

Notwithstanding the provisions of Minnesota Statutes, Section 16A.28, or any other law relating to lapse of an appropriation, the appropriation made by this subdivision shall not lapse but shall continue until fully expended. Earnings from investments of any of the amounts appropriated by this subdivision shall be appropriated to the agency to be used for the same purposes as the respective original appropriations in this subdivision.

Subd. 2. The sum of \$100,000 is appropriated from the general fund in the state treasury to the legislative auditor to be used for the purposes identified in section 15 of this act. Any unexpended balance remaining in the first year shall not cancel but shall be available for the second year of the biennium.

Sec. 17. EFFECTIVE DATE. This act shall be effective the day following final enactment.

Approved April 13, 1976.

---

#### CHAPTER 255—H.F.No.1284

*An act relating to aeronautics; prescribing powers of certain political subdivisions to create joint airport zoning boards; prescribing powers of joint airport zoning boards; providing for appointment of zoning permit issuing agency and board of adjustment by metropolitan airports commission; amending Minnesota Statutes 1974, Sections 360.063, Subdivisions 1 and 3; 360.067, Subdivision 4; 360.069; and 360.071, Subdivision 2; repealing Minnesota Statutes 1974, Section 360.063, Subdivisions 2 and 5.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 360.063, Subdivision 1, is amended to read:

**360.063 JOINT AIRPORT ZONING BOARDS; ZONING REGULATIONS. Subdivision 1. ENFORCEMENT UNDER POLICE POWER.** (1) In order to prevent the creation or establishment of airport hazards, every municipality having an airport hazard area within its territorial limits may, unless a joint airport zoning board is permitted under subdivision 3, 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.

(2) For the purpose of promoting health, safety, order, conve-

Changes or additions indicated by underline deletions by ~~strikeout~~

nience, prosperity, general welfare and for conserving property values and encouraging the most appropriate use of land, the municipality may regulate the location, size and use of buildings and the density of population in that portion of an airport hazard area under approach zones for a distance not to exceed two miles from the airport boundary and in other portions of an airport hazard area may regulate by land use zoning for a distance not to exceed one mile from the airport boundary, and by height-restriction zoning for a distance not to exceed one ~~mile~~ and one-half miles from the airport boundary.

(3) The powers granted by this subdivision may be exercised by metropolitan airports commissions in contiguous cities of the first class in and for which they have been created.

(4) 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. 2. Minnesota Statutes 1974, Section 360.063, Subdivision 3, is amended to read:

Subd. 3. **HAZARD AREAS OUTSIDE OWNING MUNICIPALITY.**

(1) **REQUEST OF ZONING MUNICIPALITY.** Where an airport is owned or controlled by a municipality and any airport hazard area appertaining to such airport is located within the territorial limits of another county or municipality, the municipality owning or controlling the airport may request any county or municipality in which an airport hazard area is located:

(a) To adopt and enforce airport zoning regulations for the area in question that conform to minimum standards prescribed by the commissioner pursuant to subdivision 4; or

(b) To join in creating a joint airport zoning board pursuant to clause (2) of this subdivision. The owning or controlling municipality shall determine which of these actions it shall request.

(2) **JOINT AIRPORT ZONING BOARD.** Where an airport is owned or controlled by a municipality and any airport hazard area appertaining to such airport is located ~~outside~~ within the territorial limits of ~~the another county or~~ another county or municipality, the municipality owning or controlling the airport and the county or other municipality within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subdivision 1 in the municipality within which such area is located. Each such joint board shall have as members two representatives appointed by the municipality owning or controlling the airport and two from the county or municipality, or in case more than one county or municipality is involved two from each county or municipality, in

Changes or additions indicated by underline deletions by ~~strikeout~~

which the airport hazard is located, and in addition a chairman elected by a majority of the members so appointed.

(3) FAILURE TO ACT ON REQUEST. If any county or municipality fails within 60 days to adopt, or thereafter fails to enforce, such zoning regulations or to join in creating a joint airport zoning board as requested by the owning or controlling municipality, pursuant to clause (1), the owning or controlling municipality, or a joint airport zoning board created without participation by all subdivisions in which airport hazard areas are located, may itself adopt, administer, and enforce airport zoning regulations for the airport hazard area in question. In the event of conflict between such regulations and any airport zoning regulations adopted by the county or municipality within which the airport hazard area is located, the regulations of the municipality owning or controlling the airport or the joint zoning board shall govern and prevail.

(4) "Owning or controlling municipality," as used in this subdivision, includes:

(a) A joint airport operating board created pursuant to section 360.042 that has been granted all the powers of a municipality in zoning matters under the agreement creating the board;

(b) A joint airport operating board created pursuant to section 360.042 that has not been granted zoning powers under the agreement creating the board, provided that such a board shall not itself adopt zoning regulations nor shall any joint airport zoning board created at its request adopt zoning regulations unless all municipalities that created the joint operating board join to create the joint zoning board; and

(c) A metropolitan airports commission.

(5) A metropolitan airports commission may request creation of one joint airport zoning board for each airport or for the entire system of airports operated under its authority.

Sec. 3. Minnesota Statutes 1974, Section 360.067, Subdivision 4, is amended to read:

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—a local governmental official of a governmental unit in which the airport hazard area is located as the administrative agent. The county highway engineer—governmental official so appointed is hereby authorized and directed as part of his official duties to exercise the powers and duties

Changes or additions indicated by underline deletions by ~~strikeout~~

of the administrative agency as described in sections 360.067 and 360.069.

Sec. 4. Minnesota Statutes 1974, Section 360.069, is amended to read:

**360.069 ADMINISTRATION OF AIRPORT ZONING REGULATIONS.** All airport zoning regulations adopted under Laws 1945, Chapter 303, shall provide for the administration and enforcement of such regulations by an administrative appropriate permit-issuing agency, which may be an agency created by such regulations or any official, board, or other existing agency of the municipality or county adopting the regulations, or of one of the municipalities or counties which participated in the creation of the joint airport zoning board adopting the regulations if satisfactory to the other ~~municipality and county~~ municipalities and counties, or in case of a metropolitan airports commission ~~the director and~~ a committee ~~of~~ appointed by the commission with equal representation from each of the ~~cities~~ cities-counties in and for which it is created; but in no case shall such ~~administrative~~ agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to Laws 1945, Chapter 303, shall include that of hearing and deciding all permits under section 360.067, subdivision 1, but such agency shall not have or exercise any of the powers herein delegated to the board of adjustment.

Sec. 5. Minnesota Statutes 1974, 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~~ five members shall be ~~chosen~~ appointed by the commission from each ~~city~~ the area 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, or counties, 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.

Sec. 6. Minnesota Statutes 1974, Section 360.063, Subdivisions 2 and 5, are repealed.

Approved April 13, 1976.

Changes or additions indicated by underline deletions by ~~strikeout~~