

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Wilson**

A Bill

ACT 731 OF 1993
SENATE BILL 594

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
9 8, TO CLARIFY THE USE OF IN-KIND SERVICES AS PENALTIES FOR
10 WHICH THE DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY MAY
11 ALLOW PROJECTS OR PROGRAMS TO ADVANCE ENVIRONMENTAL
12 INTERESTS; AND FOR OTHER PURPOSES."

Subtitle

14 "CLARIFY THE USE OF IN-KIND SERVICES AS PENALTIES FOR
15 WHICH PC&E MAY ALLOW PROJECTS OR PROGRAMS TO ADVANCE
16 ENVIRONMENTAL INTERESTS."

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Purpose. The state of Arkansas has an abundance of
22 environmental concerns which need research and study, as well as concerns
23 which have an immediate remedy but are absent funds to facilitate their
24 implementation. This amendment serves to clarify the existing use of in-kind
25 services as penalties, to include cash contributions for use in worthy
26 environmental projects and to advance environmental interests.

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28 SECTION 2. Arkansas Code Annotated §8-7-204(e) of the Arkansas
29 Hazardous Waste Management Act is hereby amended to read as follows:

30 "(e) (1) All moneys collected as reimbursement for expenses, costs, and
31 damages to the department shall be deposited in the operating fund of the
32 department.

33 (2) All moneys collected as civil penalties pursuant to this
34 section shall be deposited in the Emergency Response Fund as provided by §
35 8-7-410.

36 (3) The director, in his discretion, may accept in-kind services

1 as partial mitigation of cash penalties for use in projects or programs
2 designed to advance environmental interests. The violator may provide such
3 in-kind services as directed by the department by utilizing the violator_s own
4 expertise, by hiring and compensating subcontractors to perform the service,
5 by arranging and providing financing for the service, or by other financial
6 arrangement in which the violator retains no monetary benefit, however remote.
7 These services shall not duplicate or augment services already provided by
8 the department through appropriations of the General Assembly.

9 (4) All moneys collected to cover the costs, expenses, or damages
10 of other agencies or subdivisions of the state, including natural resource
11 damages, shall be distributed to the appropriate governmental entity."
12

13 SECTION 3. Arkansas Code Annotated §8-4-103(e) is hereby amended to
14 read as follows:

15 "(e) (1) All moneys collected as reimbursement for expenses, costs, and
16 damages to the department shall be deposited in the operating fund of the
17 department.

18 (2) All moneys collected as civil penalties shall be deposited in
19 the Emergency Response Fund as provided by § 8-7-410.

20 (3) The director, in his discretion, may accept in-kind services
21 as partial mitigation of cash penalties for use in projects or programs
22 designed to advance environmental interests. The violator may provide such
23 in-kind services as directed by the department by utilizing the violator_s own
24 expertise, by hiring and compensating subcontractors to perform the service,
25 by arranging and providing financing for the service, or by other financial
26 arrangement in which the violator retains no monetary benefit, however remote.
27 The services shall not duplicate or augment services already provided by the
28 department through appropriations of the General Assembly.

29 (4) All moneys collected which represent the costs, expenses, or
30 damages of other agencies or subdivision of the state shall be distributed to
31 the appropriate governmental entity."
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33 SECTION 4. Arkansas Code Annotated §8-6-204(e) of the Arkansas Solid
34 Waste Management Code is hereby amended to read as follows:

35 "(e) (1) All moneys collected as reimbursement for expenses, costs, and

1 damages to the department shall be deposited in the operating fund of the
2 department.

3 (2) All moneys collected as civil penalties pursuant to this
4 section shall be deposited in the Emergency Response Fund as provided by §
5 8-7-410.

6 (3) The director, in his discretion, may accept in-kind services
7 as partial mitigation of cash penalties for use in projects or programs
8 designed to advance environmental interests. The violator may provide such
9 in-kind services as directed by the department by utilizing the violator_s own
10 expertise, by hiring and compensating subcontractors to perform the service,
11 or by other financial arrangement in which the violator retains no monetary
12 benefit, however remote. These services shall not duplicate or augment
13 services already provided by the department through appropriations of the
14 General Assembly.

15 (4) All moneys collected to cover the costs, expenses, or damages
16 of other agencies or subdivision of the state, including natural resource
17 damages, shall be distributed to the appropriate governmental entity."
18

19 SECTION 5. All provisions of this act of a general and permanent nature
20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
21 Revision Commission shall incorporate the same in the Code.
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23 SECTION 6. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.
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29 SECTION 7. All laws and parts of laws in conflict with this act are
30 hereby repealed.
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APPROVED: 3/26/93

