

2016 Regular Session

HOUSE BILL NO. 900

BY REPRESENTATIVE LEOPOLD

ENVIRONMENT/FEES: Authorizes an increase in fees collected by the Department of Environmental Quality

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AN ACT

To amend and reenact R.S. 30:2011(D)(22)(b) and (c) and (25), 2014(D)(4) and (5), 2195(B), 2351.59(C)(1)(a) and (b), (2), and (3), and to enact R.S. 30:2014(D)(6) and (E), relative to fees collected by the Department of Environmental Quality; to authorize an increase of fees paid to the Department of Environmental Quality; to authorize an increase of fees paid for accreditation by commercial laboratories; to authorize and increase in fees paid for certain reviews of immovable property; to authorize a fee for requesting a declaratory ruling; to authorize an increase for underground storage tank fees; to authorize an increase in fees deposited into the Lead Hazard Reduction Fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:2011(D)(22)(b) and (c) and (25), 2014(D)(4) and (5), 2195(B), 2351.59(C)(1)(a) and (b), (2), and (3) are hereby amended and reenacted and R.S. 30:2014(D)(6) and (E) are hereby enacted to read as follows:

§2011. Department of Environmental Quality created; duties; powers; structure

\* \* \*

D. The secretary shall have the following powers and duties:

\* \* \*

1 (22)

2 \* \* \*

3 (b) Notwithstanding the provisions of R.S. 30:2014(D)(3) or R.S. 49:971(A),  
4 the secretary is hereby authorized to establish a fee schedule in accordance with  
5 Subparagraph (c) of this Paragraph for any application for accreditation by a  
6 commercial laboratory under the provisions of Subparagraph (a) of this Paragraph.

7 (c) The fee schedule authorized by Subparagraph (b) of this Paragraph shall  
8 not exceed the following amounts:

9 (i) Accreditation application fee \$ ~~660.00~~ 726.00  
10 payable every scope amendment  
11 and every three years year renewal.

12 (ii) (aa) Per major test category per \$ ~~330.00~~ 363.00  
13 matrix payable every year, or

14 (bb) Minor conventional category \$ ~~264.00~~ 290.00  
15 payable every year.

16 (iii) Annual surveillance and evaluation \$ ~~330.00~~ 363.00  
17 applicable to minor conventional  
18 facilities and facilities applying for  
19 only one category of accreditation.

20 (iv)(aa) Proficiency samples biannually to be  
21 purchased by the laboratory.

22 (bb) Bioassay/biomonitoring annually to  
23 be purchased by the laboratory.

24 (v) Third party audit to be billed directly to  
25 the laboratory.

26 (vi) The accreditation fees for laboratories  
27 receiving national accreditation will be  
28 one and one-half times the regular fees.

29 \* \* \*

1           (25) To promulgate rules and regulations providing for conducting requested  
2 reviews of environmental conditions of a specified tract of immovable property,  
3 including but not limited to requests for no further action letters. Such rules may  
4 provide for a fee for each request by the landowner or a party with an interest in a  
5 real estate transaction involving the specified property not to exceed the maximum  
6 per hour overtime salary, including associated-related benefits, of a civil service  
7 employee of the department per hour or portion thereof required to conduct the  
8 review plus reasonable indirect costs calculated as a percentage of the hourly fee.  
9 Such percentage shall be determined annually by agreement between the department  
10 and the United States Environmental Protection Agency for use on grants and  
11 contracts. However, the department shall require a requestor to pay a minimum fee  
12 not exceeding one thousand ~~five~~ six hundred fifty dollars prior to conducting the  
13 review.

\* \* \*

15 §2014. Permits, licenses, registrations, variances, and ~~monitoring~~ fees

\* \* \*

17 D.

\* \* \*

19           (4)(a) In accordance with the provisions of Article VII, Section 2.1 of the  
20 Constitution of Louisiana, and notwithstanding any other provision of law, the  
21 Department of Environmental Quality may modify any fee that is in effect on June  
22 30, 2002, is authorized by this Title, and is required to be deposited into the  
23 Environmental Trust Fund. Such a modification may increase the rate in effect on  
24 June 30, 2002, over the two-year fiscal period beginning July 1, 2002, as follows:  
25 the department may increase any such fee by a maximum of twenty percent, effective  
26 on or after July 1, 2002, and by a maximum of ten percent above the rate in effect on  
27 June 30, 2003, effective on or after July 1, 2003. Within ninety days of the  
28 promulgation and adoption of any regulation necessary to implement the fees herein,  
29 the Department of Environmental Quality shall submit a written report to the Joint

1 Legislative Committee on the Budget for its approval which details the proposed use  
2 for the fee increase, efforts to decrease the processing time for permits, efforts to  
3 increase the number of inspections conducted at regulated facilities, enforcement  
4 activities, and efforts to increase the collection of fines imposed by the Department  
5 of Environmental Quality.

6 (b) Notwithstanding any other provision of law to the contrary, the  
7 Department of Environmental Quality may increase the following fees from the  
8 amounts in effect on March 14, 2015, is authorized by this Title or any rule or  
9 regulation promulgated pursuant thereto, and is required to be deposited into the  
10 Environmental Trust Fund as follows:

11 (i) Ground water fees provided for in Part 1 of Chapter 14 of Title 33 of the  
12 Louisiana Administrative Code may be increased by up to ten percent.

13 (ii) Air fees provided for in Part III of Title 33 of the Louisiana  
14 Administrative Code may be increased by up to ten percent. A minimum application  
15 fee of five hundred dollar and a minimum annual maintenance fee of two-hundred  
16 fifty dollars may be established. The maximum annual maintenance fee for natural  
17 gas compressors provided in LAC 33:III.223, Table 1, Categories 1430 through 1490  
18 shall not exceed forty-one thousand six hundred twelve dollars for any one gas  
19 transmission permit. In addition, the secretary is hereby authorized to establish a fee  
20 schedule for the following:

21 (aa) An application fee for a new, modification, or renewal of an acid rain  
22 permit not to exceed five hundred dollars.

23 (bb) An application fee for the renewal with no modification of an operating  
24 permit not to exceed the minimum minor permit modification fee.

25 (cc) An annual fee charged for sources permitted pursuant to 40 CFR Part 70  
26 and required to obtain a permit pursuant to Title V of the federal Clean Air Act not  
27 to exceed twenty percent of the total annual maintenance fees.

1           (iii) Hazardous waste fees provided in Part V of Title 33 of the Louisiana  
2           Administrative Code may be increased by up to twenty-five percent. In addition, the  
3           secretary is hereby authorized to establish a fee schedule for the following:

4           (aa) An annual maintenance fee for hazardous waste treatment, storage and  
5           disposal facilities that are in post-closure not to exceed four thousand one hundred  
6           twenty-five dollars.

7           (bb) An application fee for hazardous waste transfer facilities not to exceed  
8           one thousand nine hundred dollars.

9           (cc) An application fee for used oil transfer facilities not to exceed one  
10          thousand three hundred dollars.

11          (dd) An application fee for an extension of the accumulation time by  
12          hazardous waste generators not to exceed five hundred dollars.

13          (iv) (aa) Solid waste fees provided in Part VII of Title 33 of the Louisiana  
14          Administrative Code may be increased by up to twenty-five percent.

15          (bb) Tonnage fees for non-industrial wastes provided for in LAC  
16          33:VII.1505(B)(2)(b) may be applied for amounts exceeding twenty-five thousand  
17          tons.

18          (v) Water quality fees in Part IX of Title 33 of the Louisiana Administrative  
19          Code may be increased by up to ten percent. In addition the secretary is hereby  
20          authorized to establish a fee schedule for the following:

21          (aa) A general permit for oil and gas wells in the coastal and territorial seas  
22          provided for in LAC 33:IX.1309(N) charged annually based upon each application  
23          for coverage under the general permit not to exceed one thousand seven hundred  
24          fifty dollars.

25          (bb) A general permit for sewage sludge authorizations charged annually not  
26          to exceed six hundred dollars.

27          (cc) An annual fee for sewage sludge individual permits not to exceed two  
28          thousand dollars.

1           (vi)(aa) Underground storage tank fees provided for in Part XI of Title 33 of  
2           the Louisiana Administrative Code may be increased by up to ten percent.

3           (bb) The secretary is hereby authorized to establish a fee schedule for the  
4           amendment of registrations not to exceed sixty dollars.

5           (vii)(aa) Radiation protection fees in Part XV of Title 33 of the Louisiana  
6           Administrative Code may be increased by up to ten percent.

7           (bb) The secretary is hereby authorized to establish a fee schedule for a  
8           license renewal application fee not to exceed the new application fee.

9           (viii) Any increase authorized by this Subparagraph by a certain percentage  
10          shall be rounded up to the nearest dollar.

11          (c) Within ninety days of the promulgation and adoption of any regulation  
12          necessary to implement the fees authorized by Subparagraph (b) of this Paragraph,  
13          the department shall submit a written report to the Joint Legislative Committee on  
14          the Budget for its approval which details the proposed use for the fee increase,  
15          efforts to decrease the processing time for permits, efforts to increase the number of  
16          inspections conducted at regulated facilities, enforcement activities, and efforts to  
17          increase the collection of fines imposed by the department.

18          (5) Except as provided in R.S. 30:2155.1, the department shall collect from  
19          each facility permitted as a construction or demolition debris landfill, as part of the  
20          annual monitoring and maintenance fee, a fee not exceeding ~~twenty~~ twenty-five cents  
21          per ton of construction or demolition debris deposited in the facility. The fee  
22          provided for in this Paragraph shall only apply to construction or demolition debris  
23          which is subject to a fee imposed by the facility. The secretary is authorized to  
24          promulgate rules and regulations to implement this Paragraph.

25          (6) The Department may require a fee to process any request for a declaratory  
26          ruling not to exceed the maximum per hour overtime salary, including  
27          associated-related benefits, of a civil service employee of the department per hour  
28          or portion thereof required to conduct the review plus reasonable indirect costs  
29          calculated as a percentage of the hourly fee. Such percentage shall be determined

1 annually by agreement between the department and the United States Environmental  
2 Protection Agency for use on grants and contracts. However, the department may  
3 require a requestor to pay a minimum fee of one thousand five hundred dollars.

4 E.(1) The Department of Environmental Quality is expressly granted the  
5 authority to adjust fees that are assessed, charged, and collected by the Department  
6 of Environmental Quality after June 1, 2018, by an amount not to exceed the annual  
7 percentage change in the Consumer Price Index for All Urban Consumers (CPI-U)  
8 (All Items - U.S. City Average) maintained by the United States Department of  
9 Labor, Bureau of Labor Statistics, rounded downward to the nearest dime.  
10 Adjustment determinations may be based on the percentage change from the latest  
11 fee adjustment and promulgated in accordance with the Administrative Procedure  
12 Act. Fees may only be adjusted based on the annual CPI-U change in even numbered  
13 years. The department is authorized to adopt rules and regulations in order to  
14 implement the provisions of this Subsection.

15 (2) Within ninety days of the promulgation and adoption of any regulation  
16 necessary to implement the fees herein, the Department of Environmental Quality  
17 shall submit a written report to the Joint Legislative Committee on the Budget for its  
18 approval which details the proposed use of the fee increase, efforts to decrease the  
19 processing time for permits, efforts to increase the number of inspections conducted  
20 at regulated facilities, enforcement activities, and efforts to increase the collection  
21 of fines imposed by the Department of Environmental Quality.

22 \* \* \*

23 §2195. Motor Fuels Underground Storage Tank Trust Fund

24 \* \* \*

25 B. There is hereby established a special custodial trust fund in the state  
26 treasury to be known as the Motor Fuel Underground Storage Tank Trust Fund,  
27 hereafter referred to as the "Tank Trust Fund", into which the state treasurer shall,  
28 each fiscal year, deposit the revenues received from the collection of the fees as  
29 established in R.S. 30:2195.3(A)(1)(a) and (B). The secretary is authorized pursuant

1 to Article VII, Section 9(A) of the Constitution of Louisiana and R.S. 30:2031 to  
 2 enter into an agreement with a private legal entity to receive and administer the Tank  
 3 Trust Fund for the purpose of providing financial responsibility for underground  
 4 motor fuel storage tanks. On an annual basis, all owners of registered tanks shall  
 5 remit to the department a tank registration fee of ~~fifty-four~~ sixty dollars for each  
 6 tank. The revenue from the tank registration fees shall be deposited directly into the  
 7 Environmental Trust Fund as provided by R.S. 30:2015 and utilized for underground  
 8 storage tank activities only, and any deviation from the aforesaid shall be  
 9 documented and reported to the House Committee on Natural Resources and  
 10 Environment and the Senate Committee on Environmental Quality. Revenues  
 11 received from annual maintenance and monitoring fees, other than those established  
 12 in R.S. 30:2195.3(B), shall be deposited into the Environmental Trust Fund. The  
 13 department shall promulgate rules and regulations for the implementation of this  
 14 Section in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

15 \* \* \*

16 §2351.59. Fees

17 \* \* \*

18 C.(1) License and certification fees shall be paid as follows:

19 (a) License evaluation fee of five hundred fifty dollars shall be paid by lead  
 20 contractors.

21 (b) Certification fees shall be paid for the following disciplines:

22 (i) Lead project supervisor \$ ~~250.00~~ 275.00

23 (ii) Lead project designer \$ ~~500.00~~ 550.00

24 (iii) Risk assessor \$ ~~250.00~~ 275.00

25 (iv) Lead inspector \$ ~~150.00~~ 165.00

26 (v) Lead worker \$ ~~50.00~~ 55.00

27 \* \* \*

28 (2) Accreditation fees for training organizations shall be paid as follows:

29 (a) In-state training organizations (Louisiana domiciliaries):

- 1 (i) Application processing fee \$ ~~500.00~~ 550.00
- 2 (ii) Processing fee per instructor \$ ~~50.00~~ 55.00
- 3 (iii) Emergency processing 1.5 times the regular fees
- 4 (b) Out-of-state training organizations (non-Louisiana domiciliaries):
- 5 (i) Application processing fee \$ ~~750.00~~ 825.00
- 6 (ii) Processing fee per instructor \$ ~~100.00~~ 110.00
- 7 (iii) Emergency processing 1.5 times the regular fees
- 8 (3) Notification fees will be due upon application as follows:
- 9 (a) For the lead abatement of a building or other structure, the fee shall be
- 10 based upon the projected lead-based painted areas to be abated in the abatement
- 11 project. Areas of lead-contaminated soil associated with the abatement process will
- 12 be included in the projected square footage for the building or structure as follows:
- 13 (i) 2000 square feet and under \$ ~~200.00~~ 220.00
- 14 (ii) Each additional increment of 2000
- 15 square feet or portion thereof \$ ~~100.00~~ 110.00
- 16 (iii) Revisions to notification fees \$ ~~50.00~~ 55.00
- 17 (b) For the lead abatement of soil only, the fee shall be based upon the
- 18 projected acreage of the abatement project as follows:
- 19 (i) Half acre or less \$ ~~200.00~~ 220.00
- 20 (ii) Each additional half acre or
- 21 portion thereof \$ ~~100.00~~ 110.00
- 22 (iii) Revisions to notification fees \$ ~~50.00~~ 55.00
- 23 (c) Emergency notification processing fees will be one and one- half
- 24 times the regular fees.

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 900 Original

2016 Regular Session

Leopold

**Abstract:** Increases fees collected by the Dept. of Environmental Quality.

Proposed law increases the following maximums on fees for any application for accreditation by a commercial laboratory as follows and are effective as indicated:

|  | <u>Present</u> | <u>Proposed</u> |
|--|----------------|-----------------|
| Accreditation application fee  | \$ 660         | \$ 726          |
| Per major test category  | \$ 330         | \$ 363          |
| Minor conventional category  | \$ 264         | \$ 290          |
| Annual surveillance and evaluation of minor conventional facilities/one category | \$ 330         | \$ 363          |

Present law authorizes the secretary of the Dept. of Environmental Quality (DEQ) to promulgate rules and regulations to conduct requested reviews of environmental conditions of a specified tract of immovable property, such as no further action letters.

Present law further provides that such rules may provide for a fee for each such request made not to exceed the maximum per hour overtime salary of a civil service employee of the department for each hour required to conduct the review plus indirect costs. Such indirect costs shall be calculated based on a percentage of the hourly fee, and the percentage shall be determined annually by an agreement between DEQ and the U.S. Environmental Protection Agency (EPA). The requestor shall pay a minimum advance fee not to exceed \$1,500.

Proposed law increases the minimum advance fee from not to exceed \$1,500 to not to exceed \$1,650.

Present law provides for an initial fee and an annual monitoring and maintenance fee for all permits, licenses, registrations, or variances. The fees are derived from a formula, developed by department rules, to equal the cost of annual maintenance, permitting, monitoring, investigation, administration, and other activities associated with the permits, licenses, registration, and variances. The formula cannot exceed the maximum amounts specified by present law.

Proposed law authorizes DEQ to increase the following fees from the amounts in effect in the Louisiana Administrative Code (LAC) on March 14, 2015, by the following percentages, rounded up to the nearest dollar, and authorizes the establishment of fees as indicated:

|                             |                                |
|-----------------------------|--------------------------------|
| <u>Ground Water Fees</u>    |                                |
| LAC ground water fees       | 10% increase                   |
| <u>Air Fees</u>             |                                |
| LAC air fees                | 10% increase                   |
| Air application fee         | \$500 min.                     |
| Air annual maintenance fee  | \$250 min.                     |
| Air natural gas compressor  | \$41,612 max.                  |
| Acid rain permit            | \$500 max.                     |
| Air renewal no modification | Min. of minor modification fee |

|                                      |  |
|--------------------------------------|--|
| Air Title V fee                      | 20% of maintenance fee max.              |
| <u>Hazardous Waste Fees</u>          |  |
| LAC hazardous waste fees             | 25% increase                             |
| Post-closure hazardous waste         |  |
| Annual maintenance fee               | \$4,125 max.                             |
| Hazardous waste transfer             |  |
| facility                             | \$1,900 max.                             |
| Hazardous waste generator            |  |
| time accumulation extension          | \$500 max.                               |
| <u>Solid Waste Fees</u>              |  |
| LAC solid waste fees                 | 25% increase                             |
| Non-industrial waste                 |  |
| tonnage fees                         | Charged on amounts exceeding 25,000 tons |
| <u>Water Fees</u>                    |  |
| LAC water fees                       | 10% increase                             |
| General permit of oil & gas          |  |
| wells in coastal and territorial     |  |
| seas                                 | \$1,750 per application                  |
| General permit sewage sludge         | \$600                                    |
| Annual sewage sludge permit          | \$2,000                                  |
| <u>Underground Storage Tank Fees</u> |  |
| LAC underground storage              |  |
| tank fees                            | 10% increase                             |
| Registration amendment fee           | \$60 max.                                |
| <u>Radiation Fees</u>                |  |
| LAC radiation protection fees        | 10% increase                             |
| License renewal application          | Max. of new application fee              |

Proposed law requires DEQ to submit a report, within 90 days of adoption of rules implementing the fee increases, to the Joint Legislative Committee on the Budget for approval. The report shall detail the uses of the fees and efforts to increase efficiency in permitting, inspections, enforcement, and collection of fines.

Present law authorizes DEQ to collect 20¢ per ton of solid waste deposited in a construction and demolition landfill. The fee only applies to waste that are subject to a fee by the facility. Proposed law increases the fee from 20¢ per ton to 25¢ per ton.

Proposed law authorizes a fee to process a request for a declaratory ruling not to exceed the maximum per hour overtime salary, including associated-related benefits, of a civil service employee of the department per hour or portion thereof required to conduct the review plus reasonable indirect costs calculated as a percentage of the hourly fee. The percentage shall be determined annually by agreement between the department and the EPA for use on grants and contracts. Proposed law further authorizes a minimum fee paid by a requestor of not less than \$1,500.

Proposed law authorizes the department, in even numbered years, to adjust fees that are assessed, charged, and collected by the Department of Environmental Quality after June 1, 2018, by an amount not to exceed the annual percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) (All Items - U.S. City Average) maintained by the U.S. Department of Labor, Bureau of Labor Statistics, rounded downward to the nearest dime.

Proposed law provides CPI-U adjustment determinations may be based on the percentage change from the latest fee adjustment and promulgated in accordance with the Administrative Procedure Act.

Proposed law requires DEQ to submit a report, within 90 days of adoption of rules implementing the fee increases based on CPI-U adjustment, to the Joint Legislative Committee on the Budget for approval. The report shall detail the uses of the fees and efforts to increase efficiency in permitting, inspections, enforcement, and collection of fines.

Present law provides that all owners of registered motor fuel underground storage tanks shall pay a registration fee of \$54 for each tank, which money is used for storage tank activities. Proposed law increases the fee from \$54 to \$60.

Proposed law increases fees paid into the Lead Hazard Reduction Fund as indicated:

|   | <u>Present</u> | <u>Proposed</u> |
|---|----------------|-----------------|
| Lead contractors license evaluation fee | \$ 500         | \$ 550          |
| Lead project supervisor                 | \$ 250         | \$ 275          |
| Lead project designer                   | \$ 500         | \$ 550          |
| Risk assessor                           | \$ 250         | \$ 275          |
| Lead inspector                          | \$ 150         | \$ 165          |
| Lead worker                             | \$ 50          | \$ 55           |

Present law provides that a person applying for licensure under more than one category will pay only the fee for the highest category and exempts public entities and employees of public entities from certification fees.

Proposed law increases the following accreditation fees for training organizations:

|                                      | <u>Present</u> | <u>Proposed</u> |
|--------------------------------------|----------------|-----------------|
| In-state training organizations:     |                |                 |
| Application processing fee           | \$ 500         | \$ 550          |
| Processing fee per instructor        | \$ 50          | \$ 55           |
| Out-of-state training organizations: |                |                 |
| Application processing fee           | \$ 750         | \$ 825          |
| Processing fee per instructor        | \$ 100         | \$ 110          |

Proposed law provides for the following notification fees for contaminated buildings and soil as indicated:

|                                   |        |        |
|-----------------------------------|--------|--------|
| Buildings 2,000 sq. ft. and under | \$ 200 | \$ 220 |
| For each additional 2000 sq. ft.  | \$ 100 | \$ 110 |
| Revisions to notifications        | \$ 50  | \$ 55  |
| One-half acre or less of soil     | \$ 200 | \$ 220 |
| Each additional half acre of soil | \$ 100 | \$ 110 |
| Revisions                         | \$ 50  | \$ 55  |

Present law provides that emergency notifications for lead are 1.5 times the regular fee.

(Amends R.S. 30:2011(D)(22)(b) and (c) and (25), 2014(D)(4) and (5), 2195(B), 2351.59(C)(1)(a) and (b), (2), and (3), Adds R.S. 30:2014(D)(6) and (E))