

# 40:55D-23.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2000                      **CHAPTER:** 150  
**NJSA:** 40:55D-23.1              (Appointment of four alternates to zoning boards)  
**BILL NO:** A853

**SPONSOR(S):** Bagger and Augustine

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:**                      **ASSEMBLY:** Local Government

**SENATE:** Community and Urban Affairs

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**              **ASSEMBLY:** March 27, 2000

**SENATE:** September 21, 2000

**DATE OF APPROVAL:** November 9, 2000

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL:** Original version of bill enacted  
A853

**SPONSORS STATEMENT:** (Begins on page 3 of original bill) Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** Yes

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

### FOLLOWING WERE PRINTED:

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

# ASSEMBLY, No. 853

## STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Assemblyman RICHARD H. BAGGER**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Assemblyman ALAN M. AUGUSTINE**

**District 22 (Middlesex, Morris, Somerset and Union)**

**SYNOPSIS**

Authorizes appointment of four alternates to combined planning and zoning boards.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A853 BAGGER, AUGUSTINE

2

1 AN ACT authorizing the appointment of additional alternates to certain  
2 planning boards and amending P.L.1979, c.216.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 13 of P.L.1979, c.216 (C.40:55D-23.1) is amended to  
8 read as follows:

9 13. The governing body of any municipality in which the planning  
10 board exercises the powers of the board of adjustment pursuant to  
11 subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25) may, by  
12 ordinance, provide for the appointment to the planning board of not  
13 more than four alternate members, who shall be municipal residents.  
14 The governing body of any municipality with a separate planning board  
15 and board of adjustment may, by ordinance, provide for the  
16 appointment to the planning board of not more than two alternate  
17 members, who shall be municipal residents.

18 Alternate members shall be appointed by the appointing authority  
19 for Class IV members, and shall meet the qualifications of Class IV  
20 members of nine-member planning boards. Alternate members shall be  
21 designated at the time of appointment by the mayor as "Alternate No.  
22 1" and "Alternate No. [2." ] 2," and, in the case of a municipality in  
23 which four alternates have been appointed, "Alternate No. 1,"  
24 "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4." The  
25 terms of the alternate members shall be for two years, except that the  
26 terms of the alternate members shall be such that the term of not more  
27 than one alternate member shall expire in any one year; provided,  
28 however, that in any municipality in which four alternates have been  
29 appointed, the term of not more than two alternate members shall  
30 expire in any one year; and provided further that in no instance shall  
31 the terms of the alternate members first appointed exceed two years.  
32 A vacancy occurring otherwise than by expiration of term shall be  
33 filled by the appointing authority for the unexpired term only.

34 No alternate member shall be permitted to act on any matter in  
35 which he has either directly or indirectly any personal or financial  
36 interest. An alternate member may, after public hearing if he requests  
37 one, be removed by the governing body for cause.

38 Alternate members may participate in all matters but may not vote  
39 except in the absence or disqualification of a regular member of any  
40 class. Participation of alternate members shall not be deemed to  
41 increase the size of the planning board established by ordinance of the  
42 governing body pursuant to section 14 of P.L.1975, c.291  
43 (C.40:55D-23). A vote shall not be delayed in order that a regular

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

**Matter underlined thus is new matter.**

1 member may vote instead of an alternate member. In the event that a  
2 choice must be made as to which alternate member is to vote,  
3 Alternate No. 1 shall vote.  
4 (cf: P.L.1998, c.95, s.6)

5  
6 2. This act shall take effect immediately.

7  
8  
9 STATEMENT

10  
11 This bill would authorize the appointment of four alternate members  
12 by the governing body of any municipality in which the planning board  
13 exercises the powers of a board of adjustment pursuant to subsection  
14 c. of section 16 of P.L.1975, c.291 (C.40:55D-25).

15 The same subsection which authorizes the combined planning and  
16 zoning boards for municipalities with a population of 10,000 or less  
17 also prohibits Class I and Class III members from participating in the  
18 consideration of applications which involve a use variance. If a  
19 planning board has nine members, this automatically excludes two of  
20 those members, making it that much more difficult to achieve a  
21 quorum. Because a planning board member is forbidden to act on any  
22 matter in which that member has, either directly or indirectly, any  
23 personal or financial interest, members not uncommonly declare a  
24 conflict of interest and alternates are then called upon to participate in  
25 their stead.

26 For all of these reasons, it is the sponsor's belief that two alternate  
27 members are insufficient for those planning boards which exercise the  
28 function of a board of adjustment pursuant to section 16 of P.L.1975,  
29 c.291 (C.40:55D-25). Accordingly, this bill allows those  
30 municipalities with combined planning and zoning boards to appoint  
31 up to four alternates.

# ASSEMBLY LOCAL GOVERNMENT COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 853**

# **STATE OF NEW JERSEY**

DATED: JANUARY 27, 2000

The Assembly Local Government Committee reports favorably Assembly Bill No. 853.

This bill would authorize the appointment of four alternate planning board members by the governing body of any municipality in which the planning board exercises the powers of a board of adjustment pursuant to subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25).

The same subsection which authorizes the combined planning and zoning boards for municipalities with a population of 10,000 or less also prohibits Class I and Class III members from participating in the consideration of applications which involve a use variance. If a planning board has nine members, this automatically excludes two of those members, making it that much more difficult to achieve a quorum. Because a planning board member is forbidden to act on any matter in which that member has, either directly or indirectly, any personal or financial interest, members not uncommonly declare a conflict of interest and alternates are then called upon to participate in their stead.

The committee believes that the currently allowed two alternate members are frequently insufficient for those planning boards which exercise the function of a board of adjustment pursuant to section 16 of P.L.1975, c.291 (C.40:55D-25). Accordingly, this bill allows those municipalities with combined planning and zoning boards to appoint up to four alternates.

This bill was prefiled for introduction in the 2000 session pending technical review. As reported, the bill includes changes required by technical review, which has been performed.

# ASSEMBLY, No. 853

## STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Assemblyman RICHARD H. BAGGER**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Assemblyman ALAN M. AUGUSTINE**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Co-Sponsored by:**

**Assemblyman Weingarten**

**SYNOPSIS**

Authorizes appointment of four alternates to combined planning and zoning boards.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Local Government Committee with technical review.



**(Sponsorship Updated As Of: 2/25/2000)**

A853 BAGGER, AUGUSTINE

2

1 AN ACT authorizing the appointment of additional alternates to certain  
2 planning boards and amending P.L.1979, c.216.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 13 of P.L.1979, c.216 (C.40:55D-23.1) is amended to  
8 read as follows:

9 13. The governing body of any municipality in which the planning  
10 board exercises the powers of the board of adjustment pursuant to  
11 subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25) may, by  
12 ordinance, provide for the appointment to the planning board of not  
13 more than four alternate members, who shall be municipal residents.  
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16 appointment to the planning board of not more than two alternate  
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18 Alternate members shall be appointed by the appointing authority  
19 for Class IV members, and shall meet the qualifications of Class IV  
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21 designated at the time of appointment by the mayor as "Alternate No.  
22 1" and "Alternate No. [2." ] 2," and, in the case of a municipality in  
23 which four alternates have been appointed, "Alternate No. 1,"  
24 "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4." The  
25 terms of the alternate members shall be for two years, except that the  
26 terms of the alternate members shall be such that the term of not more  
27 than one alternate member shall expire in any one year; provided,  
28 however, that in any municipality in which four alternates have been  
29 appointed, the term of not more than two alternate members shall  
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31 the terms of the alternate members first appointed exceed two years.  
32 A vacancy occurring otherwise than by expiration of term shall be  
33 filled by the appointing authority for the unexpired term only.

34 No alternate member shall be permitted to act on any matter in  
35 which he has either directly or indirectly any personal or financial  
36 interest. An alternate member may, after public hearing if he requests  
37 one, be removed by the governing body for cause.

38 Alternate members may participate in all matters but may not vote  
39 except in the absence or disqualification of a regular member of any  
40 class. Participation of alternate members shall not be deemed to  
41 increase the size of the planning board established by ordinance of the  
42 governing body pursuant to section 14 of P.L.1975, c.291  
43 (C.40:55D-23). A vote shall not be delayed in order that a regular

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**A853 BAGGER, AUGUSTINE**

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1 member may vote instead of an alternate member. In the event that a  
2 choice must be made as to which alternate member is to vote,  
3 Alternate No. 1 shall vote.  
4 (cf: P.L.1998, c.95, s.6)  
5  
6 2. This act shall take effect immediately.



SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 853**

**STATE OF NEW JERSEY**

DATED: MAY 22, 2000

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 853.

This bill would authorize the appointment of four alternate planning board members by the governing body of any municipality in which the planning board exercises the powers of a board of adjustment pursuant to subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25).

The same subsection which authorizes the combined planning and zoning boards for municipalities with a population of 10,000 or less also prohibits Class I and Class III members from participating in the consideration of applications which involve a use variance. If a planning board has nine members, this automatically excludes two of those members, making it that much more difficult to achieve a quorum. Because a planning board member is forbidden to act on any matter in which that member has, either directly or indirectly, any personal or financial interest, members not uncommonly declare a conflict of interest and alternates are then called upon to participate in their stead.

The committee believes that the currently allowed two alternate members are frequently insufficient for those planning boards which exercise the function of a board of adjustment pursuant to section 16 of P.L.1975, c.291 (C.40:55D-25). Accordingly, this bill would allow those municipalities with combined planning and zoning boards to appoint up to four alternates.

P.L. 2000, CHAPTER 150, *approved November 9, 2000*

Assembly, No. 853

1 **AN ACT** authorizing the appointment of additional alternates to certain  
2 planning boards and amending P.L.1979, c.216.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

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1 governing body pursuant to section 14 of P.L.1975, c.291  
2 (C.40:55D-23). A vote shall not be delayed in order that a regular  
3 member may vote instead of an alternate member. In the event that a  
4 choice must be made as to which alternate member is to vote,  
5 Alternate No. 1 shall vote.  
6 (cf: P.L.1998, c.95, s.6)

7

8 2. This act shall take effect immediately.

9

10

11

12

13 Authorizes appointment of four alternates to combined planning and  
14 zoning boards.

## CHAPTER 150

**AN ACT** authorizing the appointment of additional alternates to certain planning boards and amending P.L.1979, c.216.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 13 of P.L.1979, c.216 (C.40:55D-23.1) is amended to read as follows:

C.40:55D-23.1 Alternate members.

13. The governing body of any municipality in which the planning board exercises the powers of the board of adjustment pursuant to subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25) may, by ordinance, provide for the appointment to the planning board of not more than four alternate members, who shall be municipal residents. The governing body of any municipality with a separate planning board and board of adjustment may, by ordinance, provide for the appointment to the planning board of not more than two alternate members, who shall be municipal residents.

Alternate members shall be appointed by the appointing authority for Class IV members, and shall meet the qualifications of Class IV members of nine-member planning boards. Alternate members shall be designated at the time of appointment by the mayor as "Alternate No. 1" and "Alternate No. 2," and, in the case of a municipality in which four alternates have been appointed, "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in any municipality in which four alternates have been appointed, the term of not more than two alternate members shall expire in any one year; and provided further that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

No alternate member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member of any class. Participation of alternate members shall not be deemed to increase the size of the planning board established by ordinance of the governing body pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23). A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

2. This act shall take effect immediately.

Approved November 9, 2000.

PO BOX 004  
TRENTON, NJ 08625

*Office of the Governor*  
**NEWS RELEASE**

CONTACT: Jayne O'Connor  
Laura Otterbourg  
609-777-2600

RELEASE: November 9, 2000

Governor today signed the following legislation:

**A-1162**, sponsored by Assemblyman Arnone (R-Monmouth) and Senator Ciesla (R-Monmouth/Ocean), exempts private marinas from the requirement to have first aid and lifeguard personnel on duty.

**A-343**, sponsored by Assembly Members Barnes (D-Middlesex) and Buono (D-Middlesex) and Senators Inverso (R-Mercer/Middlesex) and Bark (R-Atlantic/Burlington/Camden), allows ratepayers to designate third parties to receive public utility service termination notices.

**A-517**, sponsored by Assemblyman Bodine (R-Atlantic/Burlington/Camden), updates the law governing the New Jersey Firemen's Home.

**A-853**, sponsored by Assembly Members Bagger (R-Middlesex/Morris/Somerset/Union) and Augustine (R-Middlesex/Morris/Somerset/Union), authorizes appointment of four alternates to combined planning and zoning boards.

**S-838**, sponsored by Senators Martin (R-Essex/Morris/Passaic) and Allen (R-Burlington/Camden) and Assembly Members Buono (D-Middlesex) and Barnes (D-Middlesex), establishes a minimum period of school district eligibility for early childhood and demonstrably effective program aids and provides a budget cap exclusion for such aids. The bill incorporates recommendations made by the Governor in a conditional veto.

**S-676**, sponsored by Senators Robertson (R-Essex/Passaic) and Connors (R-Atlantic/Burlington/Ocean) and Assembly Members Myers (R-Warren/Hunterdon/Mercer), extends the civil service veterans' preference to certain persons who served in Operation Uphold Democracy in Haiti. The bill incorporates recommendations made by the Governor in a conditional veto.