

As Engrossed: 2/13/91, 2/18/91, 2/21/91, 3/4/91, 3/14/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Dowd**

A BILL ACT 744 OF 1991
SENATE BILL 227

For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE 8-4-104 TO PROVIDE FOR THE
9 RESTRUCTURING AND REORGANIZATION OF THE ARKANSAS POLLUTION
10 CONTROL AND ECOLOGY COMMISSION; TO AMEND ARK. CODE 8-4-105
11 TO ALLOW THE DIRECTOR OF THE DEPARTMENT OF POLLUTION
12 CONTROL AND ECOLOGY TO BE APPOINTED BY THE GOVERNOR AND
13 CONFIRMED WITH THE CONSENT OF THE SENATE; TO AMEND ARK.
14 CODE 8-4-106 TO ALLOW PERSONNEL OF OTHER STATE AGENCIES
15 AND EDUCATIONAL INSTITUTIONS, AND CONSULTANTS, ETC. TO
16 ASSIST THE COMMISSION AND THE ARKANSAS DEPARTMENT OF
17 POLLUTION CONTROL AND ECOLOGY; AN ACT TO AMEND ARK. CODE
18 8-4-205 TO REMOVE DUTIES OF AND REFERENCE TO STATE AGENCY
19 AND SPECIAL INTEREST MEMBERS OF THE ARKANSAS POLLUTION
20 CONTROL AND ECOLOGY COMMISSION; AND FOR OTHER PURPOSES."

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

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25 SECTION 1. Ark. Code 8-4-104 is hereby amended to read as follows:

26 "8-4-104. Arkansas Pollution Control and Ecology Commission - Members.

27 (a) There is created and established an Arkansas Pollution Control and
28 Ecology Commission which hereinafter shall be referred to as the
29 'commission.'

30 (b) The commission shall be composed of *thirteen (13)* members.

31 (1) *The Governor, by and with the advice and consent of the Senate,*
32 *shall appoint seven (7) members. Each congressional district shall be*
33 *represented on the Commission by a least one (1) member and no district shall*
34 *have more than two (2) members of the seven (7) appointees. The Governor will*
35 *not appoint a member to represent any specific or special interest group,*
36 *organization or philosophy; however, in making appointments to the commission,*

1 the Governor shall appoint individuals who have knowledge or expertise in
2 matters within the jurisdiction of the commission including: government;
3 business or industry; agriculture and livestock; forestry; health; ecology;
4 recreation and tourism; and geology.

5 These members appointed by the Governor shall initially be appointed as
6 follows: one (1) member for one (1) year, two (2) members for two (2) years,
7 two (2) members for three (3) years, and two (2) members for four (4) years.
8 Thereafter, each member appointed by the Governor shall be appointed for a
9 term of four (4) years. Provided, however, the members of the Commission
10 serving on July 1, 1991 shall continue to serve for the remainder of their
11 terms.

12 (2) The other six (6) members of the Commission shall be the Directors
13 of the Arkansas Department of Health, the Arkansas Game and Fish Commission,
14 the Arkansas Forestry Commission, the Arkansas Soil and Water Conservation
15 Commission, the Oil and Gas Commission, and the State Geology Commission or
16 their designees.

17 (3) Elected City, County, and State officials shall not serve on the
18 Commission after the expiration of any current member's term.

19 (c) In the event of a vacancy in the membership of the commission, the
20 Governor shall appoint a person to fill the vacancy temporarily, who shall
21 serve until the next meeting of the Senate when some person shall be appointed
22 by the Governor, by and with the consent and approval of the Senate, to serve
23 the remainder of the unexpired term.

24 (d) The chairman and vice chairman shall be elected annually. The
25 members of the Commission representing the state agencies shall not serve as
26 Chairmen or Vice Chairmen.

27 (e) (1) (A) The commission shall hold at least four (4) regular meetings
28 in each calendar year at times and places to be fixed by the commission and
29 such other meetings as may be necessary.

30 (B) Special meetings may be called at the discretion of the chairman,
31 and they shall be called by him upon written request of two members of the
32 commission by delivery of written notice to each member of the commission.

33 (2) Nine (9) members of the commission shall constitute a quorum to
34 transact business in both regular and special meetings.

35 (f) (1) The members of the Commission representing state agencies shall

1 receive no additional salary or per diem for services as a member of the
2 commission, but shall be allowed travel and maintenance expenses while
3 attending hearings or other official business away from Little Rock.

4 (2) The other seven (7) members appointed by the Governor shall be
5 allowed seventy-five dollars (\$75.00) per day plus their travel and
6 maintenance expenses while attending regular meetings and special hearings at
7 the same rates prescribed by law or regulations for state employees, to be
8 paid out of the funds appropriated to the commission."

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10 SECTION 2. Ark. Code 8-4-105 is hereby amended to read as follows:

11 "8-4-105. The Director of the Department of Pollution Control and
12 Ecology.

13 (a) (1) The executive head of the Department of Pollution Control and
14 Ecology shall be the Director of the Department of Pollution Control and
15 Ecology, who shall be appointed by the Governor, with the advice and consent
16 of the Senate, and shall serve at the pleasure of the Governor.

17 (2) The director, with the advice and consent of the Governor, shall
18 appoint the heads of the divisions of the department, including the Division
19 of Water Pollution Control, Division of Air Pollution Control, Division of
20 Solid Waste Management, Division of Environmental Preservation, Division of
21 Administration, and such other divisions as may be established.

22 (3) All of the personnel of the department shall be employed by and
23 serve at the pleasure of the director. However, nothing in this subdivision
24 shall be construed to reduce any right which an employee shall have under any
25 civil service or merit system.

26 (b) (1) The director shall be the executive officer and active
27 administrator of all pollution control activities.

28 (2) All of the powers of the commission under § 8-4-201(5), 8-4-
29 203, and 8-4-204 relating to plans and specifications for disposal systems and
30 permits for the discharge of sewage, industrial wastes, or other wastes into
31 the waters of the state are vested in the director."

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33 SECTION 3. Ark. Code 8-4-106 is hereby amended to read as follows:

34 "8-4-106. Technical, etc., services and public assistance.

35 (a) Technical, scientific, legal, or other services may be performed,

1 insofar as practicable, by personnel of other state agencies and educational
2 institutions and the Attorney General . However, the personnel of these state
3 agencies shall receive no additional salary or wages for their services to the
4 Department of Pollution Control and Ecology. The Director of the Department
5 of Pollution Control and Ecology, however, may employ and compensate, within
6 appropriations available, consultants and such assistants and employees as may
7 be necessary to carry out the provisions of this chapter and prescribe their
8 powers and duties."

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10 SECTION 4. Ark. Code 8-4-205 is hereby amended to read as follows:

11 "8-4-205. Permits - Hearings upon denial, revocation, or modification.

12 (a) Any person who is denied a permit by the Director of the Department
13 of Pollution Control and Ecology for the discharge of sewage, industrial
14 wastes, or other wastes into the waters of the state or who has such permit
15 revoked or modified shall be afforded an opportunity for a hearing by the
16 commission in connection therewith, upon written application made within
17 thirty (30) days after service of notice of the denial, revocation, or
18 modification."

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20 SECTION 5. CODE. All provisions of this Act of a general and permanent
21 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
22 Code Revision Commission shall incorporate the same in the Code.

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24 SECTION 6. SEVERABILITY. If any provision of this Act or the
25 application thereof to any person or circumstance is held invalid, such
26 invalidity shall not affect other provisions or applications of the Act which
27 can be given effect without the invalid provision or application, and to this
28 end the provisions of this Act are declared to be severable.

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30 SECTION 7. GENERAL REPEALER. All laws and parts of laws in conflict
31 with this Act are hereby repealed.

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\s\ Dowd

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APPROVED: 3-16-91

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