

As Engrossed: 3/14/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representatives Parkerson, Blair, Flanagin,**
5 **Gibson and McGee**

A Bill

HOUSE BILL 2039

For An Act To Be Entitled

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

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

24
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,

1 organization or philosophy; however, in making appointments to the commission,
2 the Governor should consider appointing individuals who have knowledge or
3 expertise in matters within the jurisdiction of the commission including, but
4 not limited to: government; business or industry; agriculture and livestock;
5 forestry; health; ecology; recreation and tourism; and geology.

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

13 (2) The other four (4) members of the Commission shall be the Directors
14 of the Arkansas Department of Health, the Arkansas Game and Fish Commission,
15 the Arkansas Forestry Commission, and the Arkansas Soil and Water Conservation
16 Commission or 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 (4) *In addition to those members appointed above, the Director of the*
20 *Oil and Gas Commission and the Director of the State Geology Commission shall*
21 *serve as members of the Arkansas Pollution Control and Ecology Commission.*

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

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

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

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

36 (2) Six (6) members of the commission shall constitute a quorum to

1 transact business in both regular and special meetings.

2 (f) (1) The members of the commission representing state agencies shall
3 receive no additional salary or per diem for services as a member of the
4 commission, but shall be allowed travel and maintenance expenses while
5 attending hearings or other official business away from Little Rock.

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

11

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

13 "8-4-105. The Director of the Department of Pollution Control and
14 Ecology.

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

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

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

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

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

34

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

1 "8-4-106. Technical, etc., services and public assistance.
2 Technical, scientific, legal, or other services may be performed,
3 insofar as practicable, by personnel of other state agencies and educational
4 institutions and the Attorney General . However, the personnel of these state
5 agencies shall receive no additional salary or wages for their services to the
6 Department of Pollution Control and Ecology. The Director of the Department
7 of Pollution Control and Ecology, however, may employ and compensate, within
8 appropriations available, consultants and such assistants and employees as may
9 be necessary to carry out the provisions of this chapter and prescribe their
10 powers and duties."

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

13 "8-4-205. Permits - Hearings upon denial, revocation, or modification.

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

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

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

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

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34 /s/ J. Parkerson et al

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