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## DIGEST

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HB 602 Original

2025 Regular Session

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**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))