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ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1997 ASSEMBLY BILL 810

March 16, 1998 - Offered by Committee on Land Use.

1	A N A CT $\it to\ repeal\ and\ recreate\ 59.694\ (14),\ 60.65\ (5)\ and\ 62.23\ (7)\ (e)\ 14.;$ and
2	to create 59.694 (15) of the statutes; relating to: requiring a court to award
3	litigation expenses in certain appeals of zoning decisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. 59.694 (14) of the statutes is repealed and recreated to read:

59.694 (14) Costs and litigation expenses. (a) In this subsection, "litigation expenses" means the sum of the costs, disbursements and expenses, including reasonable attorney fees and expert witness fees, necessary to prepare for and participate in the appeal of a decision of the board of adjustment.

(b) In lieu of costs under s. 814.04, litigation expenses shall be awarded to the person appealing the decision of the board of adjustment if that person prevails, if the appeal is not related to metallic mining operations and if the court determines that the board of adjustment acted with gross negligence, in bad faith or with malice.

1	Section 2. 59.694 (15) of the statutes is created to read:
2	59.694 (15) PREFERENCE. All issues in any proceeding under this section shall
3	have preference over all other civil actions and proceedings.
4	Section 3. 60.65 (5) of the statutes is repealed and recreated to read:
5	60.65 (5) BOARD OF ADJUSTMENT POWERS, DUTIES AND PROCEDURES. Subject to this
6	section and except where clearly inconsistent with this section, the board of
7	adjustment under a town zoning ordinance is subject to all of the provisions of s
8	59.694.
9	Section 4. 62.23 (7) (e) 14. of the statutes is repealed and recreated to read:
10	62.23 (7) (e) 14. a. In this subdivision, "litigation expenses" means the sum of
11	the costs, disbursements and expenses, including reasonable attorney fees and
12	expert witness fees, necessary to prepare for and participate in the appeal of a
13	decision of the board of appeals.
14	b. In lieu of costs under s. 814.04, litigation expenses shall be awarded to the
15	person appealing the decision of the board of appeals if that person prevails, if the
16	appeal is not related to metallic mining operations and if the court determines that
17	the board of appeals acted with gross negligence, in bad faith or with malice.
18	Section 5. Initial applicability.
19	(1) This act first applies to appeals to a board of adjustment or to a board of
20	appeals that are commenced on the effective date of this subsection.
21	(END)