

2021 Regular Session

HOUSE BILL NO. 72

BY REPRESENTATIVE COUSSAN

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

BUDGETARY CONTROLS: Requires the secretary of the Department of Environmental Quality to establish a voluntary environmental self-audit program

1 AN ACT

2 To amend and reenact R.S. 30:2018(C) and 2030(A)(2) and to enact R.S. 30:2030(A)(3) and
3 2044, relative to the Department of Environmental Quality; to require the secretary
4 to promulgate regulations allowing for voluntary environmental self-audits; to
5 provide for the confidentiality of information contained in a voluntary environmental
6 self-audit; to provide for exceptions to confidentiality requirements; to provide for
7 incentives to facilities conducting voluntary environmental self-audits; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 30:2018(C) and 2030(A)(2) is hereby amended and reenacted and
11 R.S. 30:2030(A)(3) and 2044 are hereby enacted to read as follows:

12 §2018. Environmental assessment hearings

13 * * *

14 C. The department may, and if requested shall conduct a public hearing on
15 the environmental assessment statement in the parish where the facility is located.
16 Any public hearing on the environmental assessment statement, whether requested
17 or at the discretion of the department, may be combined with a public hearing on the
18 proposed permit. If the facility is located in more than one parish, the department
19 may conduct a single hearing to serve all the affected parishes in the vicinity of a
20 centrally located facility. Simultaneously with the submission of the statement to the

1 department, the applicant shall also submit copies of the statement to the local
2 governmental authority and designated public building where the facility is located,
3 at no cost to the local governmental authority or the designated public building.

4 * * *

5 §2030. Confidential information; restricted access via the Internet

6 A.

7 * * *

8 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection,
9 information contained in a voluntary environmental self-audit authorized by R.S.
10 30:2044 shall be held confidential by the department and shall be withheld from
11 public disclosure until a final decision is made, or for a period not to exceed two
12 years, whichever occurs first. However, nothing in this Paragraph shall prohibit a
13 request for confidentiality pursuant to Subparagraph (A)(1)(b) of this Section.
14 Information that is required to be reported to a state or federal agency by statute,
15 regulation, or permit, including but not limited to, notifications required by R.S.
16 30:2025(J), 2060(H), 2076(D), 2183(I), and 2204(A) shall not be held confidential.

17 ~~(2)~~ (3) ~~However, such nondisclosure~~ Nondisclosure shall not apply to
18 necessary use by duly authorized officers or employees of state or federal
19 government in carrying out their responsibilities under this Subtitle or applicable
20 federal law, and air emission data or discharges to surface and ground waters and the
21 location and identification of any buried waste materials shall be not construed as
22 confidential information unless the information is disclosed to the department in a
23 voluntary environmental self-audit conducted in accordance with the rules and
24 regulations promulgated pursuant to R.S. 30:2044. Information that is required to
25 be reported to a state or federal agency by statute, regulation, or permit, shall not be
26 held confidential.

27 * * *

1 §2044. Voluntary environmental self-audits

2 A. The secretary shall promulgate, in accordance with the Administrative
3 Procedure Act, regulations establishing a program for voluntary environmental
4 self-audits. As a part of that program, the regulations shall provide for the following:

5 (1) Conduct of voluntary environmental self-audits.

6 (2) Submission of the results of voluntary environmental self-audits to the
7 department.

8 (3) Incentives in the form of reduction or elimination, or both, of civil
9 penalties for violations disclosed to the department in a voluntary environmental
10 self-audit.

11 (4) Corrective action for violations discovered as a result of a voluntary
12 environmental self-audit.

13 (5) Submission to the department of the plans to correct violations
14 discovered during a voluntary environmental audit.

15 (6) A fee for reviewing voluntary environmental self-audit reports and
16 actions taken to correct the violations reported.

17 B. The secretary shall promulgate rules and regulations in accordance with
18 the Administrative Procedure Act identifying violations that are not eligible for relief
19 under this program. The violations shall include, but are not limited to:

20 (1) Violations that result in serious actual harm to the environment.

21 (2) Violations that may present an imminent or substantial endangerment to
22 public health or the environment.

23 (3) Violations discovered by the department prior to the written disclosure
24 of the violation to the department.

25 (4) Violations detected through monitoring, sampling, or auditing procedures
26 that are required by statute, regulation, permit, judicial or administrative order, or
27 consent agreement.

28 C. The fee for reviewing environmental self-audits shall not exceed the
29 maximum per-hour salary, including associated benefits, of a civil service employee

1 of the department per hour or portion thereof required to conduct the review plus
2 reasonable indirect costs calculated as a percentage of the hourly fee. Such
3 percentage shall be determined annually by agreement between the department and
4 the United States Environmental Protection Agency for use on grants and contracts.
5 However, the department may require a minimum fee of one thousand five hundred
6 dollars.

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 72 Re-Reengrossed

2021 Regular Session

Coussan

Abstract: Requires the Dept. of Environmental Quality to promulgate regulations for a voluntary environmental self-audit program administered by the department.

Proposed law requires the secretary of the Dept. of Environmental Quality to establish a program for voluntary environmental self-audits. Requires that the regulations provide for the conduct of the self-audit, submission of the results to the department, the period of time that information contained in the self-audit may be held confidential which shall not exceed two years, incentives to encourage the use of self-audits, corrective actions for violations discovered by the self-audit, submission of a corrective plan, and fees for reviewing the audit and corrective plan.

Present law provides that department records and information obtained from rules, regulations, orders, licenses, or permits are available to the public unless the secretary determines that release of the information may impair an investigation or the protection of trade secrets and proprietary information.

Proposed law requires information obtained through a voluntary environmental self-audit be held confidential for a limited time, not to exceed two years, as specified in the rules applicable to voluntary environmental self-audits. Specifies that information disclosed to the department under a self-audit that is required to be reported to a state or federal agency by statute, regulation, or permit will not be held confidential. Further specifies that proposed law does not prohibit a request for confidentiality pursuant to present law concerning trade secrets, proprietary secrets, and commercial and financial information.

Present law requires the department to conduct a public hearing on all environmental assessment statements.

Proposed law changes this requirement by giving the department discretion on conducting such a hearing and allows members of the public to request the hearing.

Proposed law requires the secretary to promulgate rules and regulations identifying violations that are not eligible for relief under the voluntary self-audit program and list the types of violations as follows:

- (1) Violations that result in serious actual harm to the environment.
- (2) Violations that may present an imminent or substantial endangerment to public health or the environment.

- (3) Violations discovered by the department prior to the written disclosure of the violation to the department.
- (4) Violations detected through monitoring, sampling, or auditing procedures that are required by statute, regulation, permit, judicial or administrative order, or consent agreement.

(Amends R.S. 30:2018(C) and 2030(A)(2); Adds R.S. 30:2030(A)(3) and 2044)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Provide the Department of Environmental Quality discretionary authority to conduct public hearings on environmental assessments. Also, allows the public to request such hearings.
2. Make technical changes.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Limit the time period that information contained in self-audit may be held confidential to no more two years.
2. Make technical changes.

The House Floor Amendments to the reengrossed bill:

1. Require the secretary to promulgate rules and regulations identifying violations that are not eligible for relief under the voluntary self-audit program and list the violations.
2. Clarify that proposed law cannot restrict a request for confidentiality pursuant to present law concerning trade secrets, proprietary secrets, and commercial or financial information.
3. Specify that information that is required to be reported to a state or federal agency by present law, regulation, or permit cannot be held confidential.
4. Make technical changes.