

Senate Bill No. 535—Committee on Natural Resources

CHAPTER.....

AN ACT relating to air pollution; authorizing the local air pollution control agency in certain counties to establish a program to reduce emissions of air pollutants using credits to allow a certain level of air contaminant which may be traded or sold; requiring such an agency to adopt certain regulations concerning such a program; and providing other matters properly relating thereto.

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

Section 1. NRS 445B.500 is hereby amended to read as follows:

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

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shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program ~~must~~:

~~(1) Include:~~

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation; ~~and~~

~~(2) Provide:~~

(2) May, in a county whose population is 400,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

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

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

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or

hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

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

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

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

Sec. 2. NRS 445B.508 is hereby amended to read as follows:

445B.508 1. *In a county whose population is 400,000 or more, a district board of health, county board of health or board of county commissioners may, as a part of its program for the control of air pollution established pursuant to NRS 445B.500, require each person or entity that is proposing to locate a new source of air pollution within its jurisdiction or to modify an existing source of air pollution within its jurisdiction in such a way as to increase emissions of air pollutants, to reduce or mitigate any increase in emissions in accordance with regulations adopted by such board.*

2. *If a district board of health, county board of health or board of county commissioners imposes the requirement described in subsection 1, its program established pursuant to NRS 445B.500 must:*

(a) Provide a method for determining credits which results in credits that are quantifiable, surplus and legally enforceable;

(b) Set forth the manner in which credits will be banked and traded, and the manner in which such transactions will be tracked and accounted for by the board; and

(c) By not later than January 1, 2002, prohibit any person or entity from purchasing or selling credits of one type of pollutant if such credits will be used subsequently to produce a different type of pollutant.

3. If a county operates a program ~~{in-which}~~ *for the control of air pollution that allows* a person operating or responsible for the existence of a source ~~{of air contaminant may}~~ *to* earn credits for maintaining or reducing the level of air contaminant emitted from the source, ~~{such-a}~~ *the* program:

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

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

~~{2-}~~ 4. *A credit earned pursuant to this section does not constitute an interest in property.*

5. As used in this section ~~{, "credit"}~~ :

(a) *"Credit"* means an administratively created ~~{right that:~~

~~—(a) Entitles}~~ *asset that may:*

(1) *Entitle* a person operating or responsible for the existence of a source ~~{of air contaminant}~~ to allow the source to emit a certain level of air contaminant ~~{; and-~~

~~—(b) May be}~~ *above a baseline that is determined by the board;*

(2) *Be used to comply with the requirements of a permit; and*

(3) *Be* traded or sold to another person.

(b) *"Surplus" means that a credit is not earned by compliance with a requirement of the state implementation plan adopted by this state pursuant to 42 U.S.C. § 7410 or any other federal, state or local law, ordinance or regulation.*

Sec. 3. On or before February 1, 2003, a board that adopts regulations pursuant to NRS 445B.508 shall prepare and submit to the director of the legislative counsel bureau, for submission to the 72nd session of the Nevada legislature, a report concerning the programs establishing credits for the reduction of emissions.

Sec. 4. This act becomes effective upon passage and approval.