

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1390

To amend the Federal Water Pollution Control Act to permit a private person against whom a civil or administrative penalty is assessed to use the amount of the penalty to fund a community environmental project, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1995

Mr. PRESSLER introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to permit a private person against whom a civil or administrative penalty is assessed to use the amount of the penalty to fund a community environmental project, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Environmental  
5 Improvement Facilitation Act”.

1 **SEC. 2. USE OF FEDERAL WATER POLLUTION CONTROL**  
2 **ACT CIVIL PENALTIES TO FUND COMMUNITY**  
3 **ENVIRONMENTAL PROJECTS.**

4 Section 309 of the Federal Water Pollution Control  
5 Act (33 U.S.C. 1319) is amended by adding at the end  
6 the following:

7 “(h) USE OF CIVIL PENALTIES TO FUND COMMU-  
8 NITY ENVIRONMENTAL PROJECTS.—

9 “(1) ELECTION.—Notwithstanding any other  
10 provision of this Act or any other law, in the case  
11 of a civil or administrative penalty assessed against  
12 an individual, corporation, partnership, or associa-  
13 tion (referred to in this subsection as a ‘private per-  
14 son’) under this Act, the private person may elect  
15 to—

16 “(A) pay the amount of the penalty to the  
17 Treasury of the United States for deposit into  
18 the special account described in section 3113(d)  
19 of title 31, United States Code, for payment of  
20 public debt obligations; or

21 “(B)(i) pay an amount not to exceed  
22 \$500,000 of the penalty to carry out a commu-  
23 nity environmental project through an agree-  
24 ment entered into in accordance with paragraph  
25 (2); and

1           “(ii) pay the remaining amount of the pen-  
2           alty in accordance with subparagraph (A).

3           “(2) AGREEMENTS TO CARRY OUT COMMUNITY  
4           ENVIRONMENTAL PROJECTS.—

5           “(A) IN GENERAL.—If a private person  
6           makes the election described in paragraph  
7           (1)(B), the private person, after consultation  
8           with and obtaining the concurrence of the State  
9           and each political subdivision of the State with-  
10          in the jurisdiction of which the violation that  
11          resulted in the penalty occurred, shall enter into  
12          an agreement with the parties described in sub-  
13          paragraph (B) to pay the amount described in  
14          paragraph (1)(B)(i) to an appropriate person in  
15          order that the person may carry out 1 or more  
16          environmental projects described in subpara-  
17          graph (C). A separate agreement shall be en-  
18          tered into with respect to each penalty for  
19          which an election is made as described in para-  
20          graph (1)(B).

21          “(B) PARTIES.—The parties to an agree-  
22          ment referred to in subparagraph (A) shall be  
23          the private person, the Administrator, and each  
24          person that is to carry out the environmental  
25          project.

1           “(C) ENVIRONMENTAL PROJECTS.—An en-  
2           vironmental project referred to in subparagraph  
3           (A)—

4                   “(i) shall be described in the agree-  
5                   ment, which description shall include the  
6                   type and scope of the project and the time  
7                   period in which the project is to be carried  
8                   out;

9                   “(ii) shall be carried out within a city  
10                  or county in which the violation occurred;

11                  “(iii) shall bear a relationship to the  
12                  nature of the violation;

13                  “(iv) may not be inconsistent with any  
14                  Federal or State law;

15                  “(v) may not duplicate an activity or  
16                  project for which Congress has specifically  
17                  appropriated funds; and

18                  “(vi) may not consist of—

19                          “(I) a monetary contribution to  
20                          environmental research conducted at a  
21                          college or university;

22                          “(II) a study or assessment (in-  
23                          cluding a pollution prevention assess-  
24                          ment, a site assessment, an environ-  
25                          mental management system audit, or

1 a compliance audit) without a commit-  
2 ment by a party to the agreement or  
3 by another person or Federal entity to  
4 implement the results of the study or  
5 assessment; or

6 “(III) a project that is being  
7 funded through a low-interest Federal  
8 loan, a Federal contract, or a Federal  
9 grant.

10 “(D) OVERSIGHT.—

11 “(i) IN GENERAL.—The Administrator  
12 shall ensure that an environmental project  
13 that is the subject of an agreement entered  
14 into under this subsection is carried out in  
15 accordance with the terms of the agree-  
16 ment.

17 “(ii) ENFORCEMENT.—If the Admin-  
18 istrator determines that a private person  
19 that elected under paragraph (1)(B) to  
20 enter into an agreement fails to carry out  
21 the environmental project in accordance  
22 with the agreement, the Administrator may  
23 terminate the agreement and require the  
24 private person to pay all or part of the  
25 penalty amount described in paragraph

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(1)(B)(i) as if no election had been  
made.”.

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