

**AIR POLLUTION CONTROL ACT - DISPOSITION OF FEES, FINES AND CIVIL
PENALTIES**

Act of Jul. 7, 2011, P.L. 271, No. 57

Cl. 35

Session of 2011

No. 2011-57

SB 151

AN ACT

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

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 9.2 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, amended July 9, 1992 (P.L.460, No.95), is amended to read:

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

(a.1) The following shall apply:

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

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

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

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

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

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

(7) A municipality may assign its claim to funding under clause (1) to the county in which the violation occurred within the one hundred eighty (180) day period specified in clause (3). The county shall submit a project proposal in compliance with clause (1) to the department for review and approval within forty-five (45) days of the expiration of the one hundred eighty (180) day period.

(8) If a municipality does not submit a project proposal within the one hundred eighty (180) day period specified in clause (3) or provides notification of its intent not to file a project proposal during the one hundred eighty (180) day period, the county in which the violation occurred may submit a project proposal in compliance with clause (1) to the department for review and approval within forty-five (45) days of the expiration of the one hundred eighty (180) day period.

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

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

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

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

APPROVED--The 7th day of July, A.D. 2011.

TOM CORBETT