

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT **S.B. 535**

SENATE BILL NO. 535—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF AIR QUALITY PROGRAMS IN CLARK COUNTY (SB 432))

MARCH 26, 2001

Referred to Committee on Natural Resources

SUMMARY—Authorizes local air pollution control agency in certain counties to establish program to reduce and control air pollution. (BDR 40-791)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 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:

- 1 **Section 1.** NRS 445B.500 is hereby amended to read as follows:
2 445B.500 1. Except as otherwise provided in this section and in NRS
3 445B.310:
4 (a) The district board of health, county board of health or board of
5 county commissioners in each county whose population is 100,000 or more
6 shall establish a program for the control of air pollution and administer the
7 program within its jurisdiction unless superseded.
8 (b) The program ~~must:~~
9 ~~(1) Include:~~
10 ***(1) Must include, without limitation,*** standards for the control of
11 emissions, emergency procedures and variance procedures established by
12 ordinance or local regulation which are equivalent to or stricter than those
13 established by statute or state regulation; ~~and~~
14 ~~(2) Provide:~~
15 ***(2) May, in a county whose population is 400,000 or more, include***
16 ***requirements for the receipt and exchange of credits to reduce and***
17 ***control air contaminants in accordance with NRS 445B.508; and***
18 ***(3) Must provide*** for adequate administration, enforcement, financing
19 and staff.



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

7 (d) Powers and responsibilities provided for in NRS 445B.210,
8 445B.240 to 445B.450, inclusive, 445B.560, 445B.570, 445B.580 and
9 445B.640 are binding upon and inure to the benefit of local air pollution
10 control authorities within their jurisdiction.

11 2. The local air pollution control board shall carry out all provisions of
12 NRS 445B.215 with the exception that notices of public hearings must be
13 given in any newspaper, qualified pursuant to the provisions of chapter 238
14 of NRS, once a week for 3 weeks. The notice must specify with
15 particularity the reasons for the proposed regulations and provide other
16 informative details. NRS 445B.215 does not apply to the adoption of
17 existing regulations upon transfer of authority as provided in NRS
18 445B.610.

19 3. In a county whose population is 400,000 or more, the local air
20 pollution control board may delegate to an independent hearing officer or
21 hearing board its authority to determine violations and levy administrative
22 penalties for violations of the provisions of NRS 445B.100 to 445B.450,
23 inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted
24 pursuant to those sections. If such a delegation is made, 17.5 percent of any
25 penalty collected must be deposited in the county treasury in an account to
26 be administered by the local air pollution control board to a maximum of
27 \$17,500 per year. The money in the account may only be used to defray the
28 administrative expenses incurred by the local air pollution control board in
29 enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The
30 remainder of the penalty must be deposited in the county school district
31 fund of the county where the violation occurred.

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

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

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



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

2 445B.508 1. *In a county whose population is 400,000 or more, a*
3 *district board of health, county board of health or board of county*
4 *commissioners may, as a part of its program for the control of air*
5 *pollution established pursuant to NRS 445B.500, require each person or*
6 *entity that is proposing to locate a new source of air pollution within its*
7 *jurisdiction or to modify an existing source of air pollution within its*
8 *jurisdiction in such a way as to increase emissions of air pollutants, to*
9 *reduce or mitigate any increase in emissions in accordance with*
10 *regulations adopted by such board.*

11 2. *Regulations established pursuant to subsection 1 must include*
12 *credits for the reduction of emissions of air pollutants, including, without*
13 *limitation, credits for the reduction of emissions from mobile sources.*
14 *The regulations relating to credits for the reduction of emissions from*
15 *mobile sources must, without limitation:*

16 (a) *Provide a method for determining the baseline emissions from*
17 *mobile sources to be used for establishing such credits;*

18 (b) *Require operators of fleets that are mobile sources to reduce*
19 *emissions from vehicles in their fleets which are older than the 1991*
20 *model year by a certain amount to be eligible for credits;*

21 (c) *Provide a method for determining credits which results in credits*
22 *that are real, permanent and subject to a legally enforceable agreement*
23 *to sell or trade the credits and which will ensure that emission reductions*
24 *associated with the credit actually occur;*

25 (d) *Establish credits for reducing emissions of carbon monoxide,*
26 *oxides of nitrogen, volatile organic compounds and particulates that are*
27 *capable of being inhaled;*

28 (e) *Set forth the manner in which credits will be banked and traded,*
29 *and the manner in which such transactions will be tracked and*
30 *accounted for by the board; and*

31 (f) *By not later than January 1, 2002, prohibit any person or entity*
32 *from purchasing credits of one type of pollutant and using those credits*
33 *to produce a different type of pollutant.*

34 *Regulations adopted pursuant to this subsection must not allow credits*
35 *for complying with a requirement for the state implementation plan or*
36 *any other federal law.*

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

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

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

47 4. *A credit earned pursuant to this section does not constitute an*
48 *interest in property.*

49 5. As used in this section ~~the "credit"~~ :



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1 (a) “Credit” means an administratively created right that:
2 ~~[(a)] (1)~~ Entitles a person operating or responsible for the existence of a
3 source ~~to emit a certain level of air~~ ~~of air contaminant~~ to allow the source to emit a certain level of air
4 contaminant; and

5 ~~[(b)] (2)~~ May be traded or sold to another person.

6 (b) “State implementation plan” means a plan adopted by the state
7 pursuant to 42 U.S.C. § 7410.

8 (c) “Volatile organic compound” has the meaning ascribed to it in 40
9 C.F.R. § 51.100 as that section existed on January 1, 2001.

10 Sec. 3. 1. On or before February 1, 2003, a board that adopts
11 regulations pursuant to subsection 2 of NRS 445.508 shall prepare and
12 submit to the director of the legislative counsel bureau, for submission to
13 the 72nd session of the Nevada legislature, a report concerning the
14 programs establishing credits for the reduction of emissions.

15 2. A board that has a program establishing credits for the reduction of
16 emissions from mobile sources which is in existence on the effective date
17 of this act shall adopt the regulations required pursuant to paragraph (a) of
18 subsection 2 of NRS 445.508 concerning the baseline emissions from
19 mobile sources by not later than March 15, 2003.

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

