

SENATE BILL NO. 94—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE GOVERNOR)

PREFILED DECEMBER 15, 2008

Referred to Committee on Government Affairs

SUMMARY—Imposes various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State. (BDR 42-444)

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

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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 fire protection; imposing various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State; requiring the State Forester Firewarden and State Fire Marshal to cooperate in the enforcement of certain laws and regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law charges the State Forester Firewarden with overseeing various fire
2 protection activities for the State. (Chapter 472 of NRS) Existing law also provides
3 for the creation of various types of fire protection districts. (Chapters 318, 473 and
4 474 of NRS) Existing law sets forth the duties of the State Forester Firewarden.
5 (NRS 472.040) **Section 2** of this bill expands those duties to include cooperating
6 with the State Fire Marshal in enforcing laws and adopting regulations, assessing
7 codes, rules and regulations of certain agencies to ensure they are consistent with
8 other fire codes, rules and regulations and ensuring that any adopted regulations are
9 consistent with those of fire protection districts created pursuant to chapter 318, 473
10 or 474 of NRS. Existing law requires the State Fire Marshal to cooperate with the
11 State Forester Firewarden to prepare certain regulations. (NRS 477.030) **Section 4**
12 of this bill expands that requirement to include regulations relating to the mitigation
13 of the fire hazard risk posed by vegetation in the Lake Tahoe Basin and the Lake
14 Mead Basin. **Section 5** of this bill requires the State Forester Firewarden to review
15 and evaluate the laws and regulations of this State to: (1) ensure that such fire
16 protection districts have adequate statutory and regulatory authority to carry out the
17 regulations adopted pursuant to this bill and to carry out necessary fire safety and



* S B 9 4 R 1 *

18 fire prevention activities; and (2) ensure that there are adequate mechanisms to
19 increase the funding of the fire prevention districts, if necessary, to enforce the
20 regulations and that adequate funding exists to carry out their responsibilities. The
21 State Forester Firewarden is required to submit a report of its review and evaluation
22 and any recommendations for legislation to the Director of the Legislative Counsel
23 Bureau by January 1, 2011, for submission to the 2011 Legislature.

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

- 1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** NRS 472.040 is hereby amended to read as follows:
3 472.040 1. The State Forester Firewarden shall:
4 (a) Supervise or coordinate all forestry and watershed work on
5 state-owned and privately owned lands, including fire control, in
6 Nevada, working with federal agencies, private associations,
7 counties, towns, cities or private persons.
8 (b) Administer all fire control laws and all forestry laws in
9 Nevada outside of townsite boundaries, and perform any other
10 duties designated by the Director of the State Department of
11 Conservation and Natural Resources or by state law.
12 (c) Assist and encourage county or local fire protection districts
13 to create legally constituted fire protection districts where they are
14 needed and offer guidance and advice in their operation.
15 (d) Designate the boundaries of each area of the State where the
16 construction of buildings on forested lands creates such a fire hazard
17 as to require the regulation of roofing materials.
18 (e) Adopt and enforce regulations relating to standards for fire
19 retardant roofing materials to be used in the construction, alteration,
20 change or repair of buildings located within the boundaries of fire
21 hazardous forested areas.
22 (f) Purchase communication equipment which can use the
23 microwave channels of the state communications system and store
24 this equipment in regional locations for use in emergencies.
25 (g) Administer money appropriated and grants awarded for fire
26 prevention, fire control and the education of firefighters and award
27 grants of money for those purposes to fire departments and
28 educational institutions in this State.
29 (h) Determine the amount of wages that must be paid to
30 offenders who participate in conservation camps and who perform
31 work relating to fire fighting and other work projects of
32 conservation camps.
33 (i) *Cooperate with the State Fire Marshal in the enforcement*
34 *of all laws and the adoption of regulations relating to the*
35 *prevention of fire through the management of vegetation in*



* S B 9 4 R 1 *

1 *counties located within or partially within the Lake Tahoe Basin*
2 *and the Lake Mead Basin.*

3 *(j) Assess the codes, rules and regulations which are adopted*
4 *by other agencies that have specific regulatory authority within*
5 *the Lake Tahoe Basin and the Lake Mead Basin, and which are*
6 *not subject to the authority of a state or local fire agency, for*
7 *consistency with fire codes, rules and regulations.*

8 *(k) Ensure that any adopted regulations are consistent with*
9 *those of fire protection districts created pursuant to chapter 318,*
10 *473 or 474 of NRS.*

11 2. The State Forester Firewarden in carrying out the provisions
12 of this chapter may:

13 (a) Appoint paid foresters and firewardens to enforce the
14 provisions of the laws of this State respecting forest and watershed
15 management or the protection of forests and other lands from fire,
16 subject to the approval of the board of county commissioners of
17 each county concerned.

18 (b) Appoint suitable citizen-wardens. Citizen-wardens serve
19 voluntarily except that they may receive compensation when an
20 emergency is declared by the State Forester Firewarden.

21 (c) Appoint, upon the recommendation of the appropriate federal
22 officials, resident officers of the United States Forest Service and
23 the United States Bureau of Land Management as voluntary
24 firewardens. Voluntary firewardens are not entitled to compensation
25 for their services.

26 (d) Appoint certain paid foresters or firewardens to be arson
27 investigators.

28 (e) Employ, with the consent of the Director of the State
29 Department of Conservation and Natural Resources, clerical
30 assistance, county and district coordinators, patrolmen, firefighters,
31 and other employees as needed, and expend such sums as may be
32 necessarily incurred for this purpose.

33 (f) Purchase, or acquire by donation, supplies, material,
34 equipment and improvements necessary to fire protection and forest
35 and watershed management.

36 (g) With the approval of the Director of the State Department of
37 Conservation and Natural Resources and the State Board of
38 Examiners, purchase or accept the donation of real property to be
39 used for lookout sites and for other administrative, experimental or
40 demonstration purposes. No real property may be purchased or
41 accepted unless an examination of the title shows the property to be
42 free from encumbrances, with title vested in the grantor. The title to
43 the real property must be examined and approved by the Attorney
44 General.



(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

(a) In a district formed pursuant to NRS 473.034; and

(b) In an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including , *without limitation*, any land within the 1/2-mile radius surrounding such an area,

➔ enforce ~~[the provisions of Appendix II A of the Uniform Fire Code of the International Conference of Building Officials in the form most recently adopted by that conference before July 1, 1985; regarding the clearance]~~ *all regulations relating to the reduction* of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 4. 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.

(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



* S B 9 4 R 1 *

1 large numbers of persons work, live or congregate for any purpose.
2 As used in this paragraph, "public assembly" means a building or a
3 portion of a building used for the gathering together of 50 or more
4 persons for purposes of deliberation, education, instruction, worship,
5 entertainment, amusement or awaiting transportation, or the
6 gathering together of 100 or more persons in establishments for
7 drinking or dining.

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

10 ➔ Except as otherwise provided in subsection 12, the regulations of
11 the State Fire Marshal apply throughout the State, but except with
12 respect to state-owned or state-occupied buildings, his authority to
13 enforce them or conduct investigations under this chapter does not
14 extend to a school district except as otherwise provided in NRS
15 393.110, or a county whose population is 100,000 or more or which
16 has been converted into a consolidated municipality, except in those
17 local jurisdictions in those counties where he is requested to
18 exercise that authority by the chief officer of the organized fire
19 department of that jurisdiction or except as otherwise provided in a
20 regulation adopted pursuant to paragraph (b) of subsection 2.

21 2. The State Fire Marshal may:

22 (a) Set standards for equipment and appliances pertaining to fire
23 safety or to be used for fire protection within this State, including
24 the threads used on fire hose couplings and hydrant fittings; and

25 (b) Adopt regulations based on nationally recognized standards
26 setting forth the requirements for fire departments to provide
27 training to firefighters using techniques or exercises that involve the
28 use of fire or any device that produces or may be used to produce
29 fire.

30 3. The State Fire Marshal shall cooperate with the State
31 Forester Firewarden in the preparation of regulations relating to
32 standards for fire retardant roofing materials pursuant to paragraph
33 (e) of subsection 1 of NRS 472.040 ***and the mitigation of the***
34 ***risk of a fire hazard from vegetation in counties within or partially***
35 ***within the Lake Tahoe Basin and the Lake Mead Basin.***

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

42 5. The State Fire Marshal shall coordinate all activities
43 conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and
44 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) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

on request or as he deems necessary.

10. Except as otherwise provided in this subsection, 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. The provisions of this subsection do not apply to the authority of the



1 State Fire Marshal to adopt regulations pursuant to paragraph (b) of
2 subsection 2.

3 11. The State Fire Marshal may, as a public safety officer or as
4 a technical expert on issues relating to hazardous materials,
5 participate in any local, state or federal team or task force that is
6 established to conduct enforcement and interdiction activities
7 involving:

8 (a) Commercial trucking;

9 (b) Environmental crimes;

10 (c) Explosives and pyrotechnics;

11 (d) Drugs or other controlled substances; or

12 (e) Any similar activity specified by the State Fire Marshal.

13 12. Except as otherwise provided in this subsection, any
14 regulations of the State Fire Marshal concerning matters relating to
15 building codes, including, without limitation, matters relating to the
16 construction, maintenance or safety of buildings, structures and
17 property in this State:

18 (a) Do not apply in a county whose population is 400,000 or
19 more which has adopted a code at least as stringent as the
20 International Fire Code and the International Building Code,
21 published by the International Code Council. To maintain the
22 exemption from the applicability of the regulations of the State Fire
23 Marshal pursuant to this subsection, the code of the county must be
24 at least as stringent as the most recently published edition of the
25 International Fire Code and the International Building Code within 1
26 year after publication of such an edition.

27 (b) Apply in a county described in paragraph (a) with respect to
28 state-owned or state-occupied buildings or public schools in the
29 county and in those local jurisdictions in the county in which the
30 State Fire Marshal is requested to exercise that authority by the chief
31 executive officer of that jurisdiction. As used in this paragraph,
32 "public school" has the meaning ascribed to it in NRS 385.007.

33 **Sec. 5.** 1. The State Forester Firewarden shall review and
34 evaluate the laws and regulations of this State to ensure that
35 adequate statutory and regulatory authority exists for each fire
36 protection district, located in whole or in part in the areas of the
37 Lake Tahoe Basin and the Lake Mead Basin in this State, that is
38 created pursuant to chapter 318, 473 or 474 of NRS to carry out the
39 regulations adopted pursuant to paragraphs (i), (j) and (k) of
40 subsection 1 of NRS 472.040 and to carry out any necessary fire
41 safety and fire prevention activities. The review and evaluation must
42 also include a determination of whether such fire protection districts
43 have adequate funding to carry out their responsibilities and whether
44 one or more statutory mechanisms exist to increase the funding, if
45 necessary, to ensure the enforcement of the regulations



* S B 9 4 R 1 *

1 adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of
2 NRS 472.040.

3 2. On or before January 1, 2011, the State Forester Firewarden
4 shall submit a report which includes a summary of the review and
5 evaluation conducted pursuant to subsection 1 and any
6 recommendations for legislation to the Director of the Legislative
7 Counsel Bureau for transmittal to the Legislature. The Director shall
8 cause the report to be made available to each Senator and
9 Assemblyman of the 2011 Legislature.

10 **Sec. 6.** The State Forester Firewarden shall adopt the
11 regulations required pursuant to paragraphs (i), (j) and (k) of
12 subsection 1 of NRS 472.040 and complete the review and
13 evaluation of the laws and regulations of this State required pursuant
14 to section 5 of this act not later than July 1, 2010.

