

As Engrossed: 3/17/93 3/26/93 4/8/93

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

4 **By: Representatives Thurman, Mahoney and McKissack**

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For An Act To Be Entitled

8 "AN ACT TO AMEND CHAPTER 1 OF TITLE 8 OF THE ARKANSAS CODE
9 OF 1987, RELATING TO THE POWERS AND RESPONSIBILITIES OF
10 THE COMMISSION OF THE ARKANSAS DEPARTMENT OF POLLUTION
11 CONTROL & ECOLOGY, TO CLARIFY THE COMMISSION_S POWERS WITH
12 REGARD TO PROMULGATION OF RULES AND REGULATIONS; AND FOR
13 OTHER PURPOSES."

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Subtitle

16 "CLARIFY THE GENERAL RULEMAKING POWERS OF THE PC&E
17 COMMISSION."

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

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21 SECTION 1. LEGISLATIVE INTENT. The General Assembly desires to provide
22 protection of the human health and the environment for the citizens of the
23 state. In providing for such protection, the General Assembly recognizes that
24 environmental rules and regulations should have a sound scientific and
25 economic basis. Thus, the General Assembly finds that, prior to the
26 promulgation of any environmental rule or regulation by the state *that is more*
27 *stringent than federal requirements*, the state *must consider the economic*
28 *impact and environmental benefit* such rule or regulation *will have* on the
29 citizens of the state of Arkansas prior to such promulgation.

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31 SECTION 2. Arkansas Code Annotated § 8-1-203(b)(1) is hereby amended to
32 read as follows:

33 "(b) The Commission_s powers and duties shall be as follows:

34 (1) Promulgation of rules and regulations implementing the
35 substantive statutes charged to the department for administration;

1 (A) In promulgation of such rules and regulations, prior to the
2 submittal to public comment and review of any rule, regulation or change to
3 any rule or regulation *that is more stringent than federal requirements*, the
4 Commission shall duly consider the *economic impact and the environmental*
5 *benefit* of such rule or regulation on the people of the State of Arkansas
6 *including those entities that will be subject to the regulation*.

7 (B) *The Commission shall promptly initiate rulemaking proceedings*
8 *to further implement the analysis required under subsection (A)*.

9 (C) *The extent of the analysis required under subsection (A)*
10 *shall be defined in the Commission rulemaking required under subsection (B)*.
11 *It will include a written report which shall be available for public review*
12 *along with the proposed rule in the public comment period*.

13 (D) *Upon completion of the public comment period, the Commission*
14 *shall compile a rulemaking record or response to comments demonstrating a*
15 *reasoned evaluation of the relative impacts and benefits of the more stringent*
16 *regulation*.

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18 SECTION 3. All provisions of this act of a general and permanent
19 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
20 Code Revision Commission shall incorporate the same in the Code.

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22 SECTION 4. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 5. All laws and parts of laws in conflict with this act are
29 hereby repealed.

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31 SECTION 6. EMERGENCY. It is hereby found and determined by the General
32 *Assembly that consideration of economic impact and environmental benefit*
33 *should be immediately implemented by the Commission and this act being*
34 *necessary for the immediate preservation of the environment and the welfare of*
35 *the state shall be in full force and effect from and after its passage and*

1 approval.

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/s/Rep. Thurman, et al

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