
HOUSE COMMITTEE AMENDMENTS

2025 Regular Session

Substitute for Original House Bill No. 602 by Representative Jacob Landry as proposed by the House Committee on Natural Resources and Environment

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact R.S. 30:29(A), (B)(1), (C)(1) and (3)(a) and (5) and (6)(b) and (c), (D)(1) through (3), (E)(1), (F), (H)(1), (I)(2) and (4), and (M)(1)(introductory paragraph) and (c), to enact R.S. 30:29(C)(6)(d), and to repeal R.S. 30:29(M)(1)(d), relative to the evaluation and remediation of oilfield sites; to provide for the most feasible plan to be utilized in evaluation and remediation procedures; to provide a date by which a most feasible plan must be adopted; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:29(A), (B)(1), (C)(1) and (3)(a) and (5) and (6)(b) and (c), (D)(1) through (3), (E)(1), (F), (H)(1), (I)(2) and (4), and (M)(1)(introductory paragraph) and (c) are hereby amended and reenacted, R.S. 30:29(C)(6)(d) is hereby enacted, and R.S. 30:29(M)(1)(d) is hereby repealed to read as follows:

§29. Remediation of oilfield sites and exploration and production sites

A. The legislature hereby finds and declares that Article IX, Section 1 of the Constitution of Louisiana mandates that the natural resources and the environment of the state, including ground water, are to be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people and further mandates that the legislature enact laws to implement this policy. It is the duty of the legislature to set forth procedures to ensure that damage to the environment is evaluated and if necessary remediated to a standard that protects the public interest. To this end, this Section provides the procedure for judicial resolution of claims for environmental damage to property arising from activities subject to the jurisdiction of the Department of Energy and Natural Resources, office of conservation. The provisions of this Section shall be implemented upon receipt

of timely notice as required by Paragraph (B)(1) of this Section. The provisions of this Section shall not be construed to impede or limit provisions under private contracts imposing remediation obligations in excess of the requirements of the department or limit the right of a party to a private contract to enforce any contract provision in a court of proper jurisdiction.

B.(1) Notwithstanding any law to the contrary, immediately upon the filing or amendment of any litigation or pleading making a judicial demand arising from or alleging environmental damage, including actions based in whole or in part on R.S. 30:16 or R.S. 30:26, the provisions of this Section shall apply, and the party filing same shall provide timely notice to the state of Louisiana through the Department of Energy and Natural Resources, commissioner of conservation and the attorney general. The litigation shall be stayed with respect to any judicial demand until thirty days after notice is issued and return receipt is filed with the court.

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C.(1) If at any time ~~during the proceeding~~ a party admits liability for environmental damage or the finder of fact determines that environmental damage exists and determines the party or parties who caused the damage or who are otherwise legally responsible therefor, the court shall order the party or parties who admit responsibility or whom the court finds legally responsible for the damage to develop a plan or submittal for the evaluation or remediation to applicable regulatory standards of the contamination that resulted in the environmental damage. The court shall order that the plan be developed and submitted to the department ~~and the court~~ within a time that ~~the court department determines is reasonable and shall allow~~ ninety days from the first date a party admits responsibility or ninety days of the date the court finds a party legally responsible, whichever occurs later. ~~the~~ The plaintiff or any other party ~~at least~~ shall have thirty days from the date each plan or submittal was ~~made~~ submitted to the department ~~and the court~~ to review the plan or submittal and to provide to the department and the court a with an alternate plan, comment or with comments, or input in response ~~thereto~~ to the plan or plans submitted. The court may extend the time for filing any plan or comments for good cause shown.

The department shall consider any plan, comment, or response provided timely by any party. The department shall submit to the court a schedule of estimated costs for review of the plans or submittals of the parties by the department and ~~the court~~ shall require the party admitting responsibility or the party found legally responsible by the court to deposit in the registry of the court sufficient funds to pay the cost of the department's review of the plans or submittals. Any plan or submittal shall include an estimation of cost to implement the plan.

* * *

(3)(a) The department shall use and apply ~~the~~ applicable regulatory standards including but not limited to the Risk Evaluation and Corrective Action Program (RECAP) and may use other exceptions to LAC 43:XIX.1 et seq., otherwise identified as Statewide Order No. 29-B, in approving or structuring a plan that the department determines to be the most feasible plan to evaluate or remediate the environmental damage. In any action governed by the provisions of this Section, the department shall not require landowner consent to apply exceptions, including RECAP, to the application of Statewide Order No. 29-B.

* * *

(5) The court shall adopt the plan approved by the department as the most feasible plan, unless a party proves by ~~a preponderance of the~~ clear and convincing evidence that ~~another~~ the plan approved by the department is arbitrary and capricious and another plan that was timely provided to the department pursuant to Subsection C of this Section is a more feasible plan to adequately protect the environment and the public health, safety, and welfare. The court shall enter a judgment adopting a the most feasible plan with written reasons assigned. Upon adoption of a plan, the court shall order the party or parties admitting responsibility or the party or parties found legally responsible by the court to fund the implementation of the plan. The trial on the merits shall be stayed from the filing of a limited admission until the court adopts the most feasible plan.

(6)

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(b) Any appeal ~~under this Section~~ of a judgment adopting the most feasible plan shall be taken to the Court of Appeals for the First Circuit. The appeal of a judgment adopting the most feasible plan ~~a de novo review~~ and shall be heard with preference and on an expedited basis.

(c) The appellate court may affirm the trial court's adoption of ~~a~~ the most feasible plan or may adopt a most feasible plan in conformity with this Section and shall issue written reasons for its decision.

(d) In the absence of an express contractual provision providing for remediation to original condition or some other specific remediation standard, a party's legal responsibility is satisfied by meeting the standards set forth in applicable regulatory standards.

D.(1) Whether or not the department or the attorney general intervenes, and except as provided in Subsection H of this Section, all damages or payments in any civil action, including interest thereon, awarded for the evaluation or remediation of environmental damage shall be paid exclusively into the registry of the court in an interest-bearing account with the interest accruing to the account for ~~clean up~~ evaluation or remediation.

(2) The court may allow any funds to be paid into the registry of the court to be paid in increments as necessary to fund the evaluation or remediation and implementation of ~~any~~ the most feasible plan or submittal adopted by the court under Paragraph (C)(5) of this Section. In any instance in which the court allows the funds to be paid in increments, whether or not an appeal is taken, the court shall require the posting of a bond for the implementation of the most feasible plan in such amount as provided by and in accordance with the procedures set forth for the posting of suspensive appeal bonds. Any such bond shall be valid through completion of the remediation. In lieu of paying funds into the registry of the court, the responsible party may at its option pay directly the cost of implementing the most feasible plan and post bond in an amount equal to the total cost of the most feasible plan as provided by and in accordance with the procedures set forth for the posting of suspensive appeal bonds. If a responsible party directly pays the cost of

implementing the most feasible plan, then the responsible party shall provide to the district court a summary of costs paid each quarter until the earlier of when the most feasible plan is fully implemented or the district court orders that no further summaries are required.

(3) The court shall issue such orders as may be necessary to ensure that any such funds are actually expended in a manner consistent with the adopted and most feasible plan for the evaluation or remediation of the environmental damage for which the award or payment is made.

* * *

E.(1) In any civil action in which a party is responsible for ~~damages or payments for the evaluation or remediation of~~ environmental damage, a party providing evidence, in whole or in part, upon which the judgment is based shall be entitled to recover from the party or parties ~~admitting responsibility or the party or parties~~ found legally responsible by the court, ~~in addition to any other amounts to which the party may be entitled,~~ all costs attributable to producing that portion of the evidence that directly relates to the establishment of environmental damage, including, but not limited to, expert witness fees, environmental evaluation, investigation, and testing, the cost of developing a plan of evaluation or remediation, and reasonable attorney fees incurred in the trial court and the department. Upon adoption of the most feasible plan by the trial court, a party admitting responsibility or a party found to be legally responsible for environmental damage shall not be responsible for any further attorney fees or costs including but not limited to expert witness fees, environmental evaluation, monitoring, investigation, and testing. Upon a finding by the court that a defendant did not cause or is otherwise not legally responsible for the alleged environmental damage, that defendant shall be entitled to recover from the plaintiff reasonable attorney fees and all costs including expert witness fees, environmental evaluation, monitoring, investigation, and testing if that defendant is found at trial not to have caused or is otherwise not legally responsible for the alleged environmental damage.

* * *

F. The court and the department shall retain oversight to ensure compliance with the plan. The party or parties admitting responsibility or the party or parties found legally responsible ~~by the court~~ shall file progress reports periodically as the court or the department may require.

* * *

H.(1) This Section shall not preclude an owner of land from pursuing a judicial remedy or receiving a judicial award for private claims suffered as a result of environmental damage, except as otherwise provided in this Section. Any award granted in connection with the judgment for additional remediation ~~in excess of the requirements of the feasible plan adopted by the court~~ required by an express provision for remediation to original condition or to some other specific remediation standard is not required to be paid into the registry of the court. Any award granted in connection with the judgment for damages awarded to fund the most feasible plan shall be paid into the registry of the court.

* * *

I. For the purposes of this Section, the following terms shall have the following meanings:

* * *

(2) "Environmental damage" shall mean any actual or potential impact, damage, or injury to environmental media caused by actual or potential contamination resulting from activities associated with oilfield sites or exploration and production sites. Environmental media shall ~~include but not be limited to~~ mean soil, surface water, ground water, or sediment.

* * *

(4) ~~"Feasible Plan~~ Most feasible plan" means the most reasonable plan which addresses environmental damage in conformity with the requirements of Article IX, Section 1 of the Constitution of Louisiana to protect the environment, public health, safety and welfare, and is in compliance with the specific relevant and applicable standards and regulations promulgated by a state agency in accordance with the Administrative Procedure Act in effect at the time ~~of clean up~~ the most feasible plan

to evaluate or if necessary remediate contamination environmental damage resulting from oilfield or exploration and production operations or waste.

* * *

M.(1) In an action governed by the provisions of this Section, and notwithstanding any provision contained in this Section to the contrary, damages, including without limitation, remediation and nonremediation damages, may be awarded only for the following:

* * *

~~(c) The cost of evaluating, correcting or repairing environmental damage upon a showing that such damage was caused by unreasonable or excessive operations based on rules, regulations, lease terms and implied lease obligations arising by operation of law, or standards applicable at the time of the activity complained of, provided that such damage is not duplicative of damages awarded under Subparagraph (a) or (b) of this Paragraph.~~ Economic loss damages may be recovered if proven by clear and convincing evidence. All other nonremediation damages shall be limited to the fair market value of the property impacted by environmental damage. The fair market value of the property at issue is based on the value of the property as if it had no environmental damage.

~~(d) The cost of nonremediation damages.~~

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Section 2. The provisions of this Act shall apply to any case in which the court has not approved a plan as the most feasible plan on or before January 1, 2026.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB Draft 2025 Regular Session

Abstract: Provides for the most feasible plan to be utilized in evaluation and remediation procedures and provides a date by which a most feasible plan must be adopted for oilfield sites.

Present law provides the procedure for judicial resolution of claims for remediation due to environmental damage to property arising from exploration and production activities at oilfield sites.

Proposed law adds a provision to evaluate environmental damage and remediate if necessary.

Present law provides for the application of present law to those filing judicial claims related to environmental damage to property.

Proposed law adds that present law is applicable to claims filed under present law (R.S. 30:16 and R.S. 30:26).

Present law provides that when a party admits to or is found to be legally responsible for environmental damage the court will require that a plan be developed for evaluation and remediation of environmental damage and submitted to the department.

Proposed law adds that the plan must be submitted to the department within 90 days of the admission or determination, whichever is later.

Present law provides for a plaintiff or other party has 30 days from the submission of the plan to review the plan and provide the court with comments.

Proposed law adds that the plaintiff or party may provide an alternate plan in addition to comments and that the court may extend the time for filing a plan or comments for good cause shown.

Present law requires the department to use and apply regulatory standards in approving the most feasible plan to evaluate or remediate environmental damage.

Proposed law specifies that the Risk Evaluation and Corrective Action Program be included in the applicable regulatory standards and the landowner consent is not required to apply exceptions of present law (LAC 43:XIX.1 et seq.), which is also referred to as Statewide Order No. 29-B, when the department determines the most feasible plan to evaluate or remediate environmental damage.

Present law requires the court to adopt the plan designated by the department as the most feasible plan unless a party proves by the preponderance of the evidence that another plan is a more feasible plan.

Proposed law changes the standard from a preponderance to clear and convincing for proof of the most feasible plan and specifies that evidence must show the plan is arbitrary and capricious and another plan that was timely provided to the department is a more feasible plan.

Proposed law provides that a trial must be stayed from the time of filing of a limited admission until the court adopts the most feasible plan.

Present law provides that any appeal under present law must be a de novo review and heard with preference on an expedited basis.

Proposed law changes provisions for an appeal to provide for an appeal of a judgment adopting the most feasible plan to be taken to the Court of Appeals for the First Circuit.

Proposed law provides that unless there is an explicit remediation standard expressly provided by contract, a party's legal responsibility is satisfied by meeting applicable regulatory standards.

Present law provides for the court to allow funds to be paid into the court registry to fund the evaluation or remediation and implementation of any plan or submittal adopted by the court.

Proposed law changes any plan or submittal under present law to the most feasible plan adopted by the court.

Proposed law allows for funds to be paid directly to the cost of implementing the most feasible plan rather than posting the funds into the court registry provided that a bond is posted according to the requirements of an appeal bond and if the funds are paid directly to the remediation costs that a summary of costs is provided to the court quarterly until the plan is completed or the court orders otherwise.

Present law provides in any civil action in which a party is responsible for damages or payments for the evaluation or remediation of environmental damage, a party providing evidence on which the judgment is based is entitled to recover from the parties admitting responsibility or found legally responsible by the court all costs incurred in producing the evidence that directly relates to the establishment of environmental damage in addition to any other amounts to which the party is entitled.

Proposed law removes the responsibility for damages or payments for the evaluation or remediation of environmental damages and only includes the party responsible for environmental damage as found by the court and not for the party's admission of responsibility.

Proposed law also removes the provision of present law for any other amounts to which the party may be entitled.

Proposed law provides that if a party admits responsibility or is found to be legally responsible by the court, no further fees must be paid once the most feasible plan is adopted by the court.

Proposed law further provides that a defendant can recover from the plaintiff reasonable attorney fees and costs if the defendant is found to be not legally responsible for the alleged environmental damage.

Present law provides that the court and department retain oversight to ensure compliance with the plan and for the party admitting responsibility or found legally responsible by the court to file progress reports periodically as the court or department requires.

Proposed law retains the provisions of present law but removes the provision for the party to be found legally responsible by the court.

Present law provides that a property owner is not precluded from pursuing a private claim or judicial remedy for environmental damage except provided by present law and awards granted for additional remediation in excess of those provided by the court are not required to be deposited into the court's registry.

Proposed law provides that additional remediation only be allowed if provided by an express provision for nonremediation damages and requires that any award granted in connection with the judgment for damages awarded to fund the most feasible plan to be paid into the registry of the court.

Present law defines "contamination", "environmental damage", "evaluation or remediation", "feasible plan", "oilfield site", and "timely notice".

Proposed law changes the definition for "environmental damage" to include actual or potential contamination resulting from oilfield activities as well as narrowing the meaning of environmental media to only include soil, surface water, ground water, or sediment.

Proposed law changes the definition provided for "feasible plan" to "most feasible plan" and specifies that the regulations and laws that apply to remediation include an evaluation and only remediate if necessary and change the application from "contamination" to "environmental damage".

Present law provides that damages in actions governed by the provisions of present law are limited to:

- (1) The cost of funding the feasible plan adopted by the court.
- (2) The cost of additional remediation only if required by an express contractual provision providing for remediation to original condition or to some other specific remediation standard.
- (3) The cost of evaluating, correcting or repairing environmental damage upon a showing that such damage was caused by unreasonable or excessive operations based on rules, regulations, lease terms and implied lease obligations arising by operation of law, or standards applicable at the time of the activity complained of, provided that such damage is not duplicative of damages awarded under present law.
- (4) The cost of nonremediation damages.

Proposed law retains the first two provision of present law and narrows the second two provisions to include economic loss damages if proven by clear and convincing evidence and other nonremediation damages to the fair market value of the property impacted by environmental damage.

Proposed law specifies that fair market value of the property is based on the value of the property as if it had no environmental damage.

(Amends R.S. 30:29(A), (B)(1), (C)(1) and (3)(a) and (5) and (6)(b) and (c), (D)(1) through (3), (E)(1), (F), (H)(1), (I)(2) and (4), and (M)(1)(intro. para.) and (c); Adds R.S. 30:29(C)(6)(d); Repeals R.S. 30:29(M)(1)(d))