

Regular Session, 2012

HOUSE BILL NO. 642

BY REPRESENTATIVE MONTOUCET

MINERALS: Provides for the remediation of certain oil field sites

1 AN ACT

2 To amend and reenact R.S. 30:29(A), (C)(1), (2), (5), and (6), (D)(1), (E)(1), (H), (I), (J),  
3 and (K) and to enact R.S. 30:29(L) and (M), relative to the evaluation and  
4 remediation of oilfield sites and exploration and production sites; to provide relative  
5 to the remediation of oil and gas and other sites; to provide terms, conditions,  
6 procedures, requirements, definitions, and standards; to provide relative to duties and  
7 responsibilities of certain agencies; to provide relative to certain actions or claims  
8 involving environmental damage; to provide relative to parties, proceedings, orders,  
9 judgments, and awards by the court; to provide relative to remediation and cleanup  
10 arising from such actions or claims; to provide for findings; to provide for the  
11 development, submittal, and approval of plans; to provide for the admission of  
12 evidence; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 30:29(A), (C)(1), (2), (5), and (6), (D)(1), (E)(1), (H), (I), (J), and  
15 (K) are hereby amended and reenacted and R.S. 30:29(L) and (M) are hereby enacted to read  
16 as follows:

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

18 A. The legislature hereby finds and declares that Article IX, Section 1 of the  
19 Constitution of Louisiana mandates that the natural resources and the environment  
20 of the state, including ground water, are to be protected, conserved, and replenished

1           insofar as possible and consistent with the health, safety, and welfare of the people  
2           and further mandates that the legislature enact laws to implement this policy. It is  
3           the duty of the legislature to set forth procedures to ensure that damage to the  
4           environment is remediated to a standard that protects the public interest. To this end,  
5           this Section provides the procedure for judicial resolution of claims for  
6           environmental damage to property arising from activities subject to the jurisdiction  
7           of the Department of Natural Resources, office of conservation. The provisions of  
8           this Section shall be implemented upon receipt of timely notice as required by  
9           Paragraph (B)(1) of this Section. The provisions of this Section shall not be  
10          construed to impede or limit provisions ~~under~~ or obligations of private contracts  
11          imposing remediation obligations in excess of the requirements of the department or  
12          to impede or limit the right of a party to a private contract to enforce any ~~contract~~  
13          contractual provision or obligation in a court of proper jurisdiction.

\* \* \*

15           C.(1) ~~If at any time during the proceeding a party admits liability for~~  
16          ~~environmental damage or the finder of fact determines that environmental damage~~  
17          ~~exists and determines the party or parties who caused the damage or who are~~  
18          ~~otherwise legally responsible therefor, the court shall order the party or parties who~~  
19          ~~admit responsibility or whom the court finds legally responsible for the damage to~~  
20          ~~develop a plan or submittal prior to a trial on the merits, the liability of all defendants~~  
21          for environmental damage is established by admission, pretrial motion, or otherwise,  
22          the court shall order all defendants to develop plans or submittals for the evaluation  
23          or remediation to applicable standards of the contamination that resulted in the  
24          environmental damage. The court shall order that the ~~plan~~ plans or submittals be  
25          developed and submitted to the department and the court within a time that the court  
26          determines is reasonable and shall allow the plaintiff or any other party at least thirty  
27          days from the date each plan or submittal was made to the department and the court  
28          to review the plan or submittal and provide to the department and the court a plan,  
29          comment, or input in response thereto. The department shall consider any plan,

1 comment, or response provided timely by any party. The department shall submit  
 2 to the court a schedule of estimated costs for review of the plans or submittals of the  
 3 parties by the department and the court shall require the ~~party admitting~~  
 4 ~~responsibility or the party found legally responsible by the court~~ defendants to  
 5 deposit in the registry of the court sufficient funds to pay the cost of the department's  
 6 review of the plans or submittals. Any plan or submittal shall include an estimation  
 7 of cost to implement the plan.

8 (2) Within sixty days from the last day on which any party may provide the  
 9 department with a plan, comment, or response to a plan as provided in Paragraph  
 10 (C)(1) of this Section, the department shall ~~conduct a public hearing on the plan or~~  
 11 ~~plans submitted. Within sixty days of the conclusion of the hearing, the department~~  
 12 ~~shall approve or structure a plan based on the evidence submitted which the~~  
 13 ~~department determines to be the most feasible plan to evaluate or remediate the~~  
 14 ~~environmental damage and protect the health, safety, and welfare of the people~~  
 15 submit a plan to the court or adopt or comment on any plan or plans submitted by  
 16 any party or parties. The department shall issue written reasons for ~~the~~ any plan it  
 17 approves or structures. On motion of the department, for good cause shown, the  
 18 court may grant the department additional time, not to exceed sixty days, within  
 19 which to ~~either conduct the hearing or approve a plan with reasons~~ submit a plan to  
 20 the court or adopt or comment on any plan or plans submitted by any party or parties.

21 \* \* \*

22 (5) ~~The court shall adopt the plan approved by the department, unless a party~~  
 23 ~~proves by a preponderance of the evidence that another plan is a more~~ After  
 24 considering the plans, comments, or submittals of the parties and the department, the  
 25 court shall adopt or structure the most feasible plan to adequately protect the  
 26 environment and the public health, safety, and welfare. The court shall enter a  
 27 judgment adopting a plan with written reasons assigned. Upon adoption of a plan,  
 28 the court shall order the ~~party or parties admitting responsibility or the party or~~  
 29 ~~parties found legally responsible by the court to fund the implementation of the plan~~

1 defendants to fund the implementation of the most feasible plan, provided that such  
2 order by the court to fund the most feasible plan shall not be enforceable or  
3 considered an adjudication subject to appellate review until a final judgment is  
4 rendered and signed in the litigation. Prior to any appeal, any defendant or  
5 defendants, at their option, may implement any plan adopted by the court or  
6 approved or structured by the department. In any trial on the merits before a jury,  
7 the feasible plan approved by the court and evidence of its implementation by any  
8 party or contractor of any party shall not be allowed in evidence.

9 (6)(a) ~~Any judgment adopting a plan of evaluation or remediation pursuant~~  
10 ~~to this Section and ordering the party or parties admitting responsibility or the party~~  
11 ~~or parties found legally responsible by the court to deposit funds for the~~  
12 ~~implementation thereof into the registry of the court pursuant to this Section shall be~~  
13 ~~considered a final judgment pursuant to the Code of Civil Procedure Article 2081 et~~  
14 ~~seq., for purposes of appeal.~~ If the liability of all defendants is established by  
15 admission, pretrial motion, or otherwise, and a plan is approved by the department  
16 in accordance with the provisions of Subsection C of this Section, the plans or  
17 submittals of the department or any party shall be allowed in evidence at any trial on  
18 the merits. Any party may subpoena for purposes of deposition or trial any  
19 employee, official, representative, or contractor of the department directly involved  
20 in the review of any plans or comments of the parties, or in the formulation or  
21 structuring of any plans or comments of the department. The parties shall be  
22 permitted to conduct discovery concerning the department's review of the submittals  
23 or plans of the parties.

24 (b) ~~Any appeal under this Section shall be a de novo review and shall be~~  
25 ~~heard with preference and on an expedited basis.~~ If the liability of all defendants is  
26 not established by admission, pretrial motion, or otherwise prior to a trial on the  
27 merits, the court shall, after a trial on the merits, order the parties held liable for  
28 environmental damage at the trial on the merits to submit plans or comments to the  
29 department within a reasonable time. After submission of the plans or submittals

1        of the parties to the department, the department shall, within thirty days, submit a  
 2        plan to the court or adopt or comment on any plan or plans submitted by any party  
 3        or parties. Within thirty days of the submission of the department's plan or  
 4        comments to the court, the court shall adopt or structure the most feasible plan to  
 5        adequately protect the environment and the public health, safety, and welfare. The  
 6        feasible plan adopted by the court shall be incorporated into the final judgment of the  
 7        court. The final judgment of the court shall also order the defendants cast in  
 8        judgment to fund the most feasible plan adopted by the court. In any trial on the  
 9        merits before a jury held before the liability of all defendants for environmental  
 10       damage is established by admission, pretrial motion, or otherwise, the jury shall not  
 11       be informed or instructed as to any action, comment, or opinion of the court or the  
 12       department concerning any plan or comment submitted to the court or the  
 13       department.

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

17                D.(1) Whether or not the department or the attorney general intervenes, and  
 18        except as provided in ~~Subsection~~ Subsections H and K of this Section, all damages  
 19        or payments in any civil action, including interest thereon, awarded for the  
 20        evaluation or remediation of environmental damage shall be paid exclusively into the  
 21        registry of the court in an interest-bearing account with the interest accruing to the  
 22        account for clean up, provided that any party obligated to make a deposit under the  
 23        provisions of this Paragraph shall be given a credit for any expenses actually  
 24        incurred implementing a feasible plan approved by the court under the provisions of  
 25        R.S. 30:29(C)(5).

26                                \*        \*        \*

27                E.(1) In any civil action in which a party is responsible for damages or  
 28        payments for the evaluation or remediation of environmental damage, a party  
 29        providing evidence, in whole or in part, upon which the judgment is based shall be

1 entitled to recover from the party or parties admitting responsibility or the party or  
 2 parties found legally responsible by the court, in addition to any other amounts to  
 3 which the party may be entitled, all costs attributable to producing that portion of the  
 4 evidence that directly relates to the establishment of environmental damage and  
 5 liability therefor, including but not limited to expert witness fees, environmental  
 6 evaluation, investigation, and testing, the cost of developing a plan of remediation,  
 7 and reasonable attorney fees ~~incurred in the trial court and the department.~~

8 \* \* \*

9 H. This Section shall not preclude an owner of land from pursuing a judicial  
 10 remedy or receiving a judicial award for private claims suffered as a result of  
 11 environmental damage, except as otherwise provided in this Section. Nor shall it  
 12 preclude a judgment ordering damages for or implementation of additional  
 13 remediation in excess of the requirements of the plan adopted by the court pursuant  
 14 to this Section as may be required in accordance with the terms of an express  
 15 contractual provision, an implied contractual obligation, or any contractual  
 16 obligation imposed by operation of law by the provisions of the Civil Code or  
 17 Mineral Code. Any award granted in connection with the judgment for additional  
 18 remediation is not required to be paid into the registry of the court. This Section  
 19 shall not be interpreted to create any cause of action or to impose additional implied  
 20 obligations under the ~~mineral code~~ Mineral Code or arising out of a mineral lease.

21 I. Notwithstanding any provision of law to the contrary, the current owner  
 22 of any property shall have a right of action to assert claims for environmental  
 23 damage to the property that was caused or sustained prior to the current owner's  
 24 acquisition of the property; however, nothing in this Subsection shall deprive any  
 25 defendant of the right to assert a defense of prescription. For any express or implied  
 26 obligation that exists pursuant to a mineral lease, and that relates to environmental  
 27 damage to property, the surface owner of the property burdened by that mineral lease  
 28 has a right of action to enforce the obligation, regardless of whether that owner is a  
 29 party to that mineral lease. The existence of ongoing mineral operations on any

1 property subject to the provisions of this Section shall not cause any action covered  
2 by this Section to be dismissed or stayed on grounds of prematurity. Any civil action  
3 filed by a co-owner of undivided property covered by the provisions of this Section  
4 shall be deemed a necessary step for the preservation of the property under the  
5 provisions of Article 800 of the Civil Code. Prescription shall not begin to run for  
6 claims relating to environmental damage until the landowner obtains scientific  
7 evidence of impact to environmental media.

8 H.J. For the purposes of this Section, the following terms shall have the  
9 following meanings:

10 (1) "Environmental damage" shall mean any actual or potential impact,  
11 damage, or injury to environmental media caused by contamination resulting from  
12 activities associated with oilfield sites or exploration and production sites.  
13 Environmental media shall include but not be limited to soil, surface water, ground  
14 water, or sediment.

15 (2) "Evaluation or remediation" shall include but not be limited to  
16 investigation, testing, monitoring, containment, prevention, or abatement.

17 (3) "Feasible Plan" means the most reasonable plan which addresses  
18 environmental damage in conformity with the requirements of ~~Louisiana~~  
19 ~~Constitution~~ Article IX, Section 1 of the Constitution of Louisiana to protect the  
20 environment, public health, safety, and welfare, and is in compliance with the  
21 specific relevant and applicable standards and regulations promulgated by a state  
22 agency in accordance with the Administrative Procedure Act in effect at the time of  
23 clean up to remediate contamination resulting from oilfield or exploration and  
24 production operations or waste. The contractual or delictual obligations of the  
25 parties shall not be considered in determining a "feasible plan".

26 (4) "Oilfield site" or "exploration and production (E&P) site" means any  
27 location or any portion thereof on which oil or gas exploration, development, or  
28 production activities have occurred, including wells, equipment, tanks, flow lines,  
29 or impoundments used for the purposes of the drilling, workover, production,

1 primary separation, disposal, transportation or storage of E&P wastes, crude oil and  
2 natural gas processing, transportation or storage of a common production stream of  
3 crude oil, natural gas, coal seam natural gas, or geothermal energy prior to a custody  
4 transfer or a sales point. In general, this definition would apply to all exploration and  
5 production operations located on the same lease, unit, or field.

6 (5) "Timely notice" means written notice sent by certified mail, return  
7 receipt requested. Such notice shall include a copy of the petition and any other  
8 filing in such litigation.

9 K. The provisions of this Section shall not be construed to impede or limit  
10 provisions under private contracts imposing express remediation obligations, implied  
11 remediation obligations, or remediation obligations imposed by the Civil Code or  
12 Mineral Code that may exceed the requirements of the department or the feasible  
13 plan required by this Section.

14 ~~J.L.~~(1) In the event that any settlement is reached in a case subject to the  
15 provisions of this Section, the settlement shall be subject to approval by the court.  
16 The department and the attorney general shall be given notice once the parties have  
17 reached a settlement in principle. The department shall then have no less than thirty  
18 days to review that settlement and comment to the court before the court ~~certifies~~  
19 approves the settlement. ~~If after a contradictory hearing the court requires~~  
20 ~~remediation, the~~ The court shall not ~~certify or~~ approve any settlement ~~until an~~  
21 ~~amount of money sufficient to fund such remediation is deposited into the registry~~  
22 ~~of the court~~ unless the settling parties show that other non-settling parties in the  
23 litigation are potentially responsible for the environmental damage or one or more  
24 settling party has assumed responsibility for evaluation and remediation of the  
25 environmental damage. No funding of a settlement shall occur until the  
26 requirements of this Section have been satisfied. However, the court shall have the  
27 discretion to waive the requirements of this Section if the settlement reached is for  
28 a minimal amount and is not dispositive of the entire litigation.



1           (2) In the event a settlement is agreed to between the parties in a case in  
2           which the department or the attorney general has intervened, such agency shall be  
3           entitled to recover from the settling defendants all costs, including investigation,  
4           evaluation, and review costs; expert witness fees; and reasonable attorney fees.

5           ~~K.M.~~ The provisions of this Section shall not apply to a judicial demand that  
6           prior to the effective date of this Section has been resolved through compromise  
7           agreement and settlement of claims, or by judgment on the merits that has become  
8           final and definitive.

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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)]

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Montoucet

HB No. 642

**Abstract:** Provides for procedures in actions claiming environmental damage from certain oil and gas activity.

Present law provides legislative findings that the natural resources and the environment of the state, including ground water, are to be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people and further mandates that the legislature enact laws to implement this policy. Further provides that it is the duty of the legislature to set forth procedures to ensure that damage to the environment is remediated to a standard that protects the public interest.

Present law provides that present law provisions shall not be construed to impede or limit provisions under private contracts imposing remediation obligations in excess of the requirements of the department or limit the right of a party to a private contract to enforce any contract provision in a court of proper jurisdiction.

Proposed law provides that present law provisions shall not be construed to impede or limit provisions or obligations of private contracts imposing remediation obligations in excess of the requirements of the department or to impede or limit the right of a party to a private contract to enforce any contractual provision or obligation in a court of proper jurisdiction.

Present law provides that its provisions shall be the procedure for judicial resolution of claims for environmental damage to property arising from activities subject to the jurisdiction of the Dept. of Natural Resources, office of conservation.

Present law defines "environmental damage" as 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. Provides that environmental media shall include but not be limited to soil, surface water, ground water, or sediment.

Present law provides that if at any time during the proceeding a party admits liability for environmental damage or the finder of fact determines that environmental damage exists and determines the party or parties who caused the damage or who are otherwise legally responsible therefor, the court shall order the party or parties who admit responsibility or

whom the court finds legally responsible for the damage to develop a plan or submittal for the evaluation or remediation to applicable standards of the contamination that resulted in the environmental damage.

Proposed law narrows the time frame from any time during the proceeding to prior to a trial on the merits establishing the liability of all defendants.

Present law provides that the court shall order that the plan be developed and submitted to the department and the court within a time that the court determines is reasonable and shall allow the plaintiff or any other party at least 30 days from the date each plan or submittal was made to review the plan or submittal and provide to the department and the court a plan, comment, or input in response. Provides that the department shall consider any plan, comment, or response timely provided.

Present law provides that the department shall submit to the court a schedule of estimated costs for such review, and the court shall require the party admitting responsibility or the party found legally responsible by the court to deposit in the registry of the court sufficient funds to pay the cost of the department's review. Any plan or submittal shall include an estimation of cost to implement the plan. Proposed law provides that instead of the party admitting responsibility or found responsible depositing the cost of the plan in the court's registry, the defendants shall deposit the costs.

Present law provides that within 60 days from the last day on which any party may provide the department with a plan, comment, or input in response to a plan, the department shall conduct a public hearing on the plan or plans submitted. Within 60 days of the conclusion of the hearing, the department shall approve or structure a plan based on the evidence submitted which the department determines to be the most "feasible plan" to evaluate or remediate the environmental damage and protect the health, safety, and welfare of the people. The department shall issue written reasons for the plan it approves or structures. On motion of the department, for good cause shown, the court may grant the department additional time, not to exceed 60 days.

Proposed law removes the requirement of a public hearing before the department submits a plan to the court or adopts or comments on any plan.

Present law defines "feasible plan" as the most reasonable plan which addresses environmental damage in conformity with the requirements of Art. IX, §1 of the Const. of La. 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 APA in effect at the time of clean up to remediate contamination resulting from oilfield or exploration and production operations or waste. Proposed law adds to the definition that the contractual or delictual obligations of the parties shall not be considered in determining a feasible plan.

Present law requires the court to adopt the plan approved by the department, unless a party proves by a preponderance of the evidence that another plan is a more "feasible plan" to adequately protect the environment and the public health, safety, and welfare.

Proposed law retains present law except provides the court shall adopt or structure the most feasible plan after considering the plans, comments, or submittals of the parties and the department.

Present law provides that the court shall enter a judgment adopting a plan with written reasons assigned.

Present law provides that a judgment adopting a plan of evaluation or remediation and ordering the responsible party to deposit funds for implementation into the registry of the court is to be considered a final judgment for purposes of appeal. Requires an appeal of a

plan to the appellate court to be a "de novo" review and requires it to be heard with preference and on an expedited basis. Authorizes the appellate court to affirm or adopt a "feasible plan" in conformity with present law. Proposed law repeals present law.

Present law provides that upon adoption of a plan, the court shall order the party or parties admitting responsibility or the party or parties found legally responsible by the court to fund the implementation of the plan. Proposed law changes from the party admitting or found responsible to the defendants.

Proposed law provides that the order to fund the most feasible plan shall not be enforceable or considered an adjudication subject to appellate review until a final judgment is rendered and signed in the litigation.

Proposed law provides that prior to any appeal, any defendant or defendants may implement any plan adopted by the court or approved or structured by the department. In any trial on the merits before a jury, the feasible plan approved by the court and evidence of its implementation by any party or contractor of any party shall not be allowed in evidence.

Proposed law provides that if the liability of all defendants is established by admission, pretrial motion or otherwise, and a plan is approved by the department, the plans or submittals of the department or any party shall be allowed in evidence at any trial on the merits. Any party may subpoena for purposes of deposition or trial any employee, official, representative, or contractor of the department directly involved in the review of any plans or comments of the parties, or in the formulation or structuring of any plans or comments of the department. The parties shall be permitted to conduct discovery concerning the department's review of the submittals or plans of the parties.

Proposed law provides that if the liability of all defendants is not established by admission, pretrial motion or otherwise prior to a trial on the merits, the court shall, after a trial on the merits, order the parties held liable for environmental damage at the trial on the merits to submit plans or comments to the department within a reasonable time.

Proposed law provides that after submission of the plans to the department, the department shall within 30 days submit a plan to the court or adopt or comment on any plan or plans submitted by any party or parties. Within 30 days of the submission of the department's plan or comments to the court, the court shall adopt or structure the most feasible plan to adequately protect the environment and the public health, safety, and welfare and shall be incorporated into the final judgment of the court.

Proposed law provides that the final judgment of the court shall also order the defendants cast in judgment to fund the most feasible plan adopted by the court.

Proposed law provides that in any trial on the merits before a jury held before the liability of all defendants for environmental damage is established by admission, pretrial motion or otherwise, the jury shall not be informed or instructed as to any action, comment, or opinion of the court or the department concerning any plan or comment submitted to the court or the department.

Present law provides that damages or payments in any civil action, including interest, awarded for the evaluation or remediation of environmental damage are to be paid exclusively into the registry of the court in an interest-bearing account with the earnings accruing to the account for "cleanup". Proposed law retain present law except requires credit be given for any expenses incurred implementing the approved feasible plan.

Present law provides that 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, in whole or in part, upon which the judgment is based shall be entitled to recover from the party admitting responsibility or the party found legally responsible, in addition to

any other amounts to which the party may be entitled, all costs attributable to producing that portion of the evidence that directly relates to the establishment of environmental damage, including expert witness fees, environmental evaluation, investigation, and testing, the cost of developing a plan of remediation, and reasonable attorney fees incurred in the trial court and the department. Proposed law includes costs attributable to the evidence relating to liability and excludes attorney fees incurred at trial and the department.

Present law does not preclude an owner of land from pursuing a judicial remedy or receiving a judicial award for private claims suffered as a result of environmental damage, nor preclude a judgment ordering damages for or implementation of additional remediation in excess of the requirements of the plan as may be required in accordance with the terms of an express contractual provision. Any award granted in connection with the judgment for additional remediation is not required to be paid into the registry of the court. Proposed law includes implied contractual obligations and any contractual obligation imposed by operation of law as sources of private claims.

Proposed law provides that the current owner of any property shall have a right of action to assert claims for environmental damage to the property that was caused or sustained prior to the current owner's acquisition of the property.

Proposed law provides that proposed law shall not deprive any defendant of the right to assert a defense of prescription.

Proposed law provides that for any express or implied obligation that exists pursuant to a mineral lease, and that relates to environmental damage to property, the surface owner of the property burdened by that mineral lease has a right of action to enforce the obligation, regardless of whether that owner is a party to that mineral lease.

Proposed law provides that the existence of ongoing mineral operations shall not cause any action to be dismissed or stayed on grounds of prematurity.

Proposed law requires that in any civil action filed by a co-owner of undivided property shall be deemed a necessary step for the preservation of the property under the provisions of Article 800 of the Civil Code.

Proposed law provides that prescription shall not begin to run for claims relating to environmental damage until the landowner obtains scientific evidence of impact to environmental media.

Proposed law provides that proposed law shall not impede or limit provisions under private contracts imposing express remediation obligations, implied remediation obligations, or remediation obligations imposed by the Civil Code or Mineral Code that may exceed the requirements of the department or the feasible plan.

Present law provides that settlements must be approved by the court. The department and the attorney general shall be given notice once the parties have reached a settlement in principal, then the department shall have at least 30 days to review the settlement and comment to the court before the court certifies the settlement. Proposed law changes the court's action from certify to approve the settlement.

Present law provides that if after a contradictory hearing the court requires remediation, it shall not certify or approve any settlement until an amount of money sufficient to fund such remediation is deposited into the registry of the court.

Proposed law prohibits the court from approving a settlement unless the settling parties show that other non-settling parties in the litigation are potentially responsible for the environmental damage or one or more settling party has assumed responsibility for evaluation and remediation of the environmental damage.

Present law provides that the court shall have the discretion to waive the approval requirements if the settlement reached is for a minimal amount and is not dispositive of the entire litigation. If the settlement is in a case in which the department or the attorney general intervened, such agency shall be entitled to recover from the settling defendants all costs, including investigation, evaluation, and review costs; expert witness fees; and reasonable attorney fees.

Present law provides that present law does not apply to a judicial demand that prior to the effective date of present law has been resolved through compromise agreement and settlement of claims, or by judgment on the merits that has become final and definitive.

(Amends R.S. 30:29(A), (C)(1), (2), (5), and (6), (D)(1), (E)(1), (H), (I), (J), and (K); Adds R.S. 30:29(L) and (M))