

Amendment No. 466

Senate Amendment to Senate Bill No. 274

(BDR 42-87)

Proposed by: Committee on Human Resources and Education**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend the bill as a whole by deleting section 1 and adding new sections designated sections 1 through 14 and the leadlines of repealed sections, following the enacting clause, to read as follows:

“Section 1. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches, under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

SP/MSM

Date: 4/25/2005

S.B. No. 274—Restricts authority of State Fire Marshal in consolidated municipalities and larger counties.



(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, “public assembly” means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

(e) The use of fire codes and fire-related codes to be adopted as minimum standards within the State of Nevada.

↪ The regulations of the State Fire Marshal apply throughout the State, ~~[but, except with respect to state-owned or state-occupied buildings.]~~ ***except that*** his authority to enforce them or conduct investigations under this chapter does not extend to a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction. ***In a county whose population is 100,000 or more or which has been converted into a consolidated municipality, the local fire authority having jurisdiction is responsible for enforcing the regulations of the State Fire Marshal, the provisions of this chapter and other related laws and regulations of this State.***

2. The State Fire Marshal may set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Human Resources in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the system.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) *Upon request:*

(1) Assist in checking plans and specifications for construction;

~~{{b}}~~ (2) Provide specialized training to local fire departments; and

~~{{e}}~~ (3) Assist local governments in drafting regulations and ordinances ~~[-~~

~~on request or as he deems necessary.]; and~~

(b) *Check for fire department access, fire flow, fire suppression systems and fire alarm systems in construction plans for state-owned buildings, except in a county whose population is 100,000 or more or which has been converted into a consolidated municipality. In a county whose population is 100,000 or more or which has been converted into a consolidated municipality, the local fire*

authority having jurisdiction is responsible for checking for fire department access, fire flow, fire suppression systems and fire alarm systems in construction plans for state-owned buildings.

10. In a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement.

Sec. 2. NRS 477.035 is hereby amended to read as follows:

477.035 1. The State Fire Marshal shall:

(a) ~~Inspect~~ *Except as otherwise provided in subsection 4, inspect* or cause to be inspected annually, all state buildings and order such fire-extinguishing and safety appliances as he deems necessary for the protection of the property against fire.

(b) Order the removal of combustibles and rubbish from the property, or order such changes in the entrances or exits of the buildings as will promote the safety of the occupants, or order the provision of such fire escapes as he may deem necessary.

(c) Provide inspection forms and maintain records of inspections of state-owned ~~for state-occupied~~ buildings.

2. If the agency in charge of any state property fails to comply with ~~the~~ *an* order of the State Fire Marshal ~~{for any structural change within 30 days}~~ *or the local fire authority having jurisdiction* after the ~~{receipt of such}~~ *agency receives the* order, the Fire Marshal *or the local fire*

authority having jurisdiction shall report such failure to the ~~[State Public Works Board. The State Public Works Board shall thereupon take necessary steps to correct the situation as ordered.]~~

Governor and may issue a notice of violation.

3. The State Fire Marshal may contract with local authorities for the inspection of state-owned ~~[or state-occupied]~~ buildings.

4. *In a county whose population is 100,000 or more or which has been converted into a consolidated municipality, the local fire authority having jurisdiction:*

(a) Is responsible for inspecting state-owned buildings;

(b) Shall forward to the State Fire Marshal copies of all inspection forms that it or its staff completes in connection with the inspection of such state-owned buildings; and

(c) Shall order such fire-extinguishing and safety appliances as it deems necessary for the protection of state-owned buildings against fire.

Sec. 3. NRS 477.100 is hereby amended to read as follows:

477.100 As used in NRS ~~[477.100 to 477.170, inclusive,]~~ **477.110 and 477.170**, unless the context otherwise requires, “authority” means:

1. The State Fire Marshal in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality;

2. Unless the county has enacted an ordinance designating the persons who constitute the authority, the chief building official and chief officer of the fire service of the jurisdiction in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and if they are unable to agree on any question, “authority” includes the county manager or city manager, who shall cast the deciding vote on that question; or

3. If the board of county commissioners of a county whose population is 100,000 or more or which has been converted into a consolidated municipality, or the governing body of a city in that county, has specified a person or persons to act as the authority, that person or those persons.

Sec. 4. NRS 477.110 is hereby amended to read as follows:

477.110 ~~{After May 15, 1981, the}~~ **The** governing body of a local government may not adopt an ordinance requiring changes to existing structures to enhance the safety of occupants from fire if the ordinance is ~~{~~

~~—1. Less} less~~ stringent than this chapter . ~~{; or~~

~~—2. More stringent than this chapter unless the governing body has sought and obtained approval of the ordinance from the State Board of Examiners.}~~

Sec. 5. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582 and 444.340 to 444.430, inclusive, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county ~~{;}~~ ***except for the construction, maintenance and safety of buildings, structures and property of a school district that has established a building department pursuant to section 10 of this act.***

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada ~~{;}~~ ***or*** the University and Community College System of Nevada . ~~{for any school district.}~~

Sec. 6. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582 and 444.340 to 444.430, inclusive, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city ~~[,]~~, ***except for the construction, maintenance and safety of buildings, structures and property of a school district that has established a building department pursuant to section 10 of this act.***

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada ~~[,]~~ ***or*** the University and Community College System of Nevada . ~~[or any school district.]~~

Sec. 7. NRS 278.580 is hereby amended to read as follows:

278.580 1. Subject to the limitation set forth in NRS 244.368, the governing body of any city or county may adopt a building code, specifying the design, soundness and materials of structures, and may adopt rules, ordinances and regulations for the enforcement of the building code.

2. The governing body may also fix a reasonable schedule of fees for the issuance of building permits. A schedule of fees so fixed does not apply to the State of Nevada ~~[,]~~ ***or*** the University and Community College System of Nevada , ~~[or any school district,]~~ except that such entities may contract with the governing body to pay such fees for the issuance of building permits, the review of plans and the inspection of construction. Except as it may agree to in such a contract, a governing body is not required to provide for the review of plans or the inspection of construction with respect to a structure of the State of Nevada ~~[,]~~ ***or*** the University and Community College System of Nevada . ~~[or any school district.]~~

3. Notwithstanding any other provision of law, the State and its political subdivisions shall comply with all zoning regulations adopted pursuant to this chapter, except for the expansion of any activity existing on April 23, 1971.

4. A governing body shall amend its building codes to permit the use of straw or other materials and technologies which conserve scarce natural resources or resources that are renewable in the construction of a structure and the use of solar energy for the heating of a structure, to the extent the local climate allows.

5. A governing body shall amend its building codes to include:

(a) The seismic provisions of the International Building Code published by the International Code Council; and

(b) Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.

Sec. 8. NRS 278.585 is hereby amended to read as follows:

278.585 ~~{All}~~ *Except as otherwise provided in section 10 of this act, all* persons and political subdivisions shall comply with the appropriate city or county building code.

Sec. 9. NRS 341.119 is hereby amended to read as follows:

341.119 1. ~~{Upon the request of the head of a state agency,}~~ *Except as otherwise provided in subsection 2,* the Board may , *upon the request of the head of a state agency,* delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.148, inclusive.

2. *If the Interim Finance Committee determines that the organization and capabilities of the system-wide building department of the University and Community College System of Nevada are adequate, the State Public Works Board shall, upon the request of the Board of Regents, delegate*

to the System all of the authority granted the State Public Works Board pursuant to NRS 341.141 to 341.148, inclusive.

3. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the Board concerning a construction project or to approve the advance planning of a project.

Sec. 10. Chapter 393 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district located in a county whose population is 400,000 or more may establish a building department for the school district.

2. If the board of trustees of such a school district establishes a building department:

(a) The board of trustees shall:

(1) Regulate all matters relating to the construction, maintenance and safety of buildings, facilities, structures and property of the school district.

(2) Adopt any building, electrical, plumbing or safety code as necessary to carry out the provisions of this section.

(b) The building department shall, as described in subsection 4 of NRS 393.110, review plans, designs and specifications for the erection of new school buildings and for the addition to or alteration of existing school buildings.

(c) The provisions of NRS 278.585 do not apply to the school district in its regulation of the buildings, facilities, structures and property of the school district.

Sec. 11. NRS 393.110 is hereby amended to read as follows:

393.110 1. Each school district shall, in the design, construction and alteration of school buildings and facilities comply with the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if a school district complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

2. Except as otherwise provided in ~~subsection 3:~~

~~—(a) Unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building, the board of trustees of a school district shall submit plans, designs and specifications therefor to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~

~~—(b) Before letting any contract or contracts for any addition to or alteration of an existing school building which involves structural systems, or exiting, sanitary or fire protection facilities, the board of trustees of a school district shall submit plans, designs and specifications therefor to, and obtain~~

~~the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~

➔ ~~The State Public Works Board}~~ *this section, the board of trustees of a school district shall, before letting any contract or contracts for the erection of any new school building or for any addition to or alteration of an existing school building, submit plans, designs and specifications to, and obtain written approval of the plans, designs and specifications from, the building department of the county or other local building department, as applicable, and all other local agencies or departments whose approval is necessary for the issuance of a permit. A permit for construction must be issued before the school district commences construction. The building department shall conduct inspections of all work to determine compliance with the approved plans, designs and specifications. The building department may charge and collect a reasonable fee from the board of trustees of the school district for the payment of any costs incurred by the building department in reviewing the plans, designs and specifications and for conducting the inspections required by this subsection. If there is no county building department or other local building department in the county in which the school district is located, the board of trustees of the school district shall contract with a private entity or the building department of another local*

government to obtain the required reviews of the plans, designs and specifications and to have the required inspections conducted.

3. In conducting reviews pursuant to subsection 2, the applicable building department or private entity shall verify that all plans, designs and specifications that [it reviews] are reviewed pursuant to this section comply with [all] :

(a) The applicable requirements of the relevant codes adopted by this State;

(b) The applicable requirements of the relevant codes adopted by the local authority having jurisdiction; and

(c) All applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations.

↪ The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

~~[3.— The State Public Works Board may enter into an agreement with the appropriate building department of a county or city to review plans, designs and specifications of a school district pursuant to subsection 2. If the State Public Works Board enters into such an agreement, the board of trustees of the school district shall submit a copy of its plans, designs and specifications for any project to which subsection 2 applies to the building department before commencement of the project for the approval of the building department. The]~~

4. The provisions of subsections 2 and 3 do not apply to a school district that has established a building department pursuant to section 10 of this act. If a school district has established a building department pursuant to section 10 of this act, that building department shall review the plans, designs and specifications ~~[and provide responsive comment as expeditiously as practicable]~~ for the erection of new school buildings and for the addition to or alteration of existing school buildings to verify that the plans, designs and specifications comply with ~~[all]~~ :

(a) The applicable requirements of the relevant codes adopted by this State; and

(b) All applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., inclusive, and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. ~~[The building department may charge and collect a reasonable fee from the board of trustees of the school district for the payment of any costs incurred by the building department in reviewing the plans, designs and specifications. A permit for construction must not be issued without the approval of the building department pursuant to this subsection.]~~

↪ The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

~~[4.]~~ **5.** No contract for any of the purposes specified in subsection 1 made by a board of trustees of a school district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to or altering any school building in contravention of this section.

Sec. 12. NRS 477.120, 477.130, 477.140, 477.150 and 477.160 are hereby repealed.

Sec. 13. 1. The Legislative Commission shall appoint a committee consisting of six Legislators to conduct an interim study of the operations of the State Fire Marshal Division of the Department of Public Safety.

2. The Legislative Commission shall appoint to the committee three members of the Senate and three members of the Assembly who are acquainted with the duties, operations and programs of the State Fire Marshal Division.

3. The study must include, without limitation, an examination of the manner in which the State Fire Marshal Division cooperates and interacts with authorities of local governments that deal with matters relating to buildings, structures, public safety and the prevention and suppression of fires.

4. In conducting the study, the committee shall seek information and suggestions from:

(a) Experts in the areas of intergovernmental cooperation, inspection of buildings and structures, public safety and the prevention and suppression of fires; and

(b) Various representatives of local governments, pertinent local governmental agencies and the State Fire Marshal Division.

5. Any recommended legislation proposed by the committee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly who are appointed to the committee.

6. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 74th Session of the Nevada Legislature.

Sec. 14. This act becomes effective on July 1, 2005.

LEADLINES OF REPEALED SECTIONS

477.120 Exits, open stairways and vertical shafts.

477.130 Fire alarms.

477.140 Smoke detectors; openings used to supply air.

477.150 Fire sprinklers; elevators; posting of floor numbers and route for evacuation; heating, ventilating, air-conditioning and paging systems.

477.160 Buildings used for public assembly.”.

Amend the title of the bill to read as follows:

“AN ACT relating to governmental administration; restricting the authority of the State Fire Marshal in consolidated municipalities and larger counties; requiring the State Public Works Board to delegate its authority to the University and Community College System of Nevada under certain circumstances; authorizing certain larger school districts to establish building departments; authorizing such a building department to adopt its own building codes; removing the State Public Works Board from the process of approving plans, designs and specifications for the construction and alteration of school buildings; requiring the Legislative Commission to appoint a committee to conduct an interim study of the operations of the State Fire Marshal Division of the Department of Public Safety; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises certain provisions relating to governmental operations. (BDR 42-87)”.