

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Mahony**

A Bill

ACT 895 OF 1995
SENATE BILL 727

For An Act To Be Entitled

8 "AN ACT TO AUTHORIZE IN-KIND SERVICES OR CASH
9 CONTRIBUTIONS AS PENALTIES FOR VIOLATIONS OF ENVIRONMENTAL
10 PROJECTS, AND TO AUTHORIZE THE POLLUTION CONTROL & ECOLOGY
11 COMMISSION TO PROMULGATE REGULATIONS FOR AIR EMISSION
12 CREDITS; AND FOR OTHER PURPOSES."

Subtitle

15 "TO AUTHORIZE IN-KIND SERVICES OR CASH
16 CONTRIBUTIONS AS PENALTIES FOR
17 VIOLATIONS OF ENVIRONMENTAL PROJECTS,
18 AND TO AUTHORIZE THE POLLUTION CONTROL &
19 ECOLOGY COMMISSION TO PROMULGATE
20 REGULATIONS FOR AIR EMISSION CREDITS."

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

24 SECTION 1. Arkansas Code Annotated § 8-4-103(f)(3) is hereby amended to
25 read as follows:

26 "(3)(A) The director, in his discretion, may authorize in-kind services
27 or cash contributions as partial mitigation of cash penalties for use in
28 projects or programs designed to advance environmental interests.

29 (B) The violator may provide in-kind services or cash
30 contributions as directed by the department by utilizing the violator's own
31 expertise, by hiring and compensating subcontractors to perform the services,
32 by arranging and providing financing for the services, or by other financial
33 arrangements initiated by the department in which the violator and the
34 department retain no monetary benefit, however remote.

35 (C) The services shall not duplicate or augment services already
36 provided by the department through appropriations of the General Assembly."

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2 SECTION 2. Arkansas Code Annotated § 8-4-203(d) is hereby amended to
3 read as follows:

4 "(d) All costs of publication of notice under this section shall be
5 paid by the department with reimbursement by the applicant to be made to the
6 department prior to the issuance of the final permit. All monies received
7 pursuant to this subsection shall be classified as refunds to expenditures."

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9 SECTION 3. Arkansas Code Annotated § 8-4-227(d) is hereby amended to
10 read as follows:

11 "(d) The court may affirm the decision of the agency or vacate or
12 suspend the decision, in whole or part, and remand the case to the commission
13 for further action in conformity with the decision of the court if the action
14 of the commission is:

- 15 (1) In violation of constitutional or statutory provisions;
- 16 (2) In excess of the agency's statutory authority;
- 17 (3) Made upon unlawful procedure;
- 18 (4) Affected by other error or law;
- 19 (5) Not supported by substantial evidence of record; or
- 20 (6) Arbitrary, capricious, or characterized by abuse of
21 discretion."

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23 SECTION 4. Arkansas Code Annotated § 8-4-311 is hereby amended by
24 adding an additional subdivision to read as follows:

25 "(16) Establish through its rulemaking authority, either alone or in
26 conjunction with the appropriate state or local agencies, a system for the
27 banking and trading of air emissions designed to maintain both the state_s
28 attainment status with the National Ambient Air Quality Standards mandated by
29 the federal Clean Air Act and the overall air quality of the state. The
30 commission may consider differential valuation of emission credits as
31 necessary to achieve primary and secondary National Ambient Air Quality
32 Standards, and may consider establishing credits for air pollutants other than
33 those designated as _criteria air pollutants_ by the federal Environmental
34 Protection Agency. Any regulation proposed pursuant to this authorization
35 shall be reported to the Joint Interim Committee on Public Health, Welfare and

1 Labor prior to its final promulgation."

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3 SECTION 5. Arkansas Code Annotated § 8-6-204(e) (3) is hereby amended to
4 read as follows:

5 "(3) (A) The director, in his discretion, may authorize in-kind services
6 or cash contributions as partial mitigation of cash penalties for use in
7 projects or programs designed to advance environmental interests.

8 (B) The violator may provide in-kind services or cash
9 contributions as directed by the department by utilizing the violator's own
10 expertise, by hiring and compensating subcontractors to perform the services,
11 by arranging and providing financing for the services, or by other financial
12 arrangements initiated by the department in which the violator and the
13 department retain no monetary benefit, however remote.

14 (C) The services shall not duplicate or augment services already
15 provided by the department through appropriations of the General Assembly."

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17 SECTION 6. Arkansas Code Annotated § 8-7-204(e) (3) is hereby amended to
18 read as follows:

19 "(3) (A) The director, in his discretion, may authorize in-kind services
20 as partial mitigation of cash penalties for use in projects or programs
21 designed to advance environmental interests.

22 (B) The violator may provide in-kind services or cash
23 contributions as directed by the department by utilizing the violator's own
24 expertise, by hiring and compensating subcontractors to perform the services,
25 by arranging and providing financing for the services, or by other financial
26 arrangements initiated by the department in which the violator and the
27 department retain no monetary benefit, however remote.

28 (C) The services shall not duplicate or augment services already
29 provided by the department through appropriations of the General Assembly."

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31 SECTION 7. All provisions of this act of a general and permanent nature
32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
33 Revision Commission shall incorporate the same in the Code.

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35 SECTION 8. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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6 SECTION 9. All laws and parts of laws in conflict with this act are
7 hereby repealed.

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APPROVED: 4-4-95

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