

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 618 by Representative Abramson

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

Synopsis of Senate Amendments

1. Deletes proposed law provisions.
2. Provides for the development of an environmental management order to include terms for access to the property impacted by environmental damage, investigation and environmental testing, sampling and testing protocols, and time frames for testing and sampling.
3. Provides for a limited admission of liability for environmental damage, the procedures following the filing of a limited admission, and the deposit of funds with the Department of Natural Resources to cover the costs of reviewing plans for remediation.
4. Provides that the primary jurisdiction shall not be established with the Department of Natural Resources.
5. Provides that proposed law shall not apply to any case in which the court on or before May 15, 2012, has issued or signed an order setting the case for trial.

Digest of Bill as Finally Passed by Senate

Proposed law provides for the development of an environmental management order in civil actions alleging environmental damage. The order shall provide terms for access to the affected property, investigation and environmental testing, sampling and testing protocols, and time frames for testing and sampling.

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 the matter to DNR to conduct a public hearing to approve a plan which DNR determines to be the most feasible plan to evaluate or remediate environmental damage.

Proposed law provides that an admission of responsibility, the plan approved by the department, and all written comments provided by the agencies 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 making a limited admission may file it into the court record no later than 90 days after the completion of the environmental testing set forth in the environmental management order and that any other party who makes a limited admission shall file it in to the court record within 60 days of the filing of the first limited admission, but no later than 90 days after the completion of the environmental testing set forth in the

environmental management order.

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.

Provides that proposed law shall not establish primary jurisdiction with DNR.

(Adds C.C.P. Art. 1552 and 1563)