

2025 Regular Session

HOUSE BILL NO. 602

BY REPRESENTATIVE JACOB LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MINERALS: Provides relative to remediation of oilfield and exploration and production sites

1 AN ACT

2 To amend and reenact R.S. 30:29(A), (B)(1), (C)(1), (3)(a) and (b)(ii), (5), and (6)(b) and
3 (c), (D)(2) and (3), (E)(1), (F), (H)(1), (I)(2) and (4), and (M)(1), relative to
4 remediation of oilfield sites; to provide for the most feasible plan to be utilized in
5 remediation procedures; provides for a peremptory period for remediation claims;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 30:29(A), (B)(1), (C)(1), (3)(a) and (b)(ii), (5), and (6)(b) and (c),
9 (D)(2) and (3), (E)(1), (F), (H)(1), (I)(2) and (4), and (M)(1) are hereby amended and
10 reenacted to read as follows:

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

12 A. The legislature hereby finds and declares that Article IX, Section 1 of the
13 Constitution of Louisiana mandates that the natural resources and the environment
14 of the state, including ground water, are to be protected, conserved, and replenished
15 insofar as possible and consistent with the health, safety, and welfare of the people
16 and further mandates that the legislature enact laws to implement this policy.
17 Further, Civil Code Article 450 provides that running waters, the waters and bottoms
18 of natural navigable water bodies, the territorial sea, and the seashore are public
19 things owned by the state or its political subdivisions in their capacity as public
20 persons, and R.S. 31:6 provides that ownership of land does not include ownership

1 of ground water unless reduced to possession. It is the duty of the legislature to set
2 forth procedures to ensure that damage to the environment is remediated to a
3 standard that protects the public interest. To this end, this Section provides the
4 procedure for judicial resolution of claims for environmental damage to property
5 arising from activities subject to the jurisdiction of the Department of Energy and
6 Natural Resources, office of conservation. The provisions of this Section shall be
7 implemented upon receipt of timely notice as required by Paragraph (B)(1) of this
8 Section. The provisions of this Section shall not be construed to impede or limit
9 provisions under private contracts imposing remediation obligations in excess of the
10 requirements of the department or limit the right of a party to a private contract to
11 enforce any contract provision in a court of proper jurisdiction.

12 B.(1) Notwithstanding any law to the contrary, the primary right of action
13 to bring claims alleging environmental damage to property arising from activities
14 subject to the jurisdiction of the Department of Energy and Natural Resources, office
15 of conservation, belongs to the Department of Energy and Natural Resources, office
16 of conservation; ~~immediately~~ Immediately upon the filing or amendment of any
17 litigation or pleading making a judicial demand arising from or alleging
18 environmental damage, including actions based in whole or in part on R.S. 30:16 or
19 R.S. 30:25, ~~the provisions of this Section shall apply,~~ and the party filing same shall
20 provide timely notice to the state of Louisiana through the Department of Energy and
21 Natural Resources, commissioner of conservation and the attorney general. The
22 litigation shall be stayed with respect to any judicial demand until thirty days after
23 ~~notice is issued and return receipt is filed with the court~~ the department files with the
24 court a notice of determination of plan as provided in this Section.

25 * * *

26 C.(1) If at any time ~~during the proceeding~~ a party admits liability for
27 environmental damage or the finder of fact determines that environmental damage
28 exists and determines the party or parties who caused the damage or who are
29 otherwise legally responsible therefor, the ~~court~~ department shall order the party or

1 parties who admit responsibility or whom the ~~court~~ department finds legally
2 responsible for the damage under applicable regulations to develop a plan or
3 submittal for the evaluation or remediation to applicable regulatory standards of the
4 contamination that resulted in the environmental damage. The ~~court~~ department
5 shall order that the plan be developed and submitted to the department ~~and the court~~
6 within a time that the ~~court~~ department determines is reasonable and shall allow the
7 plaintiff or any other party at least thirty days from the date each plan or submittal
8 was made to the department ~~and the court~~ to review the plan or submittal and provide
9 to the department ~~and the court~~ a plan, comment, or input in response thereto. The
10 department shall consider any plan, comment, or response provided timely by any
11 party. The department shall submit to the court a schedule of estimated costs for
12 review of the plans or submittals of the parties by the department ~~and the court~~ shall
13 require the party admitting responsibility or the party found legally responsible by
14 the ~~court~~ department to deposit in the registry of the court sufficient funds to pay the
15 cost of the department's review of the plans or submittals. Any plan or submittal
16 shall include an estimation of cost to implement the plan.

17 * * *

18 (3)(a) The department shall use and apply the applicable regulatory standards
19 and may apply the Risk Evaluation and Corrective Action Program (RECAP) as well
20 as any other applicable exceptions to Title 43 of Part XIX of Subpart 1 of the
21 Louisiana Administrative Code, otherwise identified as Statewide Order No. 29-B,
22 in approving or structuring a plan that the department determines to be the most
23 feasible plan to evaluate or remediate the environmental damage. In any action
24 governed by the provisions of this Section, the department shall not require
25 landowner consent to apply exceptions, including RECAP, to the application of
26 Statewide Order No. 29-B.

27 (b)

28 * * *

1 (ii) Within thirty days after the receipt of any agency's written comments, the
2 department shall file in the court record a notice of determination of plan together
3 with the final plan, with written reasons that the department determines to be the
4 most feasible plan to evaluate or remediate the environmental damage under
5 applicable regulatory standards, together with any comments submitted by an agency
6 under Item (i) of this Subparagraph. Based on the findings of the department, the
7 department may issue any compliance order it deems necessary to either the operator
8 of record or, where applicable, a party found responsible or admitting responsibility
9 for implementing the most feasible plan to evaluate or remediate the environmental
10 damage under applicable regulatory standards. If a compliance order is issued
11 against the responsible party who is not the current operator of record, the
12 responsible party shall give the current operator of record notice of the compliance
13 order within thirty days of the responsible party's receipt of the compliance order.

14 * * *

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

26 (6)

27 * * *

28 (b) Any appeal ~~under this Section~~ of a judgment adopting the most feasible
29 plan shall be taken to the Court of Appeals for the First Circuit. The appeal of a

1 judgment adopting the most feasible plan shall be ~~a de novo review and shall be~~
2 heard with preference and on an expedited basis.

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

6 D.

7 * * *

8 (2) The court may allow any funds to be paid into the registry of the court
9 to be paid in increments as necessary to fund the evaluation or remediation and
10 implementation of ~~any~~ the most feasible plan or submittal adopted by the court. In
11 any instance in which the court allows the funds to be paid in increments, whether
12 or not an appeal is taken, the court shall require the posting of a bond for the
13 implementation of the most feasible plan in such amount as provided by and in
14 accordance with the procedures set forth for the posting of suspensive appeal bonds.
15 Any such bond shall be valid through completion of the remediation. In lieu of
16 paying funds into the registry of the court, the responsible party may at its option pay
17 indirectly the cost of implementing the most feasible plan and post bond in an
18 amount equal to the total cost of the most feasible plan as provided by and in
19 accordance with the procedures set forth for the posting of suspensive appeal bonds.
20 If a responsible party directly pays the cost of implementing the most feasible plan,
21 then the responsible party shall provide to the district court a summary of costs paid
22 each quarter until the most feasible plan is fully implemented or until the district
23 court orders that no further summaries are required.

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

28 * * *

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

19 * * *

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

24 * * *

25 H.(1) This Section shall not preclude an owner of land from pursuing a
26 judicial remedy or receiving a judicial award for private claims suffered as a result
27 of environmental damage, except as otherwise provided in this Section. Any award
28 granted in connection with the judgment for additional remediation ~~in excess of the~~
29 ~~requirements of the feasible plan~~ required from an express provision for

1 nonremediation damages adopted by the court is not required to be paid into the
2 registry of the court. Any award granted in connection with the judgment for
3 damages awarded to fund the most feasible plan shall be paid into the registry of the
4 court.

5 * *

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

8 * *

(2) "Environmental damage" shall mean any actual ~~or potential impact,~~
damage, or injury to environmental media caused by 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.

14 * * *

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

23 * * *

24 M.(1) In an action governed by the provisions of this Section and
25 notwithstanding anything contained in this Section to the contrary, damages,
26 including without limitation, remediation, and non-remediation damages, shall not
27 exceed the market value of the affected property, shall not include damages arising
28 from activities conducted before the earlier of June 30, 1989 or more than thirty
29 years before the notice provided in Paragraph (B)(1) of this Section, shall not include

1 damages to surface waters that are public things or ground waters not yet reduced to
 2 possession, shall not include damage more than thirty-six inches below the land's
 3 surface, and may be awarded only for the following: cost of funding the most
 4 feasible plan adopted by the court, which funds shall be used only for the
 5 implementation of the most feasible plan.

6 (a) ~~The cost of funding the feasible plan adopted by the court.~~

7 (b) ~~The cost of additional remediation only if required by an express~~
 8 ~~contractual provision providing for remediation to original condition or to some~~
 9 ~~other specific remediation standard.~~

10 (c) ~~The cost of evaluating, correcting or repairing environmental damage~~
 11 ~~upon a showing that such damage was caused by unreasonable or excessive~~
 12 ~~operations based on rules, regulations, lease terms and implied lease obligations~~
 13 ~~arising by operation of law, or standards applicable at the time of the activity~~
 14 ~~complained of, provided that such damage is not duplicative of damages awarded~~
 15 ~~under Subparagraph (a) or (b) of this Paragraph.~~

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

17 * * *

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 602 Original

2025 Regular Session

Jacob Landry

Abstract: Provides for the most feasible plan to be utilized in oilfield site remediation claims and for the department to determine the most feasible plan for remediation.

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 retains present law but clarifies to what property under present law the remediation due to environmental damage to property is applicable.

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. 30:25) and the primary right to bring claims for environmental damage to property belongs to the Dept. of Energy and Natural Resources, office of conservation.

Present law provides for a stay of litigation until 30 days after notice is issued and receipt of notice is filed with the court.

Proposed law provides the stay until 30 days after the department files with the court a notice of determination of plan as provided in proposed law.

Present law requires a plan be developed for evaluation and remediation of environmental damage proceedings and be submitted to the court to approve and provides the procedures for developing and submitting the plan.

Proposed law requires approval by the Dept. of Energy and Natural Resources for the plan instead of the court and retains the procedures for developing and submitting the plan.

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 (Title 43, Part XIX, Subpart 1 of the Administrative Code), 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 department to file with the court a final plan with written reasons the department determines it to be the most feasible plan to evaluate or remediate environmental damage within thirty days after receipt of any agency's written comments.

Proposed law retains the requirement for the department to file the final plan but adds a requirement that the department also file a notice of determination of plan together with the final plan.

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 and heard with preference on an expedited basis but removes the provision for a de novo review.

Present law allows the appellate court to affirm the trial court's adoption of a plan or to adopt a feasible plan in conformity with present law and requires the appellate court to issue written reasons for its decision.

Proposed law retains provisions of present law but allow the court to affirm the trial court's adoption of the most feasible plan or to adopt a most feasible plan in conformity with present law and retains the provision for the appellate court to issue written reasons for its decision.

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 requires the court to issue such orders as necessary to ensure the funds are spent in a manner consistent with the adopted plan for the evaluation and remediation of environmental damage.

Proposed law retains the provisions of present law but provides for the funds to be spent in a manner consistent with the adopted and final most feasible plan for the evaluation and remediation of environmental damage.

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 provides definitions for "contamination", "environmental damage", "evaluation or remediation", "feasible plan", "oilfield site", and "timely notice".

Proposed law changes the definition for "environmental damage" to remove the inclusion of potential impact to environmental media and only include actual damage or injury to environmental media 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 allowed under present law encompass the cost of the feasible plan adopted by the court, additional remediation if provided by contract, damages caused by unreasonable or excessive operations, and non-remediation damages and provides that present law must not be construed to alter the burden of proof or imply the existent or extent of damages nor affect attorney fees or costs.

Proposed law eliminates the provisions for damages under present law and limits damages, both remediation and nonremediation.

- (1) To the fair market value of the property.
- (2) Arising from activities conducted prior to the earlier of June 30, 1989 or more than 30 years before the notice required under present law.
- (3) To exclude damage to surface waters that are public things, ground waters not reduced to possession, and more than 36 inches below the land's surface.
- (4) Only for the cost of funding the most feasible plan adopted by the court with funds only used for implementing the most feasible plan.

(Amends R.S. 30:29(A), (B)(1), (C)(1), (3)(a) and (b)(ii), (5), and (6)(b) and (c), (D)(2) and (3), (E)(1), (F), (H)(1), (I)(2) and (4), and (M)(1))