
DIGEST

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HB 694 Engrossed

2025 Regular Session

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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))