

SENATE BILL NO. 536—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF SOUTHERN NEVADA REGIONAL PLANNING COALITION)

MARCH 26, 2001

Referred to Committee on Natural Resources

SUMMARY—Authorizes creation, by cooperative agreement, of separate entity to establish and administer program for control of air pollution in certain counties.
(BDR 40-1116)

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 the control of air pollution; authorizing the creation, by cooperative agreement, of a separate entity to establish and administer a program for the control of air pollution in certain counties; setting forth the powers and duties of such an entity; 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 439.410 is hereby amended to read as follows:
2 439.410 *Except as otherwise provided in NRS 445B.500 and section*
3 *4 of this act:*
4 1. The district board of health has the powers, duties and authority of a
5 county board of health in the health district.
6 2. The district health department has jurisdiction over all public health
7 matters in the health district, except in matters concerning emergency
8 medical services pursuant to the provisions of chapter 450B of NRS in a
9 county whose population is less than 400,000.
10 3. In addition to any other powers, duties and authority conferred on a
11 district board of health by this section, the district board of health may, by
12 affirmative vote of a majority of all the members of the board, adopt
13 regulations consistent with law, which must take effect immediately on
14 their approval by the state board of health, to:
15 (a) Prevent and control nuisances;
16 (b) Regulate sanitation and sanitary practices in the interests of the
17 public health;
18 (c) Provide for the sanitary protection of water and food supplies; and



1 (d) Protect and promote the public health generally in the geographical
2 area subject to the jurisdiction of the health district.

3 4. Before the adoption, amendment or repeal of a regulation, the
4 district board of health must give at least 30 days' notice of its intended
5 action. The notice must:

6 (a) Include a statement of either the terms or substance of the proposal
7 or a description of the subjects and issues involved, and of the time when,
8 the place where, and the manner in which ~~H~~ interested persons may
9 present their views thereon.

10 (b) State each address at which the text of the proposal may be
11 inspected and copied.

12 (c) Be mailed to all persons who have requested in writing that they be
13 placed upon a mailing list, which must be kept by the district board for
14 such purpose.

15 5. All interested persons must be afforded a reasonable opportunity to
16 submit data, views or arguments, orally or in writing, on the intended
17 action to adopt, amend or repeal the regulation. With respect to substantive
18 regulations, the district board shall set a time and place for an oral public
19 hearing, but if no one appears who will be directly affected by the proposal
20 and requests an oral hearing, the district board may proceed immediately to
21 act upon any written submissions. The district board shall consider fully all
22 written and oral submissions respecting the proposal.

23 6. Each district board of health shall file a copy of all of its adopted
24 regulations with the county clerk of each county in which it has
25 jurisdiction.

26 **Sec. 2.** Chapter 445B of NRS is hereby amended by adding thereto
27 the provisions set forth as sections 3 and 4 of this act.

28 **Sec. 3.** *1. In a county whose population is 400,000 or more, the*
29 *board of county commissioners of the county and the governing body of*
30 *each city in the county may, acting jointly, enter into a cooperative*
31 *agreement pursuant to chapter 277 of NRS to create a separate legal*
32 *entity for the control of air pollution within the county.*

33 *2. The cooperative agreement described in subsection 1 must set*
34 *forth, without limitation:*

35 *(a) The organizational structure of the entity;*

36 *(b) The composition and membership of the board that will govern the*
37 *entity;*

38 *(c) The activities in which the entity will engage and the projects and*
39 *programs that the entity will carry out;*

40 *(d) The procedure pursuant to which the entity will adopt ordinances*
41 *and resolutions; and*

42 *(e) The procedure pursuant to which the entity may be dissolved and*
43 *its assets disbursed.*

44 **Sec. 4.** *If an entity is created by a cooperative agreement pursuant to*
45 *section 3 of this act, the entity:*

46 *1. Must be governed by a board the membership of which:*

47 *(a) Is specified and selected as set forth in the cooperative agreement;*
48 *and*



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- 1 (b) Consists only of elected officials of the county and the cities that
2 entered into the cooperative agreement.
- 3 2. With respect to the control of air pollution within the county:
- 4 (a) Shall carry out and exercise the functions, powers and
5 responsibilities that would otherwise be carried out in the county by the
6 district board of health, county board of health or board of county
7 commissioners, as applicable, pursuant to subsection 1 of NRS
8 445B.500; and
- 9 (b) Has all the power and authority of the district board of health,
10 including, without limitation, the authority to administer and enforce:
- 11 (1) The provisions of NRS 445B.500 to 445B.540, inclusive; and
12 (2) The provisions of NRS 439.410 that relate to air quality.
- 13 3. Must be designated as:
- 14 (a) The air pollution control agency of the county for the purposes of
15 NRS 445B.100 to 445B.640, inclusive, and the Federal Act insofar as it
16 pertains to local programs;
- 17 (b) The local air pollution control board; and
- 18 (c) The local air pollution control authority.
- 19 4. May take all action necessary to secure for the county the benefits
20 of the Federal Act and any other law.
- 21 5. May adopt ordinances and resolutions in accordance with the
22 procedure described in paragraph (d) of subsection 2 of section 3 of this
23 act.
- 24 6. May levy a tax of not more than 5 cents on each \$100 of assessed
25 valuation of taxable property within the county for the support of the
26 activities, projects and programs described in paragraph (c) of subsection
27 2 of section 3 of this act.
- 28 7. May issue revenue bonds pursuant to chapter 350 of NRS to
29 defray the cost of the activities, projects and programs described in
30 paragraph (c) of subsection 2 of section 3 of this act.
- 31 8. May, pursuant to NRS 293.481, submit to the registered voters of
32 the county the question of whether the county should issue general
33 obligation bonds to defray the cost of the activities, projects and
34 programs described in paragraph (c) of subsection 2 of section 3 of this
35 act. If a majority of the registered voters voting on such a question
36 approves the issuance of general obligation bonds to defray the cost of
37 such activities, projects and programs, the county shall issue the bonds
38 and remit the proceeds from those bonds to the entity.
- 39 9. May take any other actions that the governing board of the entity
40 determines are necessary to preserve the quality of the air resources of
41 the county.
- 42 **Sec. 5.** NRS 445B.130 is hereby amended to read as follows:
43 445B.130 "Director" means the director of the department or his
44 designee or *a* person designated by or pursuant to a county or city
45 ordinance or regional *or cooperative* agreement or regulation to enforce
46 local air pollution control ordinances and regulations.
- 47 **Sec. 6.** NRS 445B.275 is hereby amended to read as follows:
48 445B.275 1. The governing body of any district, county, ~~city~~ city *or*
49 *other entity* authorized to operate an air pollution control program pursuant



1 to NRS 445B.100 to 445B.640, inclusive, may appoint an air pollution
2 control hearing board.

3 2. The air pollution control hearing board appointed by a county, city ,
4 ~~for~~ health district *or other entity* must consist of seven members who are
5 not employees of the state or any political subdivision of the state. One
6 member of the hearing board must be an attorney admitted to practice law
7 in Nevada, one member must be a professional engineer licensed in
8 Nevada and one member must be licensed in Nevada as a general
9 engineering contractor or a general building contractor as defined by NRS
10 624.215. Three *members* must be appointed for a term of 1 year, three
11 *members* must be appointed for a term of 2 years and one *member* must be
12 appointed for a term of 3 years. Each succeeding term must be for a period
13 of 3 years.

14 **Sec. 7.** NRS 445B.500 is hereby amended to read as follows:
15 445B.500 1. Except as otherwise provided in this section , ~~and in~~
16 NRS 445B.310 ~~and~~ *and section 4 of this act:*

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

21 (b) The program must:

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

26 (2) Provide for adequate administration, enforcement, financing and
27 staff.

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

34 (d) Powers and responsibilities provided for in NRS 445B.210,
35 445B.240 to 445B.450, inclusive, 445B.560, 445B.570, 445B.580 and
36 445B.640 are binding upon and inure to the benefit of local air pollution
37 control authorities within their jurisdiction.

38 2. *In a county whose population is 400,000 or more, if a separate*
39 *entity for the control of air pollution within the county has been created*
40 *pursuant to section 3 of this act:*

41 *(a) That entity shall establish and administer the program for the*
42 *control of air pollution required pursuant to this section and shall carry*
43 *out and exercise all other functions, powers and responsibilities*
44 *pertaining to the control of air pollution within the county.*

45 *(b) The district board of health, county board of health or board of*
46 *county commissioners shall not, in their individual capacities, establish*
47 *and administer the program for the control of air pollution required*
48 *pursuant to this section or carry out or exercise any functions, powers or*
49 *responsibilities pertaining to the control of air pollution within the*



1 *county, except that this paragraph does not impair the authority of the*
2 *board of county commissioners with regard to land use that might*
3 *incidentally have an effect on air quality.*

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

12 ~~3-1~~ 4. In a county whose population is 400,000 or more, the local air
13 pollution control board may delegate to an independent hearing officer or
14 hearing board its authority to determine violations and levy administrative
15 penalties for violations of the provisions of NRS 445B.100 to 445B.450,
16 inclusive, and 445B.500 to 445B.640, inclusive, *and sections 3 and 4 of*
17 *this act*, or any regulation adopted pursuant to those sections. If such a
18 delegation is made, 17.5 percent of any penalty collected must be deposited
19 in the county treasury in an account to be administered by the local air
20 pollution control board to a maximum of \$17,500 per year. The money in
21 the account may only be used to defray the administrative expenses
22 incurred by the local air pollution control board in enforcing the provisions
23 of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty
24 must be deposited in the county school district fund of the county where
25 the violation occurred.

26 ~~4-1~~ 5. Any county whose population is less than 100,000 or any city
27 may meet the requirements of this section for administration and
28 enforcement through cooperative or interlocal agreement with one or more
29 other counties, or through agreement with the state, or may establish its
30 own program for the control of air pollution. If the county establishes such
31 a program, it is subject to the approval of the commission.

32 ~~5-1~~ 6. No district board of health, county board of health, or board of
33 county commissioners or entity created pursuant to section 3 of this act
34 may adopt any regulation or establish a compliance schedule, variance
35 order or other enforcement action relating to the control of emissions from
36 plants which generate electricity by using steam produced by the burning
37 of fossil fuel.

38 ~~6-1~~ 7. For the purposes of this section, "plants which generate
39 electricity by using steam produced by the burning of fossil fuel" means
40 plants that burn fossil fuels in a boiler to produce steam for the production
41 of electricity. The term does not include any plant which uses technology
42 for a simple or combined cycle combustion turbine, regardless of whether
43 the plant includes duct burners.

44 **Sec. 8.** NRS 445B.505 is hereby amended to read as follows:
45 445B.505 Before a district board of health, county board of health or
46 board of county commissioners, pursuant to the authority granted to it by
47 NRS 445B.500, *or an entity created pursuant to section 3 of this act,*
48 *pursuant to the authority granted to it by section 4 of this act*, enacts an
49 ordinance or adopts a regulation establishing fuel standards for mobile



1 sources of air contaminants, the district board of health, county board of
2 health , ~~for~~ board of county commissioners *or entity created pursuant to*
3 *section 3 of this act* shall:

4 1. Determine the cost effectiveness of the proposed ordinance or
5 regulation by comparing it with other methods of controlling pollution.

6 2. Determine whether the proposed ordinance or regulation is
7 technologically feasible based on evidence presented to the district board
8 of health, county board of health , ~~for~~ board of county commissioners *or*
9 *entity created pursuant to section 3 of this act* relating to the availability,
10 effectiveness, reliability and safety of any proposed technology when it is
11 used for its proposed use.

12 3. Conduct public meetings to consult with public and private entities
13 that would be significantly affected by the proposed ordinance or
14 regulation.

15 **Sec. 9.** NRS 445B.595 is hereby amended to read as follows:

16 445B.595 1. Except as otherwise provided by subsection 2, all
17 governmental sources of air contaminants shall comply with all local and
18 state air pollution laws, regulations and ordinances.

19 2. A fire department, county fire protection district, fire protection
20 training academy or training center may, after obtaining a permit for a
21 specific site, set a fire at that site for training purposes so long as the site is
22 not within an area in which an air pollution episode or emergency
23 constituting, or likely to constitute, an imminent and substantial danger to
24 the health of persons exists. The permit must be obtained from:

25 (a) The ~~county~~ air pollution control agency ~~of the county~~, if one
26 has been designated pursuant to NRS 445B.500 ~~of the county~~ *or section 4 of this act*;
27 or

28 (b) The director, if an agency has not been so designated.

29 3. All planning commissions, zoning boards of adjustment, and
30 governing bodies of unincorporated towns, incorporated cities and counties
31 shall , in the performance of their duties imposed by chapter 278 of NRS or
32 other statutes relating to planning and zoning , consider the effects of
33 possible air pollution and shall submit to the department for evaluation a
34 concise statement of the effects on air quality by complex sources.

35 **Sec. 10.** NRS 445B.770 is hereby amended to read as follows:

36 445B.770 1. In any county whose population is 100,000 or more, the
37 commission shall, in cooperation with the department of motor vehicles
38 and public safety and any local air pollution control ~~agency~~ *authority*,
39 adopt regulations for the control of emissions from motor vehicles in areas
40 of the county designated by the commission.

41 2. In any county whose population is less than 100,000, if the
42 commission determines that it is feasible and practicable to carry out a
43 program of inspecting and testing motor vehicles and systems for the
44 control of emissions from motor vehicles, and if carrying out the program
45 is deemed necessary to achieve or maintain the prescribed standards for the
46 quality of ambient air in areas of the state designated by the commission,
47 the commission shall, in cooperation with the department of motor vehicles
48 and public safety and any local air pollution control agency established
49 ~~under~~ *pursuant to* NRS 445B.500 which has jurisdiction in a designated



1 area, adopt regulations and transportation controls as may be necessary to
2 carry out the program.

3 3. The regulations ~~shall~~ *must* distinguish between light-duty and
4 heavy-duty motor vehicles and may prescribe:

5 (a) Appropriate criteria and procedures for the approval, installation and
6 use of devices for the control of emissions from motor vehicles; and

7 (b) Requirements for the proper maintenance of such devices and motor
8 vehicles.

9 4. The regulations ~~shall~~ *must* establish:

10 (a) Requirements by which the department of motor vehicles and public
11 safety shall license authorized stations to inspect, repair, adjust and install
12 devices for the control of emissions for motor vehicles, including criteria
13 by which any person may become qualified to inspect, repair, adjust and
14 install those devices.

15 (b) Requirements by which the department of motor vehicles and public
16 safety may license an owner or lessee of a fleet of three or more vehicles as
17 a fleet station if the owner or lessee complies with the regulations of the
18 commission. The fleet station shall only certify vehicles which constitute
19 that fleet.

20 (c) Requirements by which the department provides for inspections of
21 motor vehicles owned by this state and any of its political subdivisions.

22 5. The commission shall consider, before adopting any regulation or
23 establishing any criteria pursuant to paragraph (a) of subsection 3:

24 (a) The availability of devices adaptable to specific makes, models and
25 years of motor vehicles.

26 (b) The effectiveness of those devices for reducing the emission of each
27 type of air pollutant under conditions in this state.

28 (c) The capability of those devices for reducing any particular type or
29 types of pollutants without significantly increasing the emission of any
30 other type or types of pollutant.

31 (d) The capacity of any manufacturer to produce and distribute the
32 particular device in such quantities and at such times as will meet the
33 estimated needs in Nevada.

34 (e) The reasonableness of the retail cost of the device and the cost of its
35 installation and maintenance over the life of the device and the motor
36 vehicle.

37 (f) The ease of determining whether any such installed device is
38 functioning properly.

39 **Sec. 11.** NRS 445C.060 is hereby amended to read as follows:

40 445C.060 "Regulatory agency" means:

41 1. The state environmental commission;

42 2. The state department of conservation and natural resources or the
43 division of environmental protection of that department;

44 3. A district board of health acting as a solid waste management
45 authority pursuant to NRS 444.440 to 444.620, inclusive; or

46 4. A district board of health, county board of health, ~~or~~ board of
47 county commissioners ~~administering~~ *or entity created pursuant to*
48 *section 3 of this act that administers* a program for the control of air
49 pollution pursuant to ~~paragraph (a) of subsection 1 of~~ NRS 445B.500.



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1 **Sec. 12.** NRS 354.474 is hereby amended to read as follows:
2 354.474 1. Except as otherwise provided in subsections 2 and 3, the
3 provisions of NRS 354.470 to 354.626, inclusive, apply to all local
4 governments. For the purpose of NRS 354.470 to 354.626, inclusive:

5 (a) "Local government" means every political subdivision or other
6 entity which has the right to levy or receive money from ad valorem or
7 other taxes or any mandatory assessments, and includes, without limitation,
8 counties, cities, towns, boards, school districts and other districts organized
9 pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS,
10 NRS 450.550 to 450.750, inclusive, *an entity created pursuant to section*
11 *3 of this act*, and any agency or department of a county or city which
12 prepares a budget separate from that of the parent political subdivision.

13 (b) "Local government" does not include the Nevada rural housing
14 authority.

15 2. An irrigation district organized pursuant to chapter 539 of NRS shall
16 fix rates and levy assessments as provided in NRS 539.667 to 539.683,
17 inclusive. The levy of such assessments and the posting and publication of
18 claims and annual financial statements as required by chapter 539 of NRS
19 shall be deemed compliance with the budgeting, filing and publication
20 requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation
21 district which levies an ad valorem tax shall comply with the filing and
22 publication requirements of NRS 354.470 to 354.626, inclusive, in addition
23 to the requirements of chapter 539 of NRS.

24 3. An electric light and power district created pursuant to chapter 318
25 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470
26 to 354.626, inclusive, for a year in which the district does not issue bonds
27 or levy an assessment if the district files with the department of taxation a
28 copy of all documents relating to its budget for that year which the district
29 submitted to the Rural ~~Electrification Administration~~ *Utilities Service* of
30 the United States Department of Agriculture.

31 **Sec. 13.** NRS 618.765 is hereby amended to read as follows:

32 618.765 1. Not later than 60 days after June 28, 1989, the division
33 shall adopt regulations establishing standards and procedures for the
34 licensure of each occupation which are at least as stringent as those
35 contained in the Model Contractor Accreditation Plan for States set out in
36 Appendix C of Subpart E of Part 763 of Title 40 of the Code of Federal
37 Regulations, as it existed on January 1, 1989. The regulations must include
38 standards for:

- 39 (a) Courses which provide initial training;
40 (b) Courses which provide a review of the initial training;
41 (c) Examinations;
42 (d) Qualifications;
43 (e) Renewal of licensure; and
44 (f) Revocation of licensure.

45 2. After consultation with the health division of the department of
46 human resources, the division of environmental protection of the state
47 department of conservation and natural resources and the county air
48 pollution control agencies designated pursuant to NRS 445B.500 ~~or~~ *or*
49 *section 4 of this act*, the division shall adopt standards for:



- 1 (a) Projects for the control of asbestos;
- 2 (b) Specifying the amount of asbestos within a material which must be
- 3 present to qualify the material as a “material containing asbestos” for the
- 4 purposes of NRS 618.750 to 618.850, inclusive;
- 5 (c) Laboratories which analyze building materials for the presence of
- 6 asbestos;
- 7 (d) Laboratories which collect or analyze air samples for those projects;
- 8 and
- 9 (e) The assessment of the exposure of occupants of a building at the
- 10 completion of a project for the control of asbestos.
- 11 3. The division shall by regulation adopt a standard for the assessment
- 12 of the exposure of the occupants of a building to airborne asbestos. The
- 13 standard:
- 14 (a) Must be set according to a time-weighted average concentration of
- 15 asbestos fibers in the air, measured under normal occupancy conditions;
- 16 and
- 17 (b) Must be at least as stringent as the corresponding federal standard, if
- 18 one has been adopted.
- 19 4. The standard adopted pursuant to subsection 3 may be used:
- 20 (a) To assess the need to respond to the presence of asbestos in a
- 21 building; or
- 22 (b) To determine which buildings or structures are most in need of such
- 23 response.
- 24 The standard does not require the monitoring of the air of any building or
- 25 structure, or create a duty for the division to inspect any building or
- 26 structure, except in connection with the enforcement of this chapter.
- 27 **Sec. 14.** This act becomes effective upon passage and approval.

