



**House
Legislative
Analysis
Section**

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TWP ZONING BOARD OF APPEALS MEMBERS

House Bills 5394 and 5395 as introduced
First Analysis (2-21-90)

Sponsor: Rep. Roland G. Niederstadt
Committee: Towns and Counties

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THE APPARENT PROBLEM:

The township planning commission act (Public Act 168 of 1959) allows township boards to transfer to a planning commission all the powers and duties of zoning boards permitted by the Township Rural Zoning Act (Public Act 184 of 1943). Under the township planning commission act, however, township boards may appoint alternate members to their zoning boards of appeals, a provision that is not available under the Township Rural Zoning Act. At the request of the Michigan Township Association, legislation has been introduced to allow townships to appoint alternate members to their zoning boards of appeals regardless of which act they were operating under.

THE CONTENT OF THE BILLS:

The bills basically would allow townships operating under either act to appoint both regular and alternate members to their zoning boards of appeals. They would do this by transferring the existing relevant language in the township planning commission act to the Township Rural Zoning Act and adding a provision in the township planning commission act that referenced the new language in the Township Rural Zoning Act. The bills are tie-barred to each other.

House Bill 5395. The township planning commission act (Public Act 168 of 1959) allows township boards to appoint up to two alternate members to the board of appeals, for the same term, and with the same voting rights, as regular members of the board. If a regular board member can't come to two or more consecutive board meetings or to meetings for more than 30 consecutive days, an alternate member may be called to serve (as specified in the zoning ordinance). If a regular member abstains, because of conflict of interest, from voting on a case, an alternate member may be called to serve as a regular member in the case until the board of appeals makes a final decision.

The bill would strike the provisions for the appointment of alternate members to the appeals board, and would instead allow the township board, by resolution, to transfer to the planning commission all powers and duties provided by the Township Rural Zoning Act.

The bill also would strike the requirement that, in townships where the powers and duties had been transferred to the planning commission, the first member of the board of appeals be a member of the township planning commission.

House Bill 5394. The bill would amend the Township Rural Zoning Act (MCL 125.288) to allow the appointment of alternate members to the board of appeals as now permitted in the township planning commission act.

FISCAL IMPLICATIONS:

Fiscal information is not available. (2-20-90)

ARGUMENTS:

For:

Currently, only townships operating under the 1959 township planning commission act may appoint alternate members to their zoning boards of appeals. Townships operating under the older, 1943 Township Rural Zoning Act have no provisions allowing for the appointment of alternate members to their zoning boards of appeals, and so have no statutory authority to appoint such members. Having alternate members to take the place of regular members when a regular member cannot carry out his or her duties, either because of absence or conflict of interest, greatly facilitates zoning boards' ability to function. The bill would rectify a basically unfair situation by allowing townships to appoint alternate members regardless of which act they were operating under.

POSITIONS:

The Michigan Township Association supports the bills. (2-20-90)

H.B. 5394 (2-21-90)