

SENATE BILL NO. 394—SENATOR TITUS

MARCH 12, 1999

Referred to Committee on Government Affairs

SUMMARY—Provides for coordination of planning among various governmental entities in certain counties with respect to air pollution, land use and transportation. (BDR 22-99)

FISCAL NOTE: Effect on Local Government: Yes.
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 regional planning; providing for the coordination of planning among various governmental entities in certain counties with respect to air pollution, land use and transportation; 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 278 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 6, inclusive, of this act.
- 3 **Sec. 2.** *“Regional land use coordinating entity” means the entity so*
- 4 *designated pursuant to section 4 or 5 of this act.*
- 5 **Sec. 3.** *In a county whose population is 400,000 or more, the board*
- 6 *of county commissioners and the city council of each of at least the three*
- 7 *largest cities in the county shall establish a regional planning coalition*
- 8 *by cooperative agreement pursuant to chapter 277 of NRS. The regional*
- 9 *planning coalition may:*
- 10 *1. Develop policies for the region, including, without limitation, the*
- 11 *promotion of orderly development, coordinated land use planning and*
- 12 *the efficient provision of services to urban areas, including, without*
- 13 *limitation, roads, water and sewer service and police and fire protection,*
- 14 *mass transit, libraries and parks;*
- 15 *2. Coordinate sources of information;*
- 16 *3. Establish standardized projections for population;*

1 **4. Recommend measures to increase the efficiency of governmental**
2 **entities and services;**

3 **5. Make recommendations regarding the disposal of federal land;**

4 **6. Establish methods for resolving disputes regarding annexation**
5 **and other matters that arise between jurisdictions; and**

6 **7. Not more than once every 2 years, review:**

7 **(a) Master plans adopted by the governing body of the county and**
8 **each city; and**

9 **(b) The annual plan for capital improvements prepared by the**
10 **governing body of each local government in the county pursuant to NRS**
11 **278.0226.**

12 **Sec. 4. In a county whose population is 100,000 or more but less**
13 **than 400,000, the governing board for regional planning, created**
14 **pursuant to NRS 278.0264, shall serve as the regional land use**
15 **coordinating entity.**

16 **Sec. 5. In a county whose population is 400,000 or more, the board**
17 **of county commissioners shall designate the regional planning coalition**
18 **established pursuant to section 3 of this act to serve as the regional land**
19 **use coordinating entity.**

20 **Sec. 6. 1. A regional land use coordinating entity shall cooperate**
21 **with the local air pollution control board and the regional transportation**
22 **commission in the county in which it is located to:**

23 **(a) Ensure that the plans, policies and programs adopted by each of**
24 **them are consistent to the greatest extent practicable.**

25 **(b) Establish and carry out a program of integrated, long-range**
26 **planning that conserves the economic, financial and natural resources of**
27 **the region and supports a common vision of desired future conditions.**

28 **2. Before adopting or amending a plan, policy or program, a**
29 **regional land use coordinating entity shall:**

30 **(a) Consult with the local air pollution control board and the regional**
31 **transportation commission; and**

32 **(b) Conduct hearings to solicit public comment on the consistency of**
33 **the plan, policy or program with:**

34 **(1) The plans, policies and programs adopted or proposed to be**
35 **adopted by the local air pollution control board and the regional**
36 **transportation commission; and**

37 **(2) Plans for capital improvements that have been prepared**
38 **pursuant to NRS 278.0226.**

39 **3. If the program for control of air pollution established and**
40 **administered by the local air pollution control board includes measures**
41 **for the control of traffic or transportation, the regional land use**
42 **coordinating entity shall consider recommending the use of alternative**

1 *land use designations, densities and design standards to meet local and*
2 *regional needs with respect to transportation.*

3 *4. Not more than once every 2 years, the regional land use*
4 *coordinating entity shall:*

5 *(a) Prepare a report that summarizes the policies related to land use,*
6 *transportation and air quality which it has adopted and which the local*
7 *air pollution control board and the regional transportation commission*
8 *have adopted; and*

9 *(b) Submit a copy of the report to the:*

10 *(1) County clerk of the appropriate county;*

11 *(2) Division of environmental protection of the state department of*
12 *conservation and natural resources;*

13 *(3) Division of state lands of the state department of conservation*
14 *and natural resources; and*

15 *(4) Department of transportation.*

16 *5. As used in this section:*

17 *(a) "Local air pollution control board" means a board that establishes*
18 *a program for the control of air pollution pursuant to NRS 445B.500.*

19 *(b) "Regional transportation commission" means a regional*
20 *transportation commission created and organized in accordance with*
21 *chapter 373 of NRS.*

22 **Sec. 7.** NRS 278.010 is hereby amended to read as follows:

23 278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections 2*
24 *to 6, inclusive, of this act*, unless the context otherwise requires, the words
25 and terms defined in NRS 278.0105 to 278.0195, inclusive, *and section 2*
26 *of this act* have the meanings ascribed to them in those sections.

27 **Sec. 8.** Chapter 373 of NRS is hereby amended by adding thereto a
28 new section to read as follows:

29 *1. A commission shall cooperate with the local air pollution control*
30 *board and the regional land use coordinating entity in the county in*
31 *which it is located to:*

32 *(a) Ensure that the plans, policies and programs adopted by each of*
33 *them are consistent to the greatest extent practicable.*

34 *(b) Establish and carry out a program of integrated, long-range*
35 *planning that conserves the economic, financial and natural resources of*
36 *the region and supports a common vision of desired future conditions.*

37 *2. Before adopting or amending a plan, policy or program, a*
38 *commission shall:*

39 *(a) Consult with the local air pollution control board and the regional*
40 *land use coordinating entity; and*

41 *(b) Conduct hearings to solicit public comment on the consistency of*
42 *the plan, policy or program with:*

1 *(1) The plans, policies and programs adopted or proposed to be*
2 *adopted by the local air pollution control board and the regional land use*
3 *coordinating entity; and*

4 *(2) Plans for capital improvements that have been prepared*
5 *pursuant to NRS 278.0226.*

6 3. As used in this section:

7 (a) “Local air pollution control board” means a board that establishes
8 a program for the control of air pollution pursuant to NRS 445B.500.

9 (b) “Regional land use coordinating entity” has the meaning ascribed
10 to it in section 2 of this act.

11 **Sec. 9.** Chapter 445B of NRS is hereby amended by adding thereto the
12 provisions set forth as sections 10 and 11 of this act.

13 **Sec. 10. 1.** *In addition to the duties set forth in NRS 445B.500, a*
14 *local air pollution control board shall cooperate with the regional land*
15 *use coordinating entity and the regional transportation commission in*
16 *the county in which it is located to:*

17 (a) *Ensure that the plans, policies and programs adopted by each of*
18 *them are consistent to the greatest extent practicable.*

19 (b) *Establish and carry out a program of integrated, long-range*
20 *planning that conserves the economic, financial and natural resources of*
21 *the region and supports a common vision of desired future conditions.*

22 2. *Before adopting or amending a plan, policy or program, a local*
23 *air pollution control board shall:*

24 (a) *Consult with the regional land use coordinating entity and the*
25 *regional transportation commission; and*

26 (b) *Conduct hearings to solicit public comment on the consistency of*
27 *the plan, policy or program with:*

28 (1) *The plans, policies and programs adopted or proposed to be*
29 *adopted by the regional land use coordinating entity and the regional*
30 *transportation commission; and*

31 (2) *Plans for capital improvements that have been prepared*
32 *pursuant to NRS 278.0226.*

33 3. As used in this section:

34 (a) “Local air pollution control board” means a board that establishes
35 a program for the control of air pollution pursuant to NRS 445B.500.

36 (b) “Regional land use coordinating entity” has the meaning ascribed
37 to it in section 2 of this act.

38 (c) “Regional transportation commission” means a regional
39 transportation commission created and organized in accordance with
40 chapter 373 of NRS.

1 **Sec. 11. 1. If a county operates a program in which a person**
2 **operating or responsible for the existence of a source of air contaminant**
3 **may earn credits for maintaining or reducing the level of air**
4 **contaminant emitted from the source, such a program:**

5 **(a) Must allow the person to earn credits for reducing the level of**
6 **air contaminant emitted from that source through the use of solar energy;**
7 **and**

8 **(b) Must not allow the person to earn credits for reducing the level of**
9 **air contaminant emitted from that source if such a reduction is required**
10 **as a component of a penalty imposed against the person.**

11 **2. As used in this section, "credit" means an administratively created**
12 **right that:**

13 **(a) Entitles a person operating or responsible for the existence of a**
14 **source of air contaminant to allow the source to emit a certain level of**
15 **air contaminant; and**

16 **(b) May be traded or sold to another person.**

17 **Sec. 12.** NRS 445B.500 is hereby amended to read as follows:

18 445B.500 1. Except as otherwise provided in this section and in NRS
19 445B.310:

20 (a) The district board of health, county board of health or board of
21 county commissioners in each county whose population is 100,000 or more
22 shall establish a program for the control of air pollution and administer the
23 program within its jurisdiction unless superseded.

24 (b) The program must:

25 (1) Include standards for the control of emissions, emergency
26 procedures and variance procedures established by ordinance or local
27 regulation which are equivalent to or stricter than those established by
28 statute or state regulation; and

29 (2) Provide for adequate administration, enforcement, financing and
30 staff.

31 (c) The district board of health, county board of health or board of
32 county commissioners is designated as the air pollution control agency of
33 the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and
34 the federal act insofar as it pertains to local programs, and that agency is
35 authorized to take all action necessary to secure for the county the benefits
36 of the federal act.

37 (d) Powers and responsibilities provided for in NRS 445B.210,
38 445B.240 to 445B.450, inclusive, 445B.560, 445B.570, 445B.580 and
39 445B.640 are binding upon and inure to the benefit of local air pollution
40 control authorities within their jurisdiction.

41 2. The local air pollution control board shall carry out all provisions of
42 NRS 445B.215 with the exception that notices of public hearings must be
43 given in any newspaper, qualified pursuant to the provisions of chapter 238

1 of NRS, once a week for 3 weeks. The notice must specify with
2 particularity the reasons for the proposed regulations and provide other
3 informative details. NRS 445B.215 does not apply to the adoption of
4 existing regulations upon transfer of authority as provided in NRS
5 445B.610.

6 3. In a county whose population is 400,000 or more, the local air
7 pollution control board may delegate to an independent hearing officer or
8 hearing board its authority to determine violations and levy administrative
9 penalties for violations of the provisions of NRS 445B.100 to 445B.450,
10 inclusive, and 445B.500 to 445B.640, inclusive, **and sections 10 and 11 of**
11 **this act**, or any regulation adopted pursuant to those sections. If such a
12 delegation is made, 17.5 percent of any penalty collected must be deposited
13 in the county treasury in an account to be administered by the local air
14 pollution control board to a maximum of \$17,500 per year. The money in
15 the account may only be used to defray the administrative expenses
16 incurred by the local air pollution control board in enforcing the provisions
17 of NRS 445B.100 to 445B.640, inclusive ~~H~~, **and sections 10 and 11 of**
18 **this act**. The remainder of the penalty must be deposited in the county
19 school district fund of the county where the violation occurred.

20 4. Any county whose population is less than 100,000 or any city may
21 meet the requirements of this section for administration and enforcement
22 through cooperative or interlocal agreement with one or more other
23 counties, or through agreement with the state, or may establish its own
24 program for the control of air pollution. If the county establishes such a
25 program, it is subject to the approval of the commission.

26 5. No district board of health, county board of health or board of
27 county commissioners may adopt any regulation or establish a compliance
28 schedule, variance order or other enforcement action relating to the control
29 of emissions from plants which generate electricity by using steam
30 produced by the burning of fossil fuel.

31 6. For the purposes of this section, "plants which generate electricity
32 by using steam produced by the burning of fossil fuel" means plants that
33 burn fossil fuels in a boiler to produce steam for the production of
34 electricity. The term does not include any plant which uses technology for a
35 simple or combined cycle combustion turbine, regardless of whether the
36 plant includes duct burners.

37 **Sec. 13.** 1. In a county whose population is 100,000 or more or a
38 city within such a county, each planning commission, including, without
39 limitation, a local air pollution control board, a regional land use
40 coordinating entity and a regional transportation commission, shall, on or
41 before October 1, 2000, submit the statement of the effects on air quality by
42 complex sources that is required by subsection 3 of NRS 445B.595 to the
43 administrator of the division of environmental protection of the state

1 department of conservation and natural resources for transmittal to the
2 legislative commission.

3 2. As used in this section:

4 (a) "Local air pollution control board" means a board that establishes a
5 program for the control of air pollution pursuant to NRS 445B.500.

6 (b) "Regional land use coordinating entity" has the meaning ascribed to
7 it in section 2 of this act.

8 (c) "Regional transportation commission" means a regional
9 transportation commission created and organized in accordance with
10 chapter 373 of NRS.

11 **Sec. 14.** 1. This section and section 13 of this act become effective
12 upon passage and approval.

13 2. Sections 1 to 5, inclusive, 7, 9, 11 and 12 of this act become
14 effective on October 1, 1999.

15 3. Sections 6, 8 and 10 of this act become effective on July 1, 2001.

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