

**HB0346**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**HB0346**

Introduced 1/22/2007, by Rep. Thomas Holbrook

**SYNOPSIS AS INTRODUCED:**

415 ILCS 5/41

from Ch. 111 1/2, par. 1041

Amends the Environmental Protection Act. Makes a technical change to a Section concerning judicial review.

LRB095 05295 CMK 25373 b

**A BILL FOR**

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 41 as follows:

6 (415 ILCS 5/41) (from Ch. 111 1/2, par. 1041)

7 Sec. 41. Judicial review.

8 (a) Any party to a Board hearing, any person who filed a  
9 complaint on which a hearing was denied, any person who has  
10 been denied a variance or permit under this Act, any party  
11 adversely affected by a final order or determination of ~~the~~ the  
12 Board, and any person who participated in the public comment  
13 process under subsection (8) of Section 39.5 of this Act may  
14 obtain judicial review, by filing a petition for review within  
15 35 days from the date that a copy of the order or other final  
16 action sought to be reviewed was served upon the party affected  
17 by the order or other final Board action complained of, under  
18 the provisions of the Administrative Review Law, as amended and  
19 the rules adopted pursuant thereto, except that review shall be  
20 afforded directly in the Appellate Court for the District in  
21 which the cause of action arose and not in the Circuit Court.  
22 Review of any rule or regulation promulgated by the Board shall  
23 not be limited by this section but may also be had as provided

1 in Section 29 of this Act.

2 (b) Any final order of the Board under this Act shall be  
3 based solely on the evidence in the record of the particular  
4 proceeding involved, and any such final order for permit  
5 appeals, enforcement actions and variance proceedings, shall  
6 be invalid if it is against the manifest weight of the  
7 evidence. Notwithstanding this subsection, the Board may  
8 include such conditions in granting a variance and may adopt  
9 such rules and regulations as the policies of this Act may  
10 require. If an objection is made to a variance condition, the  
11 board shall reconsider the condition within not more than 75  
12 days from the date of the objection.

13 (c) No challenge to the validity of a Board order shall be  
14 made in any enforcement proceeding under Title XII of this Act  
15 as to any issue that could have been raised in a timely  
16 petition for review under this Section.

17 (d) If there is no final action by the Board within 120  
18 days on a request for a variance which is subject to subsection  
19 (c) of Section 38 or a permit appeal which is subject to  
20 paragraph (a) (3) of Section 40 or paragraph (d) of Section  
21 40.2 the petitioner shall be entitled to an Appellate Court  
22 order under this subsection. If a hearing is required under  
23 this Act and was not held by the Board, the Appellate Court  
24 shall order the Board to conduct such a hearing, and to make a  
25 decision within 90 days from the date of the order. If a  
26 hearing was held by the Board, or if a hearing is not required

1 under this Act and was not held by the Board, the Appellate  
2 Court shall order the Board to make a decision within 90 days  
3 from the date of the order.

4 The Appellate Court shall retain jurisdiction during the  
5 pendency of any further action conducted by the Board under an  
6 order by the Appellate Court. The Appellate Court shall have  
7 jurisdiction to review all issues of law and fact presented  
8 upon appeal.

9 (Source: P.A. 87-1213; 88-1; 88-464; 88-670, eff. 12-2-94.)