

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 151** Session of  
2011

INTRODUCED BY PILEGGI, ERICKSON, TARTAGLIONE, SCARNATI, BROWNE,  
YAW, RAFFERTY, D. WHITE, ALLOWAY, M. WHITE, FARNESE,  
BRUBAKER, WASHINGTON, MENSCH, EARLL AND WARD,  
JANUARY 12, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 24, 2011

## AN ACT

1 Amending the act of January 8, 1960 (1959 P.L.2119, No.787),  
2 entitled, as amended, "An act to provide for the better  
3 protection of the health, general welfare and property of the  
4 people of the Commonwealth by the control, abatement,  
5 reduction and prevention of the pollution of the air by  
6 smokes, dusts, fumes, gases, odors, mists, vapors, pollens  
7 and similar matter, or any combination thereof; imposing  
8 certain powers and duties on the Department of Environmental  
9 Resources, the Environmental Quality Board and the  
10 Environmental Hearing Board; establishing procedures for the  
11 protection of health and public safety during emergency  
12 conditions; creating a stationary air contamination source  
13 permit system; providing additional remedies for abating air  
14 pollution; reserving powers to local political subdivisions,  
15 and defining the relationship between this act and the  
16 ordinances, resolutions and regulations of counties, cities,  
17 boroughs, towns and townships; imposing penalties for  
18 violation of this act; and providing for the power to enjoin  
19 violations of this act; and conferring upon persons aggrieved  
20 certain rights and remedies," further providing for  
21 disposition of fees, fines and civil penalties.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 9.2 of the act of January 8, 1960 (1959  
25 P.L.2119, No.787), known as the Air Pollution Control Act,

1 amended July 9, 1992 (P.L.460, No.95), is amended to read:

2 Section 9.2. Disposition of Fees, Fines and Civil  
3 Penalties.--(a) [All] Except as provided under subsection  
4 (a.1), all fines, civil penalties and fees collected under this  
5 act shall be paid into the Treasury of the Commonwealth in a  
6 special fund known as the Clean Air Fund, hereby established,  
7 which, along with interest earned, shall be administered by the  
8 department for use in the elimination of air pollution. The  
9 department may establish such separate accounts as may be  
10 necessary or appropriate to implement the requirements of this  
11 act and the Clean Air Act. The board shall adopt rules and  
12 regulations for the management and use of the money in the fund.

13 (a.1) The following shall apply:

14 (1) If an incident results in the imposition of a fine or  
15 civil penalty of at least fifty thousand dollars (\$50,000),  
16 twenty-five per centum (25%) of the fine or civil penalty  
17 collected shall be returned by the department to the  
18 municipality in which the violation occurred to be used for  
19 projects that eliminate or reduce air pollution or for parks,  
20 recreation projects, trails or open space.

21 (2) The department shall notify the municipality in which  
22 the violation occurred of the imposition of the fine or civil  
23 penalty under subsection (a) within five (5) business days after  
24 the expiration of the right to file an appeal of the fine or  
25 civil penalty or after all appeals of the fine or civil penalty  
26 have been exhausted.

27 (3) Within one hundred and eighty (180) days of the  
28 department's notification of the municipality under clause (2),  
29 the municipality shall submit a project proposal to the  
30 department for review and approval.

1 (4) Upon approval of the project, the department shall  
2 release twenty-five per centum (25%) of the fine or civil  
3 penalty collected to the municipality. If the cost of the  
4 project exceeds twenty-five per centum (25%) of the fine or  
5 civil penalty, the department may award additional money from  
6 the fine or civil penalty to the municipality.

7 (5) If all fines and civil penalties deposited into the  
8 Clean Air Fund are less than one million, eight hundred fifty  
9 thousand dollars (\$1,850,000) for the previous fiscal year,  
10 clause (1) shall not apply for the current fiscal year.

11 (6) If the United States Environmental Protection Agency and  
12 the department jointly prosecute a violation of the Clean Air  
13 Act, this act or regulation adopted under this act, the fines  
14 and penalties collected shall not be subject to this subsection  
15 and subsection (a.2).

16 (7) A MUNICIPALITY MAY ASSIGN ITS CLAIM TO FUNDING UNDER ←  
17 CLAUSE (1) TO THE COUNTY IN WHICH THE VIOLATION OCCURRED WITHIN  
18 THE ONE HUNDRED EIGHTY (180) DAY PERIOD SPECIFIED IN CLAUSE (3).  
19 THE COUNTY SHALL SUBMIT A PROJECT PROPOSAL IN COMPLIANCE WITH  
20 CLAUSE (1) TO THE DEPARTMENT FOR REVIEW AND APPROVAL WITHIN  
21 FORTY-FIVE (45) DAYS OF THE EXPIRATION OF THE ONE HUNDRED EIGHTY  
22 (180) DAY PERIOD.

23 (8) IF A MUNICIPALITY DOES NOT SUBMIT A PROJECT PROPOSAL  
24 WITHIN THE ONE HUNDRED EIGHTY (180) DAY PERIOD SPECIFIED IN  
25 CLAUSE (3) OR PROVIDES NOTIFICATION OF ITS INTENT NOT TO FILE A  
26 PROJECT PROPOSAL DURING THE ONE HUNDRED EIGHTY (180) DAY PERIOD,  
27 THE COUNTY IN WHICH THE VIOLATION OCCURRED MAY SUBMIT A PROJECT  
28 PROPOSAL IN COMPLIANCE WITH CLAUSE (1) TO THE DEPARTMENT FOR  
29 REVIEW AND APPROVAL WITHIN FORTY-FIVE (45) DAYS OF THE  
30 EXPIRATION OF THE ONE HUNDRED EIGHTY (180) DAY PERIOD.

1       (a.2) Within five (5) business days of imposition of a fine  
2 or civil penalty under this act, the department shall notify the  
3 municipality in which the violation occurred of the violation.

4       (b) The Clean Air Fund may be supplemented by appropriations  
5 from the General Assembly, the Federal, State or local  
6 government or any private source.

7       (c) The Clean Air Fund shall not be subject to 42 Pa.C.S.  
8 Ch. 37 Subch. C (relating to judicial computer system).

9       Section 2. This act shall take effect in 60 days.