelling the parties to enter a nonbinding mediation. Further provides that the motion will be served to all parties and a contradictory motion is not required.

Proposed law provides that no later than 180 days before a trial begins in any action to which proposed law applies, the parties will certify to the court that a mediation has been held or that the parties have agreed to mediate on a specific date prior to trial. Further provides that if the parties do not certify that a mediation has occurred, and no party has filed a motion to compel mediation, then at any time within 180 days prior to the beginning of trial of the action, the court can order the parties to participate in nonbinding mediation prior to the beginning of the trial.

Proposed law requires that if the court enters an order compelling mediation, the clerk of court will mail or deliver a copy of the order to all parties.

Proposed law provides that if the court has entered an order compelling mediation and the parties cannot agree within 15 days after notice of the order to such matters as date, time, and place of mediation, the identity of the mediator, provisions for compensation of the mediator, or any other details regarding the conduct of the mediation, the parties must so notify the court and, after contradictory hearing, the court may issue orders reasonably necessary to determine such matters and any other matters necessary or convenient to provide for the conduct of the mediation.

Proposed law provides that responsibility for the mediator's fees and any expenses associated with mediation will be based on the agreement of the parties. Further provides that in the absence of agreement, each party will be responsible for payment of an equal share of those fees and expenses, unless the court, for good cause shown after contradictory hearing, orders another division of the fees and expenses.

Proposed law provides that a representative of each party who has settlement authority or who is in direct contact with a person having settlement authority on behalf of the party must be present at the mediation. If a party fails to comply with this requirement, the court may, in its discretion and after contradictory hearing, order that party to pay costs and attorneys fees association with the mediation.

Effective August 1, 2015.

(Adds R.S. 30:29.2)