

HOUSE BILL REPORT

SSB 5590

As Passed House:

March 3, 2004

Title: An act relating to determining the appeals period for certain environmental appeals.

Brief Description: Determining the appeals period for certain environmental appeals.

Sponsors: By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Fraser, Honeyford, Hewitt, Doumit and Regala; by request of Environmental Hearings Office).

Brief History:

Committee Activity:

Judiciary: 2/26/04, 2/27/04 [DP].

Floor Activity:

Passed House: 3/3/04, 95-1.

Brief Summary of Substitute Bill

- Makes the periods for appealing decisions of the Pollution Control Hearings Board and for appealing agency actions and other decisions to the board consistent.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Trudes Tango Hutcheson (786-7384).

Background:

The Pollution Control Hearings Board (PCHB) consists of three members appointed by the governor and confirmed by the state Senate. The PCHB hears appeals from orders and decisions made by local and regional air pollution control agencies or authorities; the Department of Ecology; and other agencies as provided by law. There are various statutes and rules governing when an appeal can be filed.

For certain agency actions, orders, and agency decisions, a person must file an appeal to the PCHB within 30 days from the date the notice of the agency's action or decision is posted in the mail to the person. To appeal the PCHB's decision to superior court, a person must file an appeal in court within 30 days after the board's decision has been communicated to the

interested parties. For civil penalties, a person may seek to mitigate the penalty within 15 days after receiving notice of the penalty.

Summary of Bill:

The period for appealing an agency's action and other decisions to the PCHB, and the period for appealing decisions of the PCHB to superior court, is within 30 days of the date of receipt of notice, as opposed to the date the notice is posted in the mail or communicated to the parties.

"Date of receipt" means either: (a) five business days after the date of mailing; or (b) the date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn statement regarding the date of receipt, which is unchallenged by the agency, constitutes sufficient evidence of actual receipt. However, the date of actual receipt may not exceed 45 days from the date of mailing. "Business days" are defined as Monday through Friday exclusive of any state or federal holiday.

A person has 30 days, as opposed to 15 days, after receiving a notice of a civil penalty to seek mitigation of the penalty.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This is a small bill, but an important issue. The bill clarifies when the clock starts ticking regarding filing appeals with the Pollution Control Hearings Board. Some of the statutes mention the date of mailing and others say the date of receipt. This bill makes the statutes consistent.

Testimony Against: None.

Persons Testifying: Senator Morton, prime sponsor; and Bill Lynch, Environmental Hearing Office.

Persons Signed In To Testify But Not Testifying: None.