

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

# A Bill

SENATE BILL 727

## For An Act To Be Entitled

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

## Subtitle

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

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

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

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

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

(C) The services shall not duplicate or augment services already

1 provided by the department through appropriations of the General Assembly."  
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3 SECTION 2. Arkansas Code Annotated § 8-4-203(d) is hereby amended to  
4 read as follows:

5 "(d) All costs of publication of notice under this section shall be  
6 paid by the department with reimbursement by the applicant to be made to the  
7 department prior to the issuance of the final permit. All monies received  
8 pursuant to this subsection shall be classified as refunds to expenditures."  
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10 SECTION 3. Arkansas Code Annotated § 8-4-227(d) is hereby amended to  
11 read as follows:

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

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

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

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

1 authorization shall be reported to the Joint Interim Committee on Public  
2 Health, Welfare and Labor prior to its final promulgation."

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

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

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

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

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

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

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

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

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

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1           SECTION 8. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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

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