

HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Civil Law and Procedure to Original House Bill No. 854 by Representative Garofalo

1 AMENDMENT NO. 1

2 On page 1, lines 2 and 3, change "R.S. 30:29(C)(1)" to "Code of Civil Procedure Article
3 1563(A)(2) and to enact R.S. 30:29(C)(2)(c)"

4 AMENDMENT NO. 2

5 On page 1, line 3, after "for" delete the remainder of the line and insert "a presumption and
6 jury charges in certain circumstances;"

7 AMENDMENT NO. 3

8 On page 1, at the beginning of line 4, delete "parties;"

9 AMENDMENT NO. 4

10 On page 1, line 7, change "R.S. 30:29(C)(1) is hereby amended and reenacted" to "Code of
11 Civil Procedure Article 1563(A)(2) is hereby amended and reenacted and R.S.
12 30:29(C)(2)(c) is hereby enacted"

13 AMENDMENT NO. 5

14 On page 1, delete lines 10 through 20 in their entirety and insert the following:

15 "C.
16 * * *
17 (2)
18 * * *

19 (c)(i) Within the time limits set forth in Code of Civil Procedure Article
20 1563(A)(4), any party may request that the court refer the matter to the department
21 to conduct a public hearing to approve or structure a plan which the department
22 determines to be the most feasible plan to evaluate or remediate the environmental
23 damage under the applicable regulatory standards pursuant to the provisions of this
24 Section. The court shall thereafter order that the plan be developed and submitted
25 to the department pursuant to the time limits set forth in this Subsection, which shall
26 govern the parties' submission of any plan, comment, or input in response to the
27 plan, the public hearing, agency review, and approval of the plan by the department.

28 (ii) The plan approved by the department, and all written comments provided
29 by the agencies pursuant to Subparagraph (3)(b) of this Subsection shall be
30 admissible subject to the Code of Evidence Articles 702 through 705 and Code of
31 Civil Procedure Article 1425 as evidence in any action. There shall be a rebuttable
32 presumption that the plan approved or structured by the department shall be the most
33 feasible plan to evaluate or remediate to applicable regulatory standards the
34 environmental damage. For cases tried by a jury, the court shall instruct the jury
35 regarding the presumption if so requested by a party. The court shall not proceed to
36 a trial on the merits until the department has filed with the court the approved
37 feasible plan for the evaluation or remediation of the environmental damage.

38 (iii) The party requesting the referral to the department to conduct a public
39 hearing to approve or structure a plan shall be required to deposit with the
40 department sufficient funds to cover the cost of the department's review of the plans
41 or submittals under this Section, including the cost of holding a public hearing to
42 approve or structure the feasible plan. The initial payment of these costs shall be in

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 an amount of one hundred thousand dollars. The initial payment shall be deposited
2 prior to or along with the submission of the plan by the party requesting the referral.
3 The party requesting the referral shall be entitled to reimbursement of any portion
4 of the deposit that is unused by the department.

5 (iv) When a public hearing is held following a request pursuant to Item (i)
6 of this Subparagraph, the department shall not conduct an additional public hearing
7 for the same environmental damage.

8 (v) The referral to the department to approve or structure a plan pursuant to
9 Item (i) of this Subparagraph shall not apply to claims of environmental damage
10 brought by the state or a local governmental entity unless a party makes a limited
11 admission of liability for environmental damage under Code of Civil Procedure
12 Article 1563, or there has been a determination by the trier of fact that environmental
13 damage exists and a determination that the party or parties who caused the damage
14 or who are otherwise legally responsible for the damage.

15 * * *

16 Section 2. Code of Civil Procedure Article 1563(A)(2) is hereby amended and
17 reenacted to read as follows:

18 Art. 1563. Limited admission of liability in environmental damage lawsuits; effect

19 A.

20 * * *

21 (2)(a) Upon the expiration of the delay in which a party may file a limited
22 admission under ~~Paragraph (A)(5) of this Article~~ Subparagraph (5) of this Paragraph,
23 and if one or more of the defendants have made a timely limited admission, the court
24 shall refer the matter to the Department of Natural Resources, office of conservation,
25 hereinafter referred to as the "department", to conduct a public hearing to approve
26 or structure a plan which the department determines to be the most feasible plan to
27 evaluate or remediate the environmental damage under the applicable regulatory
28 standards pursuant to the provisions of R.S. 30:29.

29 (b) The court shall not proceed to a trial on the merits until the department
30 has filed with the court the approved feasible plan for the evaluation or remediation
31 of the environmental damage.

32 * * *

33 AMENDMENT NO. 6

34 On page 2, delete lines 1 through 14 in their entirety