

FILED JAN 24 2005

SENATE FILE 57  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO SF 25)

Passed Senate, Date 1-27-05 Passed House, Date 4-19-05  
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 1  
Approved 4-28-05

*Re-passed  
49-0/4-20-05*

A BILL FOR

1 An Act authorizing the appointment of a nine-member city zoning  
2 board of adjustment.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 57

1 Section 1. Section 414.8, Code 2005, is amended to read as  
2 follows:

3 414.8 MEMBERSHIP.

4 The board of adjustment shall consist of five, ~~or seven, or~~  
5 nine members as determined by the council. Members of a five-  
6 member board shall be appointed for a term of five years,  
7 excepting that when the board shall first be created one  
8 member shall be appointed for a term of five years, one for a  
9 term of four years, one for a term of three years, one for a  
10 term of two years, and one for a term of one year. Members of  
11 a seven-member board shall be appointed for a term of five  
12 years, except when the board shall first be created two  
13 members shall be appointed for a term of five years, two  
14 members for a term of four years, one for a term of three  
15 years, one for a term of two years, and one for a one-year  
16 term. Members of a nine-member board shall be appointed for a  
17 term of five years, except when the board shall first be  
18 created three members shall be appointed for a term of five  
19 years, two members for a term of four years, two for a term of  
20 three years, one for a term of two years, and one for a one-  
21 year term. A five-member board shall not carry out its  
22 business without having three members present, ~~and~~ a seven-  
23 member board shall not carry out its business without having  
24 four members present, ~~and~~ a nine-member board shall not carry  
25 out its business without having five members present. A  
26 majority of the members of the board of adjustment shall be  
27 persons representing the public at large and shall not be  
28 involved in the business of purchasing or selling real estate.  
29 Members shall be removable for cause by the appointing  
30 authority upon written charges and after public hearing.  
31 Vacancies shall be filled for the unexpired term of any member  
32 whose term becomes vacant.

33 Sec. 2. Section 414.14, Code 2005, is amended to read as  
34 follows:

35 414.14 VOTE REQUIRED.

1 The concurring vote of three members of the board in the  
2 case of a five-member board, and four members in the case of a  
3 seven-member board, and five members in the case of a nine-  
4 member board, shall be necessary to reverse any order,  
5 requirement, decision, or determination of any such  
6 administrative official, or to decide in favor of the  
7 applicant on any matter upon which it is required to pass  
8 under any such ordinance or to effect any variation in such  
9 ordinance.

10 Sec. 3. Section 414.25, Code 2005, is amended by adding  
11 the following new unnumbered paragraphs:

12 NEW UNNUMBERED PARAGRAPH. Of the four additional members  
13 which may be appointed to increase a five-member board of  
14 adjustment to a nine-member board on or after July 1, 2005,  
15 one member shall be appointed to an initial term of five  
16 years, one member to an initial term of four years, one to an  
17 initial term of three years, and one to an initial term of two  
18 years. The terms of office of members of a board of  
19 adjustment serving unexpired terms of office on July 1, 2005,  
20 shall expire according to their original appointments.

21 NEW UNNUMBERED PARAGRAPH. Of the two additional members  
22 which may be appointed to increase a seven-member board of  
23 adjustment to a nine-member board on or after July 1, 2005,  
24 one member shall be appointed to an initial term of five years  
25 and one member shall be appointed to an initial term of four  
26 years. The terms of office of members of a board of  
27 adjustment serving unexpired terms of office on July 1, 2005,  
28 shall expire according to their original appointments.

29 EXPLANATION

30 This bill allows a city council to appoint a nine-member  
31 city zoning board of adjustment. Current law allows a five-  
32 member or seven-member city zoning board of adjustment. The  
33 bill makes corresponding changes to staggering of initial  
34 terms, vote requirements, and staggering of terms when  
35 membership on an existing board of adjustment is increased

- 1 from five to nine members or from seven to nine members.
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SENATE FILE 57

H-1230

1 Amend Senate File 57, as passed by the Senate, as  
2 follows:

3 1. Page 1, by inserting before line 1, the  
4 following:

5 "Section 1. Section 335.11, Code 2005, is amended  
6 to read as follows:

7 335.11 MEMBERSHIP OF BOARD.

8 The board of adjustment shall consist of five,  
9 seven, or nine members, a majority of whom shall  
10 reside within the county but outside the corporate  
11 limits of any city, each to. Members of a five-member  
12 board shall be appointed for a term of five years,  
13 excepting except that when the board shall first be  
14 created one member shall be appointed for a term of  
15 five years, one for a term of four years, one for a  
16 term of three years, one for a term of two years, and  
17 one for a term of one year. Members of a seven-  
18 member board shall be appointed for a term of five  
19 years, except when the board shall first be created  
20 two members shall be appointed for a term of five  
21 years, two members for a term of four years, one for a  
22 term of three years, one for a term of two years, and  
23 one for a term of one year. Members of a nine-member  
24 board shall be appointed for a term of five years,  
25 except when the board shall first be created three  
26 members shall be appointed for a term of five years,  
27 two members for a term of four years, two for a term  
28 of three years, one for a term of two years, and one  
29 for a term of one year. A five-member board shall not  
30 carry out its business without having three members  
31 present, a seven-member board shall not carry out its  
32 business without having four members present, and a  
33 nine-member board shall not carry out its business  
34 without having five members present. Members shall be  
35 removable for cause by the appointing authority upon  
36 written charges and after public hearing. Vacancies  
37 shall be filled for the unexpired term of any member  
38 whose term becomes vacant.

39 Sec. \_\_\_\_ . Section 335.17, Code 2005, is amended to  
40 read as follows:

41 335.17 VOTE REQUIRED.

42 The concurring vote of three members of the board  
43 in the case of a five-member board, and four members  
44 in the case of a seven-member board, and five members  
45 in the case of a nine-member board, shall be necessary  
46 to reverse any order, requirement, decision, or  
47 determination of any such administrative official, or  
48 to decide in favor of the applicant on any matter upon  
49 which it is required to pass under any such ordinance  
50 or to effect any variation in such ordinance.

H-1230

1 Sec. \_\_\_\_ . NEW SECTION. 335.26 TRANSITIONAL  
2 PROVISIONS.

3 Of the two additional members which may be  
4 appointed to increase a five-member board of  
5 adjustment to a seven-member board on or after July 1,  
6 2005, one member shall be appointed to an initial term  
7 of five years and one member shall be appointed to an  
8 initial term of four years. The terms of office of  
9 members of a board of adjustment serving unexpired  
10 terms of office on or after July 1, 2005, shall expire  
11 according to their original appointments.

12 Of the four additional members which may be  
13 appointed to increase a five-member board of  
14 adjustment to a nine-member board on or after July 1,  
15 2005, one member shall be appointed to an initial term  
16 of five years, one member to an initial term of four  
17 years, one to an initial term of three years, and one  
18 to an initial term of two years. The terms of office  
19 of members of a board of adjustment serving unexpired  
20 terms of office on or after July 1, 2005, shall expire  
21 according to their original appointments.

22 Of the two additional members which may be  
23 appointed to increase a seven-member board of  
24 adjustment to a nine-member board on or after July 1,  
25 2005, one member shall be appointed to an initial term  
26 of five years and one member shall be appointed to an  
27 initial term of four years. The terms of office of  
28 members of a board of adjustment serving unexpired  
29 terms of office on or after July 1, 2005, shall expire  
30 according to their original appointments."

31 2. Title page, line 1, by inserting after the  
32 word "Act" the following: "authorizing the  
33 appointment of a seven-member or nine-member county  
34 zoning board of adjustment and".

35 3. By renumbering as necessary.

By FALLON of Polk

SENATE FILE 57

H-1393

1 Amend Senate File 57, as passed by the Senate, as  
2 follows:

3 1. Page 2, by inserting before line 10, the  
4 following:

5 "Sec. \_\_\_\_ . Section 414.25, Code 2005, is amended  
6 to read as follows:

7 414.25 TRANSITIONAL PROVISIONS.

8 Of the two additional members which may be  
9 appointed to increase a five-member board of  
10 adjustment to a seven-member board after January 1,  
11 1980, one member shall be appointed to an initial term  
12 of five years and one member shall be appointed to an  
13 initial term of four years. The terms of office of  
14 members of a board of adjustment serving unexpired  
15 terms of office on or after January 1, 1980, shall  
16 expire according to their original appointments."

17 2. Page 2, line 19, by inserting after the word  
18 "on" the following: "or after".

19 3. Page 2, line 27, by inserting after the word  
20 "on" the following: "or after".

21 4. By renumbering as necessary.

By TJEPKES of Webster

H-1393 FILED APRIL 18, 2005

**EIGHTY FIRST GENERAL ASSEMBLY  
2005 REGULAR SESSION  
DAILY  
SENATE CLIP SHEET**

APRIL 20, 2005

**HOUSE AMENDMENT TO  
SENATE FILE 57**

**S-3146**

- 1 Amend Senate File 57, as passed by the Senate, as  
2 follows:  
3 1. Page 2, by inserting before line 10, the  
4 following:  
5 "Sec. \_\_\_\_\_. Section 414.25, Code 2005, is amended  
6 to read as follows:  
7 414.25 TRANSITIONAL PROVISIONS.  
8 Of the two additional members which may be  
9 appointed to increase a five-member board of  
10 adjustment to a seven-member board after January 1,  
11 1980, one member shall be appointed to an initial term  
12 of five years and one member shall be appointed to an  
13 initial term of four years. The terms of office of  
14 members of a board of adjustment serving unexpired  
15 terms of office on or after January 1, 1980, shall  
16 expire according to their original appointments."  
17 2. Page 2, line 19, by inserting after the word  
18 "on" the following: "or after".  
19 3. Page 2, line 27, by inserting after the word  
20 "on" the following: "or after".  
21 4. By renumbering as necessary.

RECEIVED FROM THE HOUSE

**S-3146 FILED APRIL 19, 2005**

SENATE FILE 57

AN ACT

AUTHORIZING THE APPOINTMENT OF A NINE-MEMBER CITY ZONING  
BOARD OF ADJUSTMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 414.8, Code 2005, is amended to read as follows:

414.8 MEMBERSHIP.

The board of adjustment shall consist of five, or seven, or nine members as determined by the council. Members of a five-member board shall be appointed for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members of a seven-member board shall be appointed for a term of five years, except when the board shall first be created two

members shall be appointed for a term of five years, two members for a term of four years, one for a term of three years, one for a term of two years, and one for a one-year term. Members of a nine-member board shall be appointed for a term of five years, except when the board shall first be created three members shall be appointed for a term of five years, two members for a term of four years, two for a term of three years, one for a term of two years, and one for a one-year term. A five-member board shall not carry out its business without having three members present, and a seven-member board shall not carry out its business without having four members present, and a nine-member board shall not carry out its business without having five members present. A majority of the members of the board of adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Sec. 2. Section 414.14, Code 2005, is amended to read as follows:

414.14 VOTE REQUIRED.

The concurring vote of three members of the board in the case of a five-member board, and four members in the case of a seven-member board, and five members in the case of a nine-member board, shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass

under any such ordinance or to effect any variation in such ordinance.

Sec. 3. Section 414.25, Code 2005, is amended to read as follows:

414.25 TRANSITIONAL PROVISIONS.

Of the two additional members which may be appointed to increase a five-member board of adjustment to a seven-member board after January 1, 1980, one member shall be appointed to an initial term of five years and one member shall be appointed to an initial term of four years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after January 1, 1980, shall expire according to their original appointments.

Sec. 4. Section 414.25, Code 2005, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Of the four additional members which may be appointed to increase a five-member board of adjustment to a nine-member board on or after July 1, 2005, one member shall be appointed to an initial term of five years, one member to an initial term of four years, one to an initial term of three years, and one to an initial term of two years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after July 1, 2005, shall expire according to their original appointments.

NEW UNNUMBERED PARAGRAPH. Of the two additional members which may be appointed to increase a seven-member board of adjustment to a nine-member board on or after July 1, 2005, one member shall be appointed to an initial term of five years and one member shall be appointed to an initial term of four

years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after July 1, 2005, shall expire according to their original appointments.

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JOHN P. KIBBIE  
President of the Senate

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CHRISTOPHER C. RANTS  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 57, Eighty-first General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 4/28, 2005

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THOMAS J. VILSACK  
Governor