



**House
Legislative
Analysis
Section**

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CLEAN AIR ASSISTANCE PROGRAM

House Bill 4073

Sponsor: Rep. Ken Sikkema

**Committee: Conservation, Environment
and Great Lakes Affairs**

Complete to 2-1-93

A SUMMARY OF HOUSE BILL 4073 AS INTRODUCED

House Bill 4073 would create the Small Business Clean Air Assistance Act to assist certain small businesses in their efforts to comply with the provisions of the federal Clean Air Act (CAA). The provisions of the bill would apply to a company that was a "stationary source" (although not defined in the bill, the term presumably applies to an activity or facility, other than a vehicle, that contaminates the air, as defined by the federal Clean Air Act.) The bill would create an Office of the Small Business Clean Air Ombudsman within the Department of Commerce to ensure compliance with the program. In addition, the bill would create a Small Business Clean Air Compliance Advisory Panel, consisting of members of the regulated small business community.

Definitions. To qualify for assistance under the act, a company would have to qualify as a small business under the federal Small Business Act and meet the following requirements:

- (a) Be independently owned and operated;
- (b) Not be "dominant in its field" as defined by federal rule;
- (c) Employ up to 100 employees;
- (d) Not be a "major stationary source" as defined in Title I and III of the CAA, or be a major source only because of its location in a "nonattainment" area (an area where air emissions exceed federal limitations);
- (e) Emit less than 50 tons per year of any, or less than 75 tons per year of all, air contaminants or air pollutants regulated under the Air Pollution Act or the CAA.

A small business that didn't meet the above requirements, could, however, petition the Air Pollution Control Commission to be included under the provisions of the act, provided that it did not emit more than 100 tons of all regulated air pollutant per year. If the state determined that a particular category of sources had sufficient technical and financial capabilities to meet the requirements of the CAA, then the commission could exclude that category from the act's definition of "small business stationary source", and thus from eligibility for assistance under the act.

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Small Business Clean Air Assistance Program. The program, in the Department of Commerce, would develop and coordinate information on compliance methodology; encourage lawful cooperation among small businesses and others to further compliance with the CAA; assist small businesses with information on pollution prevention and accidental release detection and prevention; establish a compliance assistance program; provide access to information to enable companies to comply with the CAA and the Air Pollution Act; inform small businesses of their obligations under the CAA; and provide information for modifications of work practices, technological methods of compliance, or the scheduling of milestones to reduce emissions before the applicable compliance date.

Small Business Clean Air Compliance Advisory Panel. An advisory panel, consisting primarily of members of the regulated small business community, would be created within the program. The panel would consist of two members appointed by the governor, who represented the general public and not the small business stationary source community. The small business stationary source community would be represented by one member appointed by the Republican leader of the Senate; one member appointed by the Democratic leader of the Senate; one member appointed by the Republican leader of the House; and one member appointed by the Democratic leader of the House. One additional member would be appointed by the Department of Natural Resources (DNR). The panel would be required to do the following:

--Consult with the Small Business Clean Air Ombudsman (see below) and the head of the program to plan the panel's work.

--Determine whether to utilize private contractors in providing technical assistance to small businesses.

--Prepare advisory reports concerning the office and program's effectiveness; the difficulties encountered and degree and severity of enforcement of the Air Pollution Act; the costs of operating the office and the program; the average costs of different categories of small businesses in complying with the state's air quality enforcement program.

--Periodically report to the United States Environmental Protection Agency (EPA) on the Small Business Clean Air Assistance Program's compliance with federal laws concerning paperwork reduction, regulatory flexibility, and equal access to justice.

The panel would also review information prepared by the program to assure that it was understandable to a lay person; utilize the program to develop and disseminate the work product of the panel; and provide copies of advisory reports to the EPA, the Air Pollution Control Commission, the DNR, the legislature, the Department of Commerce, and -- upon request -- to the public.

Small Business Clean Air Ombudsman. The ombudsman would be appointed by the governor, and would be responsible for assessing and ensuring that the goals of the Small Business Clean Air Assistance Program were being met. The appointee would, among other duties, conduct independent evaluations of all aspects of the program; review and provide comments and recommendations to the EPA; aid in investigating and resolving complaints

and disputes from small businesses against the state or local air pollution control authorities; refer small businesses to the appropriate specialist in the program for information and assistance; work with regional and state offices of the Small Business Administration (SBA), federal and state commerce departments, and other federal and state agencies with programs to assist small businesses in need of funds to comply with environmental requirements; and work with private-sector financial institutions to aid small businesses in locating funds so that they may comply with state and local air pollution control requirements.

When necessary to fulfill the responsibilities of the office, the ombudsman could also request assistance and access to all information, records, and documents in the possession of the natural resources and air pollution control commissions and the DNR.

Confidentiality. Information obtained by the Office of the Small Business Clean Air Ombudsman and the program from small businesses that utilized their services would be held in confidence to the extent authorized under the Freedom of Information Act.