

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB140

Hearing Date: Friday January 25, 2013
Committee On: Government, Military and Veterans Affairs
Introducer: Krist
One Liner: Change provisions of the Airport Zoning Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Avery, Bloomfield, Karpisek, Murante, Price, Scheer, Wallman
Nay:		
Absent:	1	Senator Lautenbaugh
Present Not Voting:		

Proponents:

Senator Bob Krist
Bill Austin
Lance Schipporeit

Jon Large
Yasmina Platt
Rodney Storm

Representing:

Introducer
Lincoln Airport Authority
Nebraska Association of Airport Officials and the
Ainsworth Regional Airport
Lincoln Airport
Aircraft Owners & Pilots Association
City of Blair, Blair Airport Authority and Nebraska
League of Municipalities

Opponents:

David Levy
Richard Lombardi

Representing:

Edison Mission Energy
The Wind Coalition

Neutral:

John Johnson
Kristen Gottschalk
John Lindsay

Representing:

Self
Nebraska Rural Electric Association
Omaha Public Power District

Summary of purpose and/or changes:

LB 140 amends the provisions in the Airport Zoning Act.

Several definitions in the Act are amended or added, including the definitions of airport, airport hazard, airport layout plan, approach zone, electrical facility, existing runway, instrument runway, operation zone, proposed runway, runway, transition zone, turning zone's outer limit, and visual runway.

The bill also provides that the authority of a political subdivision to adopt airport zoning regulations will not be conditional upon prior adoption of a comprehensive development plan or a comprehensive zoning ordinance. Currently, political subdivisions that have adopted a comprehensive plan and zoning regulations are required to adopt airport zoning regulations if they have an airport hazard in their zoning jurisdiction.

Any airport zoning regulation adopted by a joint airport zoning board will be filed with the administrative agency responsible for the enforcement of zoning regulations in each political subdivision represented on the joint airport zoning board.

If an airport layout plan has been submitted for approval to the Federal Aviation Administration with a proposed instrument runway and the plan is approved without the proposed instrument runway, the political subdivision will adopt or revise the airport zoning regulations to protect any approach zone for a visual runway only.

Any electrical facility that has not been constructed but has received, prior to August 1, 2013, zoning approval over an electric facility and a permit, may be constructed and will be considered an existing structure. An electrical facility made nonconforming by the adoption of airport zoning regulations may, without a permit or approval, repair or replace the facility if the height is not increased over existing height. If the construction or repair will increase the height, a permit will be required.

Under current law, persons aggrieved by the Airport Zoning Act may appeal to the board of adjustment. LB 140 outlines the procedure for the appeal.

Several sections of the Airport Zoning Act are outright repealed but most of the language of these sections is incorporated into other sections of LB 140.

Explanation of amendments:

The committee amendment makes several changes to the original bill.

The amendment redefines airport hazard to include any structure or tree or use of land that penetrates any approach, operation, transition or turning zone.

The amendment allows a political subdivision or a joint airport zoning board to include modifications or exceptions to the airport zoning regulations adopted under the Airport Zoning Act that the political subdivision or joint airport zoning board deems appropriate. These modifications will not be considered a conflict under section 3-306. Section 3-306 deals with conflicts between any airport zoning regulations and any other regulations applicable to the same area. It provides that the more stringent limitation or requirement will govern.

Any structure that has not yet been constructed but has received zoning approval from the political subdivision exercising zoning jurisdiction over the structure will be considered an existing structure.

A permit for a nonconforming structure to be replaced, altered or repaired will be granted if the applicant shows that the replacement, alteration or repair of the structure will not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit is required for "Acts of God."

If an applicant demonstrates that the proposed structure or alteration does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Authority on either an existing or proposed runway and the applicant provides signed documentation from the FAA that the proposed structure or alteration will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings.

Finally, the amendment requires the board of adjustment to fix a reasonable time for the hearing of appeals, give due notice to the parties in interest, and decide the appeal within 60 days after the filing of the appeal.

