

Regular Session, 2014

HOUSE BILL NO. 1084

BY REPRESENTATIVE BROSSETT

ENVIRONMENT/AIR: Creates the Air Quality Monitoring Commission

1 AN ACT

2 To enact R.S. 30:2067, relative to air quality; to provide for the "Louisiana Air Quality
3 Monitoring Law"; to establish an Air Quality Monitoring Commission; to provide
4 for definitions; to provide for membership; to provide for the duties and
5 responsibilities of the commission; to require certain facilities to monitor air quality;
6 to provide for assistance from first responders; to provide for enforcement; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 30:2067 is hereby enacted to read as follows:

10 §2067. Air Quality Monitoring Commission; monitoring; enforcement

11 A.(1) The provisions of this Section shall be known as, and may be cited as
12 the "Louisiana Air Quality Monitoring Law".

13 (2) As used in this Section, the following words shall have the following
14 meanings ascribed to them:

15 (a) "Facility" means any source of air pollutants that is required to obtain a
16 federally enforceable operating permit in accordance with 40 CFR Part 70.

17 (b) "First responder" means the first arriving, organized, professional
18 responders with the capability and mission to contain, mitigate, and resolve an
19 emergency.

1 B. The Air Quality Monitoring Commission is hereby created and shall be
2 composed of the following members:

3 (1) The secretary of the Department of Health and Hospitals, or his designee.

4 (2) The secretary of the Department of Environmental Quality, or his
5 designee.

6 (3) A representative of the United States Environmental Protection Agency
7 designated by the administrator.

8 (4) The chair of the Department of Global Environmental Health Sciences
9 of the Tulane University School of Public Health and Tropical Medicine, or his
10 designee.

11 (5) The director of the Environmental and Occupational Health Sciences
12 Program at the Louisiana State University Health Sciences Center, or his designee.

13 (6) Nine residents each representing one of the state's nine homeland security
14 and emergency management regions appointed jointly by the chair of the House
15 Committee on Natural Resources and Environment and the chair of the Senate
16 Committee on Natural Resources from a list of nominees submitted by the governing
17 authority of local governmental entities. Nominees shall live within the region from
18 which they are nominated and within two miles of a facility as defined by this
19 Section, have demonstrated a commitment in their parish or municipality to improve
20 air quality, and submit a letter of interest to the governing authority of their local
21 governmental entity. The governing authority shall submit one nominee, selected
22 from residents who submitted a letter of interest, to the chair of the House
23 Committee on Natural Resources and Environment and the chair of the Senate
24 Committee on Natural Resources.

25 (7) Two representatives from the nonprofit sector who have a demonstrated
26 history of addressing industrial emissions and air quality appointed jointly by the
27 chair of the House Committee on Natural Resources and Environment and the chair
28 of the Senate Committee on Natural Resources from a list of nominees submitted by

1 the Louisiana Bucket Brigade, the League of Women Voters, and the Louisiana
2 Environmental Action Network.

3 C.(1) No person shall accept membership to the commission if at anytime
4 during the prior four years, the person derived anything of substantial economic
5 interest, as defined by R.S. 42:1102(21), directly or indirectly through any
6 transaction involving any of the industries or facilities to be monitored pursuant to
7 this Section of which he may reasonably be expected to know; or from any entity
8 that transacts business with any of the industries or facilities to be monitored
9 pursuant to this Section of which he may reasonably be expected to know.

10 (2) The secretary of the Department of Environmental Quality shall serve as
11 chair and the commission shall meet at the call of the chairman or a majority of the
12 commission. The members appointed as provided in Paragraphs (B)(6) and (7) of
13 this Subsection shall serve initial staggered terms of two, four, and six years as
14 determined by the appointing authority and shall serve four-year terms thereafter.
15 The members of the commission shall not be compensated for their services on the
16 commission but may seek travel reimbursements from their respective agencies. A
17 majority of the membership is necessary for a quorum. A vacancy on the
18 commission shall be filled in the same manner as the original appointment.

19 D. The commission has the authority to do the following:

20 (1) Approve the monitoring systems used by a facility as required by
21 Subsection E of this Section.

22 (2) Approve the location and quantity of such monitors on or near the
23 boundaries of a facility.

24 (3) Determine the schedule for installation of such monitoring system.

25 (4) Notify the United States Environmental Protection Agency, the
26 department, and local governmental entities when toxic air pollutants register above
27 a level that presents, or may present, a threat of adverse human health or a threat to
28 the environment.

1 (5) Notify the United States Environmental Protection Agency, the
2 department, and local governmental entities when a facility is not complying with
3 Subsection E of the Section.

4 (6) Order a facility to shut down production that is producing toxic air
5 pollutants above a level that presents, or may present, a threat of adverse human
6 health or a threat to the environment.

7 E. Each facility, as defined in Subsection A of this Section, shall install
8 monitors on or near the facility's boundary as approved by the commission that
9 provides the following:

10 (1) Detect, report, and record speciated volatile organic chemicals and air
11 pollutants in parts per billion.

12 (2) Provide real-time and continuous air quality data and air sampling
13 reported on a real-time website available to the public.

14 (3) Use standard quality assurance and quality control protocols.

15 F. Each facility, as defined in Subsection A of this Section, shall develop a
16 plan for assistance by local first responders in the event of an unplanned release of
17 toxic air pollutants and shall submit such plan to the governing authority of the local
18 governmental entity where the facility is located. The plan shall provide for the
19 following:

20 (1) Adequate arrangement to protect public safety through the use of first
21 responders.

22 (2) An emergency response that addresses personnel roles, lines of authority,
23 training, and communication in the event that the level of toxic air pollution creates
24 a hazardous public safety incident.

25 (3) Training based on the duties and functions to be performed by each
26 responder in the event that the level of toxic air pollutants creates a hazardous public
27 safety incident.

28 (4) Provides first responders with access to the real-time data from the
29 monitoring system required in Subsection E of this Section.

1 G. No state, local governmental entity, or industry official shall make any
2 statements to the public on the impact of a release provided for in this Section, unless
3 the data at the parts per billion proves the veracity of the statement.

4 H. A facility found to be in violation of this Section shall be subject to the
5 enforcement procedures provided by R.S. 30:2025 and 2026.

6 Section 2. This Act shall become effective upon signature by the governor or, if not
7 signed by the governor, upon expiration of the time for bills to become law without signature
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
10 effective on the day following such approval

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)]

Brossett

HB No. 1084

Abstract: Creates the "La. Air Quality Monitoring Law".

Proposed law provides for definitions and creates the Air Quality Monitoring Commission composed of the following members:

- (1) The secretary of the Department of Health and Hospitals, or his designee.
- (2) The secretary of the Department of Environmental Quality, or his designee.
- (3) A representative of the United States Environmental Protection Agency designated by the administrator.
- (4) The chair of the Department of Global Environmental Health Sciences of the Tulane University School of Public Health and Tropical Medicine, or his designee.
- (5) The director of the Environmental and Occupational Health Sciences Program at the Louisiana State University Health Sciences Center, or his designee.
- (6) Nine residents each representing one of the state's nine homeland security and emergency management regions appointed jointly by the chair of the House Committee on Natural Resources and Environment and the chair of the Senate Committee on Natural Resources from a list of nominees submitted by the governing authority of local governmental entities. Nominees shall live within the region from which they are nominated and within two miles of a facility as defined by proposed law, have demonstrated a commitment in their parish or municipality to improve air quality, and submit a letter of interest to the governing authority of their local governmental entity. The governing authority shall submit one nominee, selected from residents who submitted a letter of interest, to the chair of the House

Committee on Natural Resources and Environment and the chair of the Senate Committee on Natural Resources.

- (7) Two representatives from the nonprofit sector who have a demonstrated history of addressing industrial emissions and air quality appointed jointly by the chair of the House Committee on Natural Resources and Environment and the chair of the Senate Committee on Natural Resources from a list of nominees submitted by the La. Bucket Brigade, the League of Women Voters, and the La. Environmental Action Network.

Proposed law prohibits membership to the commission if at anytime during the prior four years, the person derived anything of substantial economic interest directly or indirectly through any transaction involving any of the industries or facilities to be monitored of which he may reasonably be expected to know; or from any entity that transacts business with any of the industries or facilities to be monitored of which he may reasonably be expected to know.

Proposed law provides that the secretary of the Department of Environmental Quality shall serve as chair and the commission shall meet at the call of the chairman or a majority of the commission.

Proposed law provides for initial staggered terms of two, four, and six years and four-year terms thereafter for the members appointed to represent the homeland security and emergency management regions and the nonprofit sector.

Proposed law provides that the members shall not be compensated for their services on the commission but may seek travel reimbursements from their respective agencies. Proposed law provides that a majority of the membership is necessary for a quorum and a vacancy on the commission shall be filled in the same manner as the original appointment.

Proposed law provides that the commission has the authority to approve the monitoring systems used by a facility, the location and quantity of monitors on or near the boundaries of a facility; determine the schedule for installation of the monitoring system; notify the Environmental Protection Agency (EPA), the department, and local governmental entities when toxic air pollutants register above a level that presents, or may present, a threat of adverse human health or the environment and when a facility is not complying with monitoring as required by proposed law; and order a facility to shut down production that is producing toxic air pollutants above a level that presents, or may present, a threat of adverse human health or a threat to the environment.

Proposed law requires each facility that has a federally enforceable air permit to install monitors on or near the facility's boundary as approved by the commission.

Proposed law provides that the monitors detect, report, and record speciated volatile organic chemicals and air pollutants in parts per billion, provide real-time and continuous air quality data and air sampling reported on a real-time website available to the public, and use standard quality assurance and quality control protocols.

Proposed law requires such facilities to develop a plan for assistance by local first responders in the event of an unplanned release of toxic air pollutants and shall submit such plan to the governing authority of the local governmental entity where the facility is located.

Proposed law provides that the plan provide for arrangements for the use of first responders; a response that addresses personnel, authority, training, and communication; and access to the real-time data from the monitoring system required by proposed law.

Proposed law prohibits any state, local governmental entity, or industry official from making any statements to the public on the impact of a toxic air release, unless the data proves the veracity of the statement.

Proposed law provides that a facility found to be in violation of proposed law shall be subject to the enforcement procedures provided in present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 30:2067)