

# PUBLICATION

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## Senator Allain Proposes Mandatory Mediation in Legacy Lawsuits

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Legacy litigation refers to hundreds of lawsuits in Louisiana seeking damages allegedly related to environmental harm caused by oil and gas exploration and production activities. These lawsuits have been likened to winning the "landowner lottery," as many landowner plaintiffs seek to recover damages vastly in excess of the value of their property. The Louisiana Legislature has struggled to bring meaningful reform that ensures property is remediated without providing windfall awards to property owners that will not be used to remediate property and that contribute to the negative impressions many have about Louisiana's business climate. The Legislative efforts at reform continue, though. Senator Allain has recently introduced Senate Bill No. 79 of the 2015 Regular Session.

SB No. 79 provides for alternative dispute resolution procedures in legacy lawsuits, mandating that, upon motion of any party, litigants participate in nonbinding mediation within the first 550 days after commencement of litigation. Under the proposed legislation, if no motion is filed, the court may order mediation at any time within 180 days prior to trial.

This legislation, if passed, certainly will not change the legacy lawsuit landscape, but it does bring further attention to it. The landowners' bar has been very active in lobbying against reforms to laws addressing legacy lawsuits. Presumably, though, most landowners and E&P companies will not have a problem with mandatory mediation. Time will tell.