

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 575

By: Senators Teague, Caldwell

By: Representative L. Fite

For An Act To Be Entitled

AN ACT TO AUTHORIZE PRIVATE SOURCE FUNDING FOR DESIGNATED ENVIRONMENTAL REMEDIAL ACTIVITIES; TO REQUIRE THE DIVISION OF ENVIRONMENTAL QUALITY TO DESIGNATE A LIST OF ELIGIBLE ENVIRONMENTAL REMEDIAL SITES; TO ESTABLISH THE DIVISION OF ENVIRONMENTAL QUALITY DESIGNATED ENVIRONMENTAL SITE REMEDIATION TRUST FUND; TO ESTABLISH AN ENVIRONMENTAL TAX CREDIT; AND FOR OTHER PURPOSES.

Subtitle

TO AUTHORIZE PRIVATE FUNDING FOR REMEDIAL ACTIVITIES AT ENVIRONMENTAL SITES; AND TO ESTABLISH THE DIVISION OF ENVIRONMENTAL QUALITY DESIGNATED ENVIRONMENTAL SITE REMEDIATION TRUST FUND AND AN ENVIRONMENTAL TAX CREDIT.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Certain sites exist in the State of Arkansas where unpermitted and illegal disposal and dumping of solid waste and used tires have created significant environmental concerns that impact the health and safety of the citizens of this state;

(2) Given the circumstances related to the creation of



conditions at these sites, it is not always possible to determine the existence or identity of parties responsible or to conclusively establish legal and financial liability for remediation under existing law;

(3) Due to these conditions and the volume of improperly disposed solid waste and used tires at these sites of environmental concern and the expense of cleanup and remediation, coupled with the inability to establish conclusive legal liability for their creation or identify available and recoverable assets to effectuate satisfactory remediation, these sites continue to pose hazards to the environment, health, and human safety and remain blights on the communities in which they are located; and

(4) There is a compelling public interest in providing a solution to clean up these sites when existing legal remedies to identify the responsible parties and hold them financially accountable have been ineffective, and there is no other readily available means to protect the health and safety of communities, citizens, and the environment.

SECTION 2. Arkansas Code Title 8, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

8-1-108. Eligible environmental site remediation – Tax credit.

(a)(1) The Division of Environmental Quality shall designate a list of environmental sites in Arkansas that require:

(A) Removal and subsequent disposal of solid waste or tires to a permitted disposal site, permitted transfer station, or permitted processing facility; and

(B) Remediation.

(2) Each designated site listed under subdivision (a)(1) of this section shall include a dollar amount associated with the estimated cost of necessary cleanup and remediation.

(b) The division shall administer the Division of Environmental Quality Designated Environmental Site Remediation Trust Fund to accept and provide funding for environmental cleanup and remediation activities at designated sites under this section.

(c)(1) A private entity may apply to the division for a determination of eligibility to provide funding as a donor for the remediation of a designated environmental site on the list maintained under subsection (a) of this section.

(2) The division shall determine the eligibility of a proposed donor's request under subdivision (c)(1) of this section.

(3) Upon a determination of eligibility, the division shall:

(A) Deposit the funding from the donor in the fund;

(B) Enter into a contract with a private contractor to provide cleanup and remediation of the designated environmental remediation site;

(C) Approve an appropriate remedial action plan and oversee the execution of the approved remedial action plan for site cleanup and remediation by the private contractor; and

(D) Provide expenditures from the fund to the private contractor according to the terms of the contract.

(d) Upon completion of the contract under subdivision (c)(3)(B) of this section, the designated environmental site shall be certified by the division as satisfactorily remediated.

(e) Upon division certification that a site is satisfactorily remediated, the division shall issue the eligible donor a certificate reflecting the amount of donated funding used for the completed cleanup and remediation of the designated site.

(f) An eligible donor under this section who receives certification under subsection (e) of this section is allowed an income tax credit under § 26-51-515.

SECTION 3. Arkansas Code Title 19, Chapter 5, Subchapter 11, is amended to add an additional section to read as follows:

19-5-1155. Division of Environmental Quality Designated Environmental Site Remediation Trust Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Division of Environmental Quality Designated Environmental Site Remediation Trust Fund".

(b) The fund shall consist of:

(1) Grants, donations, or transfers made by any person or government agency or office; and

(2) Any other funds authorized or provided by law.

(c) The fund shall be used for the purposes set out in § 8-1-108.

SECTION 4. Arkansas Code Title 26, Chapter 51, Subchapter 5, is amended to add an additional section to read as follows:

26-51-515. Designated environmental site remediation tax credit.

(a)(1) There is allowed a tax credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., for a donation to aid in cleanup and remediation of designated environmental sites under § 8-1-108 designated on the certificate reflecting the eligible donation of funds for completed environmental cleanup and remediation issued by the Division of Environmental Quality pursuant to § 8-1-108(e).

(2) The tax credit under this section shall be claimed within one (1) year after the taxpayer receives the certificate of funding under § 8-1-108(e).

(b) The amount of the income tax credit under this section that may be claimed by the taxpayer in a tax year shall not exceed the amount of income tax due by the taxpayer.

(c)(1) The total amount of tax credits that may be awarded in any tax year shall not exceed two million dollars (\$2,000,000).

(2) If the Department of Finance and Administration receives claims for tax credit under this section that exceed the cap in this subsection in a single tax year, then the department shall prorate the credit to all eligible taxpayers claiming the credit based on their eligible donations under § 8-1-108(e).

(d) The Secretary of the Department of Finance and Administration may promulgate rules to implement this section.

SECTION 5. EFFECTIVE DATE.

This act is effective for tax years beginning on January 1, 2021, and expires on December 31, 2023.