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SENATE BILL NO. 536—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF SOUTHERN NEVADA REGIONAL PLANNING COALITION)

MARCH 26, 2001

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Referred to Committee on Natural Resources

SUMMARY—Requires 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.

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AN ACT relating to the control of air pollution; requiring 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 shall, 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; and*

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

42 **Sec. 4.** *An entity that is created by a cooperative agreement pursuant*  
43 *to section 3 of this act:*

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

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

47 *(b) Consists only of elected officials of the county and the cities that*  
48 *entered into the cooperative agreement.*

49 *2. With respect to the control of air pollution within the county:*



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- 1 (a) Shall carry out and exercise the functions, powers and  
2 responsibilities that would otherwise be carried out in the county by the  
3 district board of health, county board of health or board of county  
4 commissioners, as applicable, pursuant to subsection 1 of NRS  
5 445B.500; and  
6 (b) Has all the power and authority of the district board of health,  
7 including, without limitation, the authority to administer and enforce:  
8 (1) The provisions of NRS 445B.500 to 445B.540, inclusive; and  
9 (2) The provisions of NRS 439.410 that relate to air quality.  
10 3. Must be designated as:  
11 (a) The air pollution control agency of the county for the purposes of  
12 NRS 445B.100 to 445B.640, inclusive, and the Federal Act insofar as it  
13 pertains to local programs;  
14 (b) The local air pollution control board; and  
15 (c) The local air pollution control authority.  
16 4. May take all action necessary to secure for the county the benefits  
17 of the Federal Act and any other law.  
18 5. May adopt ordinances and resolutions in accordance with the  
19 procedure described in paragraph (d) of subsection 2 of section 3 of this  
20 act.  
21 6. May issue revenue bonds pursuant to chapter 350 of NRS to  
22 defray the cost of the activities, projects and programs described in  
23 paragraph (c) of subsection 2 of section 3 of this act.  
24 7. May take any other actions that the governing board of the entity  
25 determines are necessary to preserve the quality of the air resources of  
26 the county.  
27 **Sec. 5.** NRS 445B.130 is hereby amended to read as follows:  
28 445B.130 "Director" means the director of the department or his  
29 designee or *a* person designated by or pursuant to a county or city  
30 ordinance or regional *or cooperative* agreement or regulation to enforce  
31 local air pollution control ordinances and regulations.  
32 **Sec. 6.** NRS 445B.275 is hereby amended to read as follows:  
33 445B.275 1. The governing body of any district, county, ~~city~~ city *or*  
34 *other entity* authorized to operate an air pollution control program pursuant  
35 to NRS 445B.100 to 445B.640, inclusive, may appoint an air pollution  
36 control hearing board.  
37 2. The air pollution control hearing board appointed by a county, city,  
38 ~~health district~~ *or other entity* must consist of seven members who are  
39 not employees of the state or any political subdivision of the state. One  
40 member of the hearing board must be an attorney admitted to practice law  
41 in Nevada, one member must be a professional engineer licensed in  
42 Nevada and one member must be licensed in Nevada as a general  
43 engineering contractor or a general building contractor as defined by NRS  
44 624.215. Three *members* must be appointed for a term of 1 year, three  
45 *members* must be appointed for a term of 2 years and one *member* must be  
46 appointed for a term of 3 years. Each succeeding term must be for a period  
47 of 3 years.



1     **Sec. 7.** NRS 445B.500 is hereby amended to read as follows:  
2     445B.500 1. Except as otherwise provided in this section, ~~and in~~  
3     NRS 445B.310 ~~and~~ *and section 4 of this act:*

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 standards for the control of emissions, emergency  
10        procedures and variance procedures established by ordinance or local  
11        regulation which are equivalent to or stricter than those established by  
12        statute or state regulation; and

13        (2) Provide for adequate administration, enforcement, financing and  
14        staff.

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

21     (d) Powers and responsibilities provided for in NRS 445B.210,  
22     445B.240 to 445B.450, inclusive, 445B.560, 445B.570, 445B.580 and  
23     445B.640 are binding upon and inure to the benefit of local air pollution  
24     control authorities within their jurisdiction.

25     2. *In a county whose population is 400,000 or more and in which a  
26     separate entity for the control of air pollution within the county has been  
27     created pursuant to section 3 of this act:*

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

32         (b) *The district board of health, county board of health or board of  
33     county commissioners shall not, in their individual capacities, establish  
34     and administer the program for the control of air pollution required  
35     pursuant to this section or carry out or exercise any functions, powers or  
36     responsibilities pertaining to the control of air pollution within the  
37     county, except that this paragraph does not impair the authority of the  
38     board of county commissioners with regard to land use that might  
39     incidentally have an effect on air quality.*

40     3. The local air pollution control board shall carry out all provisions of  
41     NRS 445B.215 with the exception that notices of public hearings must be  
42     given in any newspaper, qualified pursuant to the provisions of chapter 238  
43     of NRS, once a week for 3 weeks. The notice must specify with  
44     particularity the reasons for the proposed regulations and provide other  
45     informative details. NRS 445B.215 does not apply to the adoption of  
46     existing regulations upon transfer of authority as provided in NRS  
47     445B.610.

48     ~~3-1~~ 4. In a county whose population is 400,000 or more, the local air  
49     pollution control board may delegate to an independent hearing officer or



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1 hearing board its authority to determine violations and levy administrative  
2 penalties for violations of the provisions of NRS 445B.100 to 445B.450,  
3 inclusive, and 445B.500 to 445B.640, inclusive, *and sections 3 and 4 of*  
4 *this act*, or any regulation adopted pursuant to those sections. If such a  
5 delegation is made, 17.5 percent of any penalty collected must be deposited  
6 in the county treasury in an account to be administered by the local air  
7 pollution control board to a maximum of \$17,500 per year. The money in  
8 the account may only be used to defray the administrative expenses  
9 incurred by the local air pollution control board in enforcing the provisions  
10 of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty  
11 must be deposited in the county school district fund of the county where  
12 the violation occurred.

13 ~~14~~ 5. Any county whose population is less than 100,000 or any city  
14 may meet the requirements of this section for administration and  
15 enforcement through cooperative or interlocal agreement with one or more  
16 other counties, or through agreement with the state, or may establish its  
17 own program for the control of air pollution. If the county establishes such  
18 a program, it is subject to the approval of the commission.

19 ~~15~~ 6. No district board of health, county board of health, ~~for~~ board  
20 of county commissioners *or entity created pursuant to section 3 of this act*  
21 may adopt any regulation or establish a compliance schedule, variance  
22 order or other enforcement action relating to the control of emissions from  
23 plants which generate electricity by using steam produced by the burning  
24 of fossil fuel.

25 ~~16~~ 7. For the purposes of this section, "plants which generate  
26 electricity by using steam produced by the burning of fossil fuel" means  
27 plants that burn fossil fuels in a boiler to produce steam for the production  
28 of electricity. The term does not include any plant which uses technology  
29 for a simple or combined cycle combustion turbine, regardless of whether  
30 the plant includes duct burners.

31 **Sec. 8.** NRS 445B.505 is hereby amended to read as follows:

32 445B.505 Before a district board of health, county board of health or  
33 board of county commissioners, pursuant to the authority granted to it by  
34 NRS 445B.500, *or an entity created pursuant to section 3 of this act,*  
35 *pursuant to the authority granted to it by section 4 of this act*, enacts an  
36 ordinance or adopts a regulation establishing fuel standards for mobile  
37 sources of air contaminants, the district board of health, county board of  
38 health, ~~for~~ board of county commissioners *or entity created pursuant to*  
39 *section 3 of this act* shall:

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

42 2. Determine whether the proposed ordinance or regulation is  
43 technologically feasible based on evidence presented to the district board  
44 of health, county board of health, ~~for~~ board of county commissioners *or*  
45 *entity created pursuant to section 3 of this act* relating to the availability,  
46 effectiveness, reliability and safety of any proposed technology when it is  
47 used for its proposed use.



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

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

5 445B.595 1. Except as otherwise provided by subsection 2, all  
6 governmental sources of air contaminants shall comply with all local and  
7 state air pollution laws, regulations and ordinances.

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

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

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

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

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

25 445B.770 1. In any county whose population is 100,000 or more, the  
26 commission shall, in cooperation with the department of motor vehicles  
27 and public safety and any local air pollution control ~~agency~~ **authority**,  
28 adopt regulations for the control of emissions from motor vehicles in areas  
29 of the county designated by the commission.

30 2. In any county whose population is less than 100,000, if the  
31 commission determines that it is feasible and practicable to carry out a  
32 program of inspecting and testing motor vehicles and systems for the  
33 control of emissions from motor vehicles, and if carrying out the program  
34 is deemed necessary to achieve or maintain the prescribed standards for the  
35 quality of ambient air in areas of the state designated by the commission,  
36 the commission shall, in cooperation with the department of motor vehicles  
37 and public safety and any local air pollution control agency established  
38 ~~under~~ **pursuant to** NRS 445B.500 which has jurisdiction in a designated  
39 area, adopt regulations and transportation controls as may be necessary to  
40 carry out the program.

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

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

45 (b) Requirements for the proper maintenance of such devices and motor  
46 vehicles.

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

48 (a) Requirements by which the department of motor vehicles and public  
49 safety shall license authorized stations to inspect, repair, adjust and install



1 devices for the control of emissions for motor vehicles, including criteria  
2 by which any person may become qualified to inspect, repair, adjust and  
3 install those devices.

4 (b) Requirements by which the department of motor vehicles and public  
5 safety may license an owner or lessee of a fleet of three or more vehicles as  
6 a fleet station if the owner or lessee complies with the regulations of the  
7 commission. The fleet station shall only certify vehicles which constitute  
8 that fleet.

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

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

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

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

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

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

23 (e) The reasonableness of the retail cost of the device and the cost of its  
24 installation and maintenance over the life of the device and the motor  
25 vehicle.

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

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

29 445C.060 "Regulatory agency" means:

30 1. The state environmental commission;

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

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

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

39 **Sec. 12.** NRS 354.474 is hereby amended to read as follows:

40 354.474 1. Except as otherwise provided in subsections 2 and 3, the  
41 provisions of NRS 354.470 to 354.626, inclusive, apply to all local  
42 governments. For the purpose of NRS 354.470 to 354.626, inclusive:

43 (a) "Local government" means every political subdivision or other  
44 entity which has the right to levy or receive money from ad valorem or  
45 other taxes or any mandatory assessments, and includes, without limitation,  
46 counties, cities, towns, boards, school districts and other districts organized  
47 pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS,  
48 NRS 450.550 to 450.750, inclusive, *an entity created pursuant to section*



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1 **3 of this act**, and any agency or department of a county or city which  
2 prepares a budget separate from that of the parent political subdivision.

3 (b) "Local government" does not include the Nevada rural housing  
4 authority.

5 2. An irrigation district organized pursuant to chapter 539 of NRS shall  
6 fix rates and levy assessments as provided in NRS 539.667 to 539.683,  
7 inclusive. The levy of such assessments and the posting and publication of  
8 claims and annual financial statements as required by chapter 539 of NRS  
9 shall be deemed compliance with the budgeting, filing and publication  
10 requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation  
11 district which levies an ad valorem tax shall comply with the filing and  
12 publication requirements of NRS 354.470 to 354.626, inclusive, in addition  
13 to the requirements of chapter 539 of NRS.

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

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

22 618.765 1. Not later than 60 days after June 28, 1989, the division  
23 shall adopt regulations establishing standards and procedures for the  
24 licensure of each occupation which are at least as stringent as those  
25 contained in the Model Contractor Accreditation Plan for States set out in  
26 Appendix C of Subpart E of Part 763 of Title 40 of the Code of Federal  
27 Regulations, as it existed on January 1, 1989. The regulations must include  
28 standards for:

- 29 (a) Courses which provide initial training;  
30 (b) Courses which provide a review of the initial training;  
31 (c) Examinations;  
32 (d) Qualifications;  
33 (e) Renewal of licensure; and  
34 (f) Revocation of licensure.

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

- 40 (a) Projects for the control of asbestos;  
41 (b) Specifying the amount of asbestos within a material which must be  
42 present to qualify the material as a "material containing asbestos" for the  
43 purposes of NRS 618.750 to 618.850, inclusive;  
44 (c) Laboratories which analyze building materials for the presence of  
45 asbestos;  
46 (d) Laboratories which collect or analyze air samples for those projects;  
47 and  
48 (e) The assessment of the exposure of occupants of a building at the  
49 completion of a project for the control of asbestos.



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1     3. The division shall by regulation adopt a standard for the assessment  
2 of the exposure of the occupants of a building to airborne asbestos. The  
3 standard:

4     (a) Must be set according to a time-weighted average concentration of  
5 asbestos fibers in the air, measured under normal occupancy conditions;  
6 and

7     (b) Must be at least as stringent as the corresponding federal standard, if  
8 one has been adopted.

9     4. The standard adopted pursuant to subsection 3 may be used:

10    (a) To assess the need to respond to the presence of asbestos in a  
11 building; or

12    (b) To determine which buildings or structures are most in need of such  
13 response.

14 The standard does not require the monitoring of the air of any building or  
15 structure, or create a duty for the division to inspect any building or  
16 structure, except in connection with the enforcement of this chapter.

17    **Sec. 14.** This act becomes effective upon passage and approval.

