

Regular Session, 2012

HOUSE BILL NO. 618

BY REPRESENTATIVE ABRAMSON

CIVIL/PROCEDURE: Provides relative to admissions of liability for environmental damage

1 AN ACT

2 To enact Code of Civil Procedure Article 1563, relative to liability for environmental
3 damage; to provide for limitations on the effect of an admission of liability; to
4 provide for admissibility of evidence; to provide for referral to the Department of
5 Natural Resources; to provide for admissibility of admission of responsibility; to
6 provide for funding of the department's review; to provide for reimbursement to
7 plaintiff; to provide for primary jurisdiction; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Civil Procedure Article 1563 is hereby enacted to read as follows:

10 Art. 1563. Admissions of liability for environmental damage

11 A. If any party admits liability for environmental damage pursuant to R.S.
12 30:29, the party may elect to limit the admission of liability for environmental
13 damage to responsibility for implementing the most feasible plan to evaluate, and if
14 necessary, remediate all or a portion of the contamination that is the subject of the
15 litigation to applicable regulatory standards. If such an admission is limited to a
16 party's responsibility for implementing the most feasible plan, the admission shall
17 not be construed as an admission of liability for damages pursuant to R.S. 30:29(H),
18 nor shall such an admission result in any waiver of any rights or defenses of the
19 admitting party. Within thirty days of an admission of responsibility as to all or any
20 portion of the property, and whether by one or more of the defendants, the court shall
21 refer the matter to the Department of Natural Resources for the approval or structure

1 of a plan which the department determines to be the most feasible plan to evaluate
2 or remediate the environmental damage under the applicable regulatory standards.
3 An admission of responsibility, as provided for in this Article, for implementing the
4 most feasible plan and the plan approved by the department shall be admissible in
5 accordance with Articles 702 through 705 of the Code of Evidence and Article 1425
6 of the Code of Civil Procedure as evidence in any action. The party admitting
7 responsibility shall be required to deposit with the department sufficient funds to
8 cover the cost of the department's review of the plans or submittals including the cost
9 of holding a public hearing to approve or structure the feasible plan. The initial
10 payment of these costs shall be in the amount of one hundred thousand dollars. This
11 initial payment shall be deposited prior to or along with the submission of the plan
12 by the admitting party. Within thirty days of the department's filing of the plan, the
13 party admitting responsibility for implementing the most feasible plan shall
14 reimburse the plaintiff for those costs which the court determines to be recoverable
15 under R.S. 30:29(E)(1).
16 B. The provisions of this Article shall not establish primary jurisdiction with
17 the Department of Natural Resources.

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)]

Abramson

HB No. 618

Abstract: Provides for the limitation of the effect of an admission of liability in an oilfield remediation suit and provides that such admissions are admissible in evidence.

Proposed law provides that if any party admits liability for environmental damage in an action for remediation of an oilfield site, the party may elect to limit the admission of liability to responsibility for implementing the most feasible plan to evaluate, and if necessary, to remediate all or a portion of the contamination.

Proposed law provides that if an admission is limited to a party's responsibility for implementing the most feasible plan, the admission shall not be construed as an admission of liability for damages pursuant to present law nor shall such an admission result in any waiver of any rights or defenses of the admitting party.

Proposed law requires the court to refer a matter to DNR within 30 days of an admission of responsibility for a determination of the most feasible plan to evaluate or remediate environmental damage.

Proposed law provides that an admission of responsibility and the plan approved by the department shall be admissible as evidence in any action in accordance with present law C.E. Arts. 702 through 705 and C.C.P. Art. 1425.

Proposed law provides that a party admitting responsibility shall be required to deposit with the department funds to cover the cost of the department's review of the plan, including the cost of holding a public hearing.

Present law (R.S. 30:29.1(E)(1)) provides for the party submitting evidence to be reimbursed the costs associated with submission of the evidence.

Proposed law provides that a party admitting responsibility shall reimburse the plaintiff the costs which the court deems recoverable under present law within 30 days of the department's filing of the plan.

(Adds C.C.P. Art. 1563)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added provision requiring court to refer matters to DNR within 30 days of an admission of responsibility for a determination of the most feasible plan to evaluate or remediate environmental damage.
2. Made an admission of responsibility admissible as evidence in any action.
3. Required the party admitting responsibility to fund the department's review of the plan, including the cost of holding a public hearing.
4. Required a party admitting responsibility to reimburse the plaintiff those costs which the court determines are recoverable under R.S. 30:29(E)(1) within 30 days of the department filing the plan.

House Floor Amendments to the engrossed bill.

1. Added provision specifying that an admission of responsibility and the plan approved by the department shall be admissible in accordance with C.E. Arts. 702 through 705 and C.C.P. Art. 1425.