

FIRST REGULAR SESSION

# HOUSE BILL NO. 158

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HUDSON.

0185H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 64.805 and 64.870, RSMo, and to enact in lieu thereof two new sections relating to meeting fees for certain county bodies.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 64.805 and 64.870, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 64.805 and 64.870, to read as follows:

64.805. The county planning commission shall consist of the county highway engineer, and one resident of the county appointed by the county commission, from the unincorporated part of each township in the county, except that no such person shall be appointed from a township in which there is no unincorporated area. The township representatives are hereinafter referred to as appointed members. The term of each appointed member shall be four years or until a successor takes office, except that the terms shall be overlapping and that the respective terms of the members first appointed may be less than four years. The term of the county highway engineer shall be only for the duration of the engineer's tenure of official position. All members of the county planning commission shall serve as such without compensation, except that an attendance fee as reimbursement for expenses may be paid to the appointed members of the county planning commission in an amount, as set by the county commission, not to exceed ~~twenty-five~~ **seventy-five** dollars per meeting. The planning commission shall elect its chairman, who shall serve for one year.

64.870. 1. **(1)** Any county commission which appointed a county zoning commission and which has adopted a zoning plan, as provided in sections 64.800 to 64.905, shall appoint a county board of zoning adjustment.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4           (2) The board shall consist of five residents of the county, but not more than two shall  
5 be residents of the incorporated area of the county and not more than one may be a member of  
6 the county zoning commission. The membership of the first board appointed shall serve  
7 respectively: one for one year, one for two years, one for three years, **and** two for four years.  
8 Thereafter members shall be appointed for terms of four years each. Members shall be  
9 removable for cause by the county commission upon written charges and after public hearings.  
10 Vacancies shall be filled by the county commission for the unexpired term of any member whose  
11 term becomes vacant. The board of zoning adjustment shall elect its own chairman and shall  
12 adopt rules of procedure consistent with the provisions of the zoning regulations and the  
13 provisions of sections 64.845 to 64.880. The chairman, or in his absence the acting chairman,  
14 may administer oaths and compel the attendance of witnesses.

15           (3) **All members of the county board of zoning adjustment shall serve as such**  
16 **without compensation, except that an attendance fee as reimbursement for expenses may**  
17 **be paid to the appointed members of the county planning commission in an amount set by**  
18 **the county commission, not to exceed seventy-five dollars per meeting. For any member**  
19 **of the county planning commission who is also a member of the board of zoning**  
20 **adjustment, only one attendance fee shall be paid if the board and commission meet on the**  
21 **same day.**

22           (4) All meetings of the board of zoning adjustment shall be open to the public, and  
23 minutes shall be kept of all proceedings and official actions, which minutes shall be filed in the  
24 office of the board and shall be a public record.

25           (5) Appeals to the board of zoning adjustment may be taken by any owner, lessee or  
26 tenant of land, or by a public officer, department, board or bureau, affected by any decision of  
27 the administrative officer in administering a county zoning ordinance. The appeals shall be taken  
28 within a period of not more than three months, and in the manner provided by the rules of the  
29 board. An appeal shall stay all proceedings in furtherance of the action appealed from, unless  
30 the officer from whom the appeal is taken shall certify to the board that by reason of facts stated  
31 in the certificate a stay would, in his opinion, cause imminent peril to life or property. The board  
32 of adjustment shall have the following powers and it shall be its duty:

33           ~~[(1)]~~ (a) To hear and decide appeals where it is alleged there is error of law in any order,  
34 requirement, decision or determination made by an administrative official in the enforcement of  
35 the county zoning regulations;

36           ~~[(2)]~~ (b) To hear and decide all matters referred to it or which it is required to determine  
37 under the zoning regulations adopted by the county commission as herein provided;

38           ~~[(3)]~~ (c) Where, by reason of exceptional narrowness, shallowness, shape or topography,  
39 or other extraordinary or exceptional situation or condition of a specific piece of property, the

40 strict application of any regulation adopted under sections 64.845 to 64.880 would result in  
41 peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon  
42 the owner of the property as an unreasonable deprivation of use as distinguished from the mere  
43 grant of a privilege, to authorize, upon an appeal relating to the property, a variance from the  
44 strict application so as to relieve the demonstrable difficulties or hardships, provided the relief  
45 can be granted without substantial detriment to the public good and without substantially  
46 impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning  
47 regulations and map.

48         2. In exercising the above powers, the board may reverse or affirm wholly or partly, or  
49 may modify the order, requirement, decision or determination appealed from and may take such  
50 order, requirement, decision or determination as ought to be made, and to that end shall have all  
51 the powers of the officer from whom the appeal is taken. Any owners, lessees or tenants of  
52 buildings, structures or land jointly or severally aggrieved by any decision of the board of  
53 adjustment or of the county commission, respectively, under the provisions of sections 64.845  
54 to 64.880, or board, commission or other public official, may present to the circuit court of the  
55 county in which the property affected is located, a petition, duly verified, stating that the decision  
56 is illegal in whole or in part, specifying the grounds of the illegality and asking for relief  
57 therefrom. Upon the presentation of the petition the court shall allow a writ of certiorari directed  
58 to the board of adjustment or the county commission, respectively, of the action taken and data  
59 and records acted upon, and may appoint a referee to take additional evidence in the case. The  
60 court may reverse or affirm or may modify the decision brought up for review. After entry of  
61 judgment in the circuit court in the action in review, any party to the cause may prosecute an  
62 appeal to the appellate court having jurisdiction in the same manner now or hereafter provided  
63 by law for appeals from other judgments of the circuit court in civil cases.

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