

Legislative Analysis



ZONING ENABLING ACT: TECHNICAL CORRECTIONS

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House Bill 5926 as introduced

Sponsor: Rep. John Walsh

Committee: Intergovernmental and Regional Affairs

First Analysis (6-23-10)

BRIEF SUMMARY: The bill would specify that an appeal of a decision of a local Zoning Board of Appeals would have to be filed within 30 days after the board issues its decision in writing signed by the chairperson (or by the board members if there is no chairperson), or within 21 days after the board approves its minutes of the decision, whichever of the deadlines comes first.

FISCAL IMPACT: The bill would have no state or local government fiscal impact.

THE APPARENT PROBLEM:

In 2006 the legislature merged Michigan's three local zoning statutes that affected counties, townships, and cities. The new act--Public Act 110, called the Michigan Zoning Enabling Act--was intended to make uniform the heretofore conflicting provisions of the three statutes.

Property owners can appeal the decisions of local zoning boards if they disagree with their reasoning and with the outcome of a zoning dispute. Under Michigan law, all appeals of decisions by local zoning boards are made directly to the Circuit Court.

Historically, court rules specified that a property owner's appeal of a zoning board's decision must be filed within 21 days after the minutes were approved of the meeting at which the dispute arose.

When the Zoning Enabling Act was approved in 2006, an alternative appeal process was added to specify that an appeal could be filed within 30 days after a zoning board issued its decision, in writing, signed by the chairperson (or signed by the board members if there were no chairperson). This provision was added because zoning boards in some rural communities meet very infrequently--sometimes just once a year--and the zoning board's approved minutes are not available in a timely manner, in order to enable a property owner's appeal.

According to committee testimony from the assistant city attorney from the City of Livonia, the two different deadlines have caused confusion. So, legislation has been introduced to clarify that property owners may file an appeal with the circuit court by either deadline that is specified in the statute, "whichever comes first."

THE CONTENT OF THE BILL:

House Bill 5926 would amend the Michigan Zoning Enabling Act to make three technical corrections.

Now under the act, an appeal from a decision of a local Zoning Board of Appeals must be filed within 30 days after the board issues its decision in writing signed by the chairperson (or by the board members if there is no chairperson), or within 21 days after the board approves its minutes of the decision. House Bill 5926 would retain these deadlines, but specify that the appeal would have to be filed within *whichever of the deadlines comes first*.

The bill would also revise references within the Zoning Enabling Act to the cited sections of the former County Zoning Act, the former Township Zoning Act, and the former City and Village Zoning Act.

Finally, the bill specifies that the effective date of the 2007 amendatory act that modified the Michigan Zoning Act was February 29, 2008.

MCL 125.3208 et al

ARGUMENTS:

For:

This bill offers technical amendments to Michigan's Zoning Enabling Act. The bill will reduce reported confusion as to the appropriate deadline for appeal to the Circuit Court of a local zoning board's decision. Since Public Act 110 was adopted in 2006 to merge the zoning acts for counties, townships, and cities, there have been two filing deadlines in the act. The original deadline required that an appeal be filed within 21 days of the minutes being approved. In the new law, that 21-day deadline was retained, but an alternative deadline also added for use in rural areas where zoning boards met infrequently. This second deadline allowed an appeal within 30 days of the zoning board chairman signing the minutes. House Bill 5926 retains the two deadlines, but specifies that those making an appeal would have to file that appeal with the circuit court within whichever of the two deadlines comes first.

POSITIONS:

The City of Livonia supports the bill. (6-22-10)

The Michigan Municipal League supports the bill. (6-22-10)

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