

# SENATE BILL REPORT

## SB 5590

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As Reported By Senate Committee On:  
Natural Resources, Energy & Water, February 28, 2003

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

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

**Sponsors:** Senators Morton, Fraser, Honeyford, Hewitt, Doumit and Regala; by request of Environmental Hearings Office.

**Brief History:**

**Committee Activity:** Natural Resources, Energy & Water: 2/12/03, 2/28/03 [DPS].

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### SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

**Majority Report:** That Substitute Senate Bill No. 5590 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Doumit, Fraser, Hale, Hargrove, Honeyford and Regala.

**Staff:** Genevieve Pisarski (786-7488)

**Background:** Under current law, different statutes govern appeals to the Pollution Control Hearings Board of agency actions, civil penalties, and orders, permits, or licenses, as well as appeals from decisions and orders of the board. The statutes are not consistent regarding the period in which an appeal can be filed. In some, the period starts when notice is mailed. In others, the period starts when notice is received. These statutes also do not specify in detail who is entitled to receive notice.

**Summary of Substitute Bill:** The period for appealing decisions of the Pollution Control Hearings Board to superior court and for appealing civil penalties, orders, permits, and other actions to the board is within 30 days of the date of receipt of notice. Date of receipt means either five business days after the date of mailing or the date of actual receipt, if it can be proved by a preponderance of the evidence and is not later than 45 days from the date of mailing. A sworn affidavit or declaration is sufficient evidence, if unchallenged.

**Substitute Bill Compared to Original Bill:** The date of receipt is changed from three business days to five business days after the date of mailing. Business days is defined. A sworn affidavit or declaration regarding the date of receipt is sufficient evidence of actual receipt, if it is unchallenged by the agency. Provisions regarding who is entitled to notice are removed, including the definition of parties of record and the section providing optional internet notice.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Appeals periods need to be made uniform to achieve clarity and predictability in Pollution Control Hearings Board adjudications. The multiple appeals periods in existing law are confusing and hinder parties seeking to file appeals. The definition of "parties of record" is too broad. Internet posting should be the same day as mailing.

**Testimony Against:** None.

**Testified:** PRO: Bill Lynch, Eric Lucas, PCHB; Kristen Sawin, AWB (concerns).