

By Mr. Hart, a petition (accompanied by bill, Senate, No. 501) of John A. Hart, Jr. for legislation to provide for the establishment of an environmental appeals board within the Executive Office of Environmental Affairs. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF AN ENVIRONMENTAL APPEALS BOARD WITHIN THE EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The purpose of this act is to provide the public
2 with a fair and equitable environmental appeals hearing process
3 and with timely decisions from that process.

1 SECTION 2. Chapter 21 of the General Laws, as appearing in
2 the 2000 Official Edition, is hereby amended by adding the
3 following section:—

4 §21. Environmental appeals board.

5 (1) The office of administrative appeals of the department of
6 environmental protection, together with all cases before it, and
7 together with its entire adjudicatory jurisdiction as it was on
8 October 1, 2002, shall be moved from under the auspices of the
9 department of environmental protection to under the auspices of
10 the executive office of environmental affairs, and shall be
11 renamed and known as the environmental appeals board (board).

12 (2) The board shall maintain, to the fullest extent practicable, a
13 complete physical and technological separation from any agency,
14 department, board, commission or program whose decisions,
15 determinations or actions may be appealed to it, and from the
16 executive office of environmental affairs.

17 (3) (a) The board's administrative law judges shall be initially
18 the persons who, on October 1, 2002, were serving as administra-
19 tive law judges in the office of administrative appeals of the
20 department of environmental protection.

21 (b) The board's docket clerk shall be initially the person who,
22 on October 1, 2002, was serving as docket clerk in the office of
23 administrative appeals of the department of environmental protec-
24 tion.

25 (c) There shall be transferred to the board from the department
26 of environmental protection the position of program coordinator
27 III that existed within the office of administrative appeals on
28 October 1, 2002.

29 (4) Each of the board's employees shall be entitled to all collec-
30 tive bargaining rights granted to such an employee by chapter
31 150E of the General Laws.

32 (5) No administrative law judge of the board shall be removed
33 for any reason other than just cause.

34 (6) The conduct of proceedings before the board shall be gov-
35 erned by the provisions of chapter thirty A of the general laws
36 and, in addition, by the standard rules promulgated pursuant to
37 section nine of said chapter thirty A or by such substitute rules as
38 the board shall promulgate pursuant to section nine of said chapter
39 thirty A.

40 (7) A recommended final decision issued by one or more of the
41 board's administrative law judges shall become the final decision
42 of the agency, department, board, commission or program whose
43 decision, determination or action was under review unless, within
44 sixty days following the date of issuance of the recommended
45 final decision, the commissioner or other head of said agency,
46 department, board, commission or program, or a designee, issues a
47 final decision that adopts, rejects or modifies the recommended
48 final decision.

49 (8) Every decision issued by a commissioner or other head of
50 agency, or a designee, following the issuance of a recommended
51 final decision by an administrative law judge of the board, shall
52 be an agency decision subject to judicial review pursuant to
53 chapter thirty A of the general laws.

54 (9) The board may accept any gifts or grants of money or prop-
55 erty, whether real or personal, from any source, public or private,

56 including, but not limited to, the United States or its agencies, in
57 order to assist it in discharging its duties, provided that any gifts
58 or grants of money shall be expended according to the laws per-
59 taining to the expenditure of funds, and that records of these
60 expenditures shall be audited by the state auditor.

