
ASSEMBLY BILL NO. 137—COMMITTEE ON NATURAL RESOURCES, AGRICULTURE
AND MINING

(ON BEHALF OF LANDER COUNTY)

FEBRUARY 4, 1999

Referred to Committee on Natural Resources, Agriculture and Mining

SUMMARY—Transfers responsibility for abatement of certain dangerous holes, excavations or shafts from counties to division of minerals of department of business and industry. (BDR 40-649)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to excavations; transferring the responsibility for the abatement of certain dangerous holes, excavations or shafts from the counties to the division of minerals of the department of business and industry; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 455 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2, 3 and 4 of this act.
3 **Sec. 2.** *As used in this chapter, unless the context otherwise requires,*
4 *the words and terms defined in sections 3 and 4 of this act have the*
5 *meanings ascribed to them in those sections.*
6 **Sec. 3.** *“Administrator” means the administrator of the division.*
7 **Sec. 4.** *“Division” means the division of minerals of the department*
8 *of business and industry.*
9 **Sec. 5.** NRS 455.020 is hereby amended to read as follows:
10 455.020 Any person who is a resident of ~~the county~~ *this state* and
11 knows, or has reason to believe, that the provisions of NRS 455.010 are
12 being or have been violated within ~~such county,~~ *this state*, may file *a*
13 *notice* with the ~~sheriff or the constable of the township where the hole,~~

~~excavation or shaft exists a notice which~~ **division. The notice** must be in writing and ~~must~~ state:

1. The location, as near as may be ~~is~~ **determined**, of the hole, excavation or shaft.

2. That the hole, excavation or shaft is dangerous to persons or animals, and has been left, or is being worked, contrary to the provisions of NRS 455.010 to 455.180, inclusive.

3. The name of the owner ~~for owners~~ of the hole, excavation or shaft, if known, or, if the owner is unknown, any persons who were known to be employed therein.

4. Whether the hole, excavation or shaft appears to be abandoned.

Sec. 6. NRS 455.030 is hereby amended to read as follows:

455.030 ~~[1.—Whenever a board of county commissioners receives information from the division of minerals of the department of business and industry that there is in the county a dangerous condition that results from mining practices which took place at a mine that is no longer operating, if the information identifies a person responsible for the condition, the board shall transmit this information to the sheriff or the constable of the township where the condition exists.~~

~~—2.—Upon receipt of information pursuant to subsection 1 or upon the filing of the notice, as provided for in NRS 455.020, the sheriff or constable~~ **If a notice is filed pursuant to NRS 455.020, the division** shall serve a notice, in the same manner and form as a summons, upon each person **who is** identified as **the** owner or **as** otherwise ~~responsible.~~ **responsible for the hole, excavation or shaft.**

Sec. 7. NRS 455.040 is hereby amended to read as follows:

455.040 1. ~~[The]~~ **A** notice served pursuant to ~~subsection 2 of NRS 455.030 served must require~~ **NRS 455.030 must:**

(a) Require the person ~~for persons~~ to appear before the justice of the peace of the township where the hole, excavation ~~is, shaft or other condition~~ **or shaft** exists, or any municipal judge who may be acting in his place, at a time to be stated ~~therein,~~ **in the notice**, not less than 3 days ~~nor~~ **or** more than 10 days ~~from~~ **after** the service of the notice, and show, to the satisfaction of the court, that the provisions of NRS 455.010 to 455.180, inclusive, or the standards established by the commission on mineral resources for the abatement of dangerous conditions have been complied with ~~is, or if he or they fail~~ **; and**

(b) Specify that, if the person fails to appear, judgment will be entered against him ~~for them~~ for double the amount required to abate the ~~condition.~~

~~—2.—All~~ **hole, excavation or shaft.**

2. Any proceedings had therein must be as prescribed by law in civil cases.

3. Such ~~{persons,}~~ **a person**, in addition to any judgment that may be rendered against ~~{them, are}~~ **him, is** liable and subject to a fine not ~~{exceeding}~~ **to exceed** the sum of \$250 for each violation of the provisions of NRS 455.010 to 455.180, inclusive, which judgments and fines must be adjudged and collected as provided for by law.

Sec. 8. NRS 455.050 is hereby amended to read as follows:

455.050 1. ~~{Suits-commenced-under}~~ **A suit commenced pursuant to** the provisions of NRS 455.010 to 455.180, inclusive, must be filed in the name of the State of Nevada.

2. ~~{All}~~ **Any** judgments collected must be ~~{paid-into-the-county treasury-for-county-purposes-}~~

~~3. All~~ **deposited in the state treasury.**

3. **Any** fines collected must be paid into the state permanent school fund.

Sec. 9. NRS 455.060 is hereby amended to read as follows:

455.060 1. If ~~{the notice states that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, the sheriff or constable shall notify the board of county commissioners of the county, or any member of the board of county commissioners, of its location. Upon receipt of this notice, or of information from the division of minerals of the department of business and industry that there is in the county a dangerous condition resulting from mining practices which took place at a mine that is no longer operating, if the information does not identify any person responsible for the dangerous condition, the board shall, as soon as possible thereafter, decide whether it should be so}~~ **no person claims ownership of, or is responsible for, a hole, excavation or shaft for which a notice has been filed pursuant to NRS 455.020, the administrator shall determine whether the hole, excavation or shaft must be** fenced or otherwise guarded ~~{as}~~ to prevent accidents to persons or animals.

2. ~~{All expenses thus incurred}~~ **If the administrator determines that a hole, excavation or shaft must be fenced or otherwise guarded pursuant to subsection 1, any expenses incurred by the division for that purpose** must be paid first out of the judgments collected in accordance with the provisions of NRS 455.010 to 455.180, inclusive, in the same manner as other ~~{county expenses-}~~ **expenses of the division.**

Sec. 10. NRS 513.103 is hereby amended to read as follows:

513.103 1. The account for the division of minerals is hereby created in the state general fund.

2. The following special fees and money must be deposited in the account:

(a) ~~{All}~~ **Any** fees collected pursuant to NRS 513.094, 517.185 and chapter 522 of NRS.

(b) ~~{All}~~ **Any** money collected pursuant to NRS 235.016.

1 (c) Any ~~money received by the division from a county pursuant to~~
2 ~~NRS 513.108.~~

3 ~~—(d) All~~ fees collected pursuant to NRS 534A.080.

4 ~~[(e)] (d)~~ Any money appropriated to the division from the state general
5 fund.

6 3. No money except that appropriated from the state general fund
7 lapses to the state general fund.

8 4. The money in the account is appropriated to the division. The
9 money deposited in the account pursuant to paragraph (a) of subsection 2,
10 and the interest earned thereon, must be expended ~~for the purposes of~~
11 ~~administering~~ **to administer the provisions of** chapter 522 of NRS and the
12 provisions of this chapter, except for NRS 513.108. ~~The money deposited~~
13 ~~pursuant to paragraphs (b) and (c) of subsection 2, and the interest earned~~
14 ~~thereon, must be distributed to the counties pursuant to NRS 513.108,~~
15 ~~except that portion required to pay the cost of administering the provisions~~
16 ~~of that section. All~~ **Any** interest earned on the account must remain in the
17 account.

18 **Sec. 11.** NRS 513.108 is hereby amended to read as follows:

19 513.108 ~~[1.—The board of county commissioners in each county may~~
20 ~~apply to the division for money to abate a dangerous condition resulting~~
21 ~~from mining practices which took place at a mine that is no longer~~
22 ~~operating.~~

23 ~~—2.]~~ The division shall, within the limits of the money available
24 pursuant to ~~paragraphs (b) and (c)]~~ **paragraph (b)** of subsection 2 of NRS
25 513.103, ~~provide counties with money to abate such dangerous~~
26 ~~conditions]~~ **abate any dangerous condition resulting from mining**
27 **practices that occurred at a mine in this state that is no longer in**
28 **operation** based on the relative degree of danger of ~~those conditions.~~

29 ~~—3.—If a county which receives money from the division subsequently~~
30 ~~receives monetary compensation from the mine owner or other person~~
31 ~~responsible for the existence of the dangerous condition, it shall reimburse~~
32 ~~the division to the extent of the compensation received. Any money~~
33 ~~received by the division pursuant to this subsection must be deposited in~~
34 ~~the account for the division of minerals created pursuant to NRS 513.103.]~~
35 **that condition.**

36 **Sec. 12.** This act becomes effective on July 1, 1999.