

# Senate Election Law and Municipal Affairs Committee

*Jessica Bourque 271-2104*

**HB 92**, requiring recusal of members of zoning boards of adjustment and planning boards in certain circumstances.

**Hearing Date:** March 25, 2025

**Time Opened:** 9:31 a.m.

**Time Closed:** 9:36 a.m.

**Members of the Committee Present:** Senators Gray, Lang, Rochefort, Perkins Kwoka and Long

**Members of the Committee Absent:** None

**Bill Analysis:** This bill requires individuals serving on both the planning board and zoning board of adjustment to recuse themselves from voting on matters previously decided by the other board on which they serve.

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**Sponsors:**

Rep. Alexander Jr.

Rep. Maggiore

Rep. Mazur

Rep. Lascelles

Rep. J. MacDonald

Rep. Seidel

Rep. Sellers

Sen. Innis

Sen. Murphy

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**Who supports the bill:** Representative Joe Alexander

**Who opposes the bill:** No one

**Summary of testimony presented:**

**Representative Joe Alexander, Prime Sponsor, Hillsborough - District 29**

- This bill states that if a member of the zoning board is also a member of the planning board, they must recuse themselves when the planning board hears an appeal.
- This is a constituent request coming from a perceived conflict when someone appeals a decision made by a zoning board to a planning board, and one or more members of the zoning board also serve on the planning board.
- The public has an interest in ensuring independence on both boards.
- The House Municipal and County Government Committee made changes to the bill, starting on line 10.

Senator Perkins Kwoka asked why the language "...shall recuse herself or himself from voting on matters previously decided by the zoning board of adjustment..." was

used and asked if the intent was to allow the member to participate only at the zoning board level.

- House Municipal and County made this change; if they participate at the planning board level, they must recuse themselves at the zoning board level.
- Originally, this bill simply said someone couldn't serve on both boards simultaneously.

Senator Perkins Kwoka asked if Rep. Alexander would be open to technical tweaks of the bill to address her previous question.

- Rep. Alexander said he would be open to that.

Senator Lang said he is trying to understand the bill's intent. He said it makes sense that there is a conflict if someone serves on both the planning board and the zoning board, and if an appeal is made to the planning board, that person would have already voted on the issue with the zoning board. Senator Lang then asked what would happen if the planning board overturned the decision, so the issue went back to the zoning board. Would that person be allowed to vote on the issue with the zoning board a second time? Senator Lang asked if that is what Rep. Alexander is attempting to do.

- Rep. Alexander stated that in the original bill, he was attempting to prevent someone from serving on both boards simultaneously and said that if the committee wanted to change it back, he would be okay with that.

Senator Lang followed up and said that the language beginning on line 10 is his concern. As Senator Lang reads line 10, "...the individual shall recuse herself or himself from voting on matters previously decided by the zoning board..." it would mean that the member would not be able to vote on something sent back to the zoning board if it was overturned by the planning board. He asked if that is the way Rep. Alexander reads the language.

- Rep. Alexander said that is the way he reads this language as well.