

DIGEST

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SB 79 Engrossed

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 shall 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 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, except for responsibility for payment of the mediator's fees and expenses.

Proposed law provides that the mediator shall be an attorney or a retired judge pursuant to the qualifications provided in present law (R.S. 9:4106(A)(1)(a) or (2)).

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, the party moving for mediation will be responsible for payment of those 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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the engrossed bill:

1. Delete provisions requiring certification to the court 180 days before a trial begins that a mediation has been held or that the parties have agreed to mediate on a specific date.

2. Add requirement that the mediator shall be an attorney or a retired judge.
3. Remove the authority of the court to establish responsibility for payment of the mediator's fees and expenses.
4. Provide that the party moving for the mediation shall be responsible for payment of the mediator's fees and expenses except as otherwise agreed by the parties.