

## CHAPTER 116—H. F. No. 1043

*An act relating to airport zoning; amending Minnesota Statutes 1949, Section 360.061, Subdivision 3, Section 360.063, Subdivision 1, and adding two new subdivisions; Section 360.065, Subdivision 1; Section 360.067, by adding a new subdivision, and Section 360.071, Subdivision 2.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1949, Section 360.061, Subdivision 3, is amended to read:

Subd. 3. "Municipality" does not include a county unless the county owns or controls an airport, in which case such county may exercise all the powers granted by said sections to other municipalities. It specifically includes metropolitan airports commissions created in and for contiguous cities of the first class, *and the State of Minnesota.*

Sec. 2. Minnesota Statutes 1949, Section 360.063, Subdivision 1, is amended to read:

**360.063 Zoning regulations.** Subdivision 1. **Enforcement under police power.** In order to prevent the creation or establishment of airport hazards, every municipality having an airport hazard area within its territorial limits may adopt, amend from time to time, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow, such power to be exercised by metropolitan airports commissions in contiguous cities of the first class in and for which they have been created. *In the case of airports owned or operated by the State of Minnesota such powers shall be exercised by the state airport zoning boards or by the Commissioner of Aeronautics as authorized herein.*

Sec. 3. Minnesota Statutes 1949, Section 360.063, is amended by adding the following subdivision.

[Subd. 7] **Airport zoning board, each airport.** *Where an airport is owned or operated by the State of Minnesota a state airport zoning board shall be created for each airport,*

*which board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area of such airport as that vested by subdivision 1 in the municipality. Each board shall consist of the Commissioner of Aeronautics, or a member of his staff appointed by him, who shall be chairman, one member appointed by the county board who may be a member of the county board, of each county in which an airport hazard area is located and one member appointed by the governing body of each municipality located within the area to be zoned. If the area to be zoned is located entirely within one county and no municipality is located within the area to be zoned, then the duly designated members shall select a third member who shall be a resident of the county. The members of such board shall serve for a period of three years beginning January 1 following their appointment and until their successors are appointed and qualified. The zoning regulations shall be adopted by an order of the board signed by a majority of its members. Such order shall be published once in a legal newspaper in the county in which the airport is located and shall become effective ten days following the date of its publication. A copy of such order shall be filed in the office of the Commissioner of Aeronautics and with the Register of Deeds in each county in which a zoned area is located. Any person appointed to serve on a state airport zoning board shall be entitled to reimbursement for travel and other necessary expenses which shall be incurred by him in performance of his duties on such board which shall be paid from the appropriations made to the Department of Aeronautics.*

Sec. 4. Minnesota Statutes 1949, Section 360.063, is amended by adding the following subdivision.

[Subd. 8] **Airport zoning board, failure to appoint member, powers.** *If any county board or municipality fails to appoint the member to be appointed by it in the creation of a state airport zoning board within thirty days after requested to do so by the Commissioner of Aeronautics, the state airport zoning board, consisting of the remaining members in case more than one county is involved, or the Commissioner of Aeronautics in case no board is created, shall have the same power to adopt, administer and enforce airport zoning regulations applicable to an airport hazard area in such county as that conferred upon the commissioner in subdivision 6 hereof.*

Sec. 5. Minnesota Statutes 1949, Section 360.065, Subdivision 1, is amended to read:

**360.065 Regulations, procedure for adoption.** Subdivision 1. **Notice, hearing.** No airport zoning regulations shall be adopted, amended or changed under Laws 1945, Chapter 303, except by action of the governing body of the municipality or county in question, or the boards provided for in section 360.063, subdivisions 3 and 7, or by the commissioner as provided in subdivisions 6 and 8, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the county in which is located the airport hazard area to be zoned.

Sec. 6. Minnesota Statutes 1949, Section 360.067, is amended by adding a new subdivision.

**360.067 [Subd. 4] Administrative agent, appointment.** *In the case of an airport owned or operated by the state, the state airport zoning board adopting the zoning regulations for such airport, or the Commissioner of Aeronautics in case the zoning regulations are adopted by him as provided herein, shall appoint the county highway engineer of the county in which the airport hazard area is located as the administrative agent. The county highway engineer so appointed is hereby authorized and directed as part of his official duties to exercise the powers and duties of the administrative agency as described in sections 360.067 and 360.069.*

Sec. 7. Minnesota Statutes 1949, Section 360.071, subdivision 2, is amended to read:

**Subd. 2. Membership.** Where a zoning board of appeals or adjustment already exists, it may be appointed as the board of adjustment. Otherwise the board of adjustment shall consist of five members, each to be appointed for a term of three years by the authority adopting the regulations and to be removable by the appointing authority for cause, upon written charges and after public hearing. In the case of a metropolitan airports commission, two members shall be chosen from each city in and for which the commission was created, any of whom may be members of the commission, and the fifth member shall be chosen by a majority of those four

members. *In the case of an airport owned or operated by the State of Minnesota, the board of commissioners of the county in which the airport hazard area is located shall constitute the airport board of adjustment and shall exercise the powers and duties of such board as provided herein.*

Approved March 22, 1951.

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CHAPTER 117—H. F. No. 28

*An act relating to the appointment of assistant county attorneys in certain cases; amending Minnesota Statutes 1949, Section 388.10.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1949, Section 388.10, is amended to read:

**388.10 Assistants.** The county attorney of any county in this state who has no assistant is hereby authorized to appoint, with the consent of the county board of the county, an attorney to assist him in the performance of his duties. Such assistant shall have the same duties and be subject to the same liabilities as the county attorney and hold office during the pleasure of the county attorney. Such assistant shall be appointed in writing and, before entering upon the duties of his office, shall give bond to the county in the penal sum of \$500, to be approved by the county board, conditioned in the same manner as the bond required of the county attorney, which bond, with his oath and appointment, shall be filed for record with the register of deeds. The county board of such county shall fix the salary of the assistant county attorney appointed pursuant to the provisions of this section, and the salary when so fixed by such county board shall thereafter be paid by the county in equal monthly installments upon the warrant of the county auditor during the period for which such salary is so fixed or during such portion thereof as the assistant county attorney shall continue in office.

Approved March 24, 1951.