

# HOUSE BILL REPORT

## SB 5192

---

---

**As Passed House:**

March 24, 2023

**Title:** An act relating to authorizing administrative law judges to substitute for pollution control hearings board members in deciding derelict vessel appeals.

**Brief Description:** Authorizing administrative law judges to substitute for pollution control hearings board members in deciding derelict vessel appeals.

**Sponsors:** Senators Shewmake, Hunt, Nguyen and Wellman; by request of Environmental and Land Use Hearings Office.

**Brief History:**

**Committee Activity:**

Agriculture and Natural Resources: 3/14/23, 3/17/23 [DP].

**Floor Activity:**

Passed House: 3/24/23, 96-0.

**Brief Summary of Bill**

- Authorizes administrative law judges employed by the Pollution Control Hearings Board (PCHB) to substitute for PCHB members in hearing certain appeals brought under the Derelict Vessel Removal Program.

---

### HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 10 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Kloba, Kretz, Lekanoff, Orcutt, Schmick and Springer.

**Staff:** Robert Hatfield (786-7117).

**Background:**

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

### Derelict Vessel Removal Program.

The Derelict Vessel Removal Program (DVRP) is administered by the Department of Natural Resources (DNR). Under the DVRP, certain public entities, including the DNR and most public agencies that own or manage aquatic lands, may take custody and dispose of abandoned or derelict vessels on aquatic lands within their jurisdiction. The owner of an abandoned or derelict vessel is responsible for the cost of removal and disposal of the vessel.

Any owner of a vessel that has been seized under the DVRP may request a hearing before the Pollution Control Hearings Board (PCHB) to appeal either the seizure or the amount of reimbursement owed to the agency that removed the vessel.

### Pollution Control Hearings Board.

The PCHB is an administrative body that hears and decides appeals from state and local governmental agencies on a wide variety of environmental permits and penalty orders. The PCHB is administered by the Environmental and Land Use Hearings Office (ELUHO), and has three members, all of whom are appointed by the Governor and confirmed by the Senate for staggered six-year terms. One of the three PCHB members must be an attorney.

An appeal brought under the DVRP, whether to challenge the seizure of a vessel or the amount of reimbursement owed to the agency that removed the vessel, may be heard by one member of the PCHB, whose decision is the final decision of the PCHB.

### Administrative Law Judges.

Administrative law judges preside over administrative hearings and issue written orders affirming, modifying, or reversing agency decisions.

The ELUHO employs administrative law judges to facilitate a wide range of administrative processes. The Director of ELUHO may appoint administrative law judges to serve on cases before the PCHB.

### **Summary of Bill:**

An administrative law judge employed by the Pollution Control Hearings Board (PCHB) may be substituted for a PCHB member to hear appeals brought pursuant to the Derelict Vessel Removal Program to challenge the seizure of a vessel or the amount of reimbursement owed to the agency that removed the vessel.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill reduces confusion by appellants, increases administrative efficiencies, and fixes a statutory discrepancy. The Legislature has already given approval in one statute for administrative law judges (ALJs) to hear appeals under the Derelict Vessel Removal Program (DVRP), but not in the other statute that deals with this topic. All three Pollution Control Hearings Board (PCHB) members participate in the vast majority of cases before the PCHB. Administrative law judges often preside over PCHB hearings, but they usually are not allowed to actually decide cases that come before the PCHB. Currently, the PCHB usually does not assign ALJs to DVRP cases because they do not want to confuse appellants. The PCHB has jurisdiction over about 40 different areas, and this bill would free up PCHB members to focus on more complex cases. Derelict vessel appeals are usually relatively simple, and by statute, hearings must be heard within 10 days. Administrative law judges are attorneys who must have a demonstrated knowledge of environmental law. The PCHB has a very complex, heavy caseload, and derelict vessel appeals represent about 10 percent of the PCHB's cases. The Director of the Environmental and Land Use Hearings Office is the hiring authority for ALJs, but PCHB members are on the hiring panel.

(Opposed) None.

**Persons Testifying:** Senator Sharon Shewmake, prime sponsor; and Dominga Soliz, Environmental and Land Use Hearings Office.

**Persons Signed In To Testify But Not Testifying:** None.