

Amendment No. 86

Senate Amendment to Senate Bill No. 66	(BDR 20-225)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	
Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 66 (§ 2).	

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"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

HAC/TMC



Date: 4/8/2013

S.B. No. 66—Revises provisions governing the powers and duties of counties.
(BDR 20-225)



SENATE BILL NO. 66—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF ESMERALDA COUNTY)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the powers and duties of counties.
(BDR 20-225)

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 counties; authorizing, under certain circumstances, the board of county commissioners of certain smaller counties to authorize the use of county equipment on the property of a local government located within the county; revising the authority of counties over property within the county; revising provisions governing the use of county highway patrols and ~~snowplows~~ equipment on private roads and authorizing a county to recover the related labor costs of such use; revising provisions governing the abatement of a chronic nuisance on property located within the unincorporated area of a county; revising provisions governing the abatement of a public nuisance on property located within a county; revising provisions governing the covering or removal of graffiti on residential and nonresidential property in a county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes, under certain circumstances, the board of county commissioners in a county whose population is less than 15,000 (currently Esmeralda, Eureka, Lander, Lincoln, Mineral, Pershing, Storey and White Pine Counties) to authorize the use of county equipment on the property of any local government that is located within the county.

Existing law authorizes a board of county commissioners to make orders concerning the property of the county. (NRS 244.265) ~~Section 1.5~~ Section 1.5 of this bill extends that authority to property within the county.

Existing law provides that a board of county commissioners may authorize the use of county highway patrols and snowplows on private roads if the board declares an emergency or deems the use to be in the best interest of the county. (NRS 244.273) ~~Section 2~~ Section 2 of this bill: (1) authorizes the use of county equipment on private roads under certain circumstances; (2) eliminates provisions that limit the circumstances under which such a use may be deemed to be in the best interest of the county; and ~~(2)~~ (3) authorizes the board to recover from the owner of the private road the related labor costs of such a use.

Existing law authorizes a board of county commissioners to adopt an ordinance setting forth procedures pursuant to which the district attorney may file a court action seeking the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county, the closure of the property where the nuisance is located or occurring, penalties against the owner of the property and any other appropriate relief. (NRS 244.3603) **Section 4** of this bill eliminates certain provisions which: (1) specify the procedures and provisions that the ordinance must include; (2) specify the civil penalties and costs that may be imposed against the owner of the property; and (3) ~~provide that such penalties and costs may be made a special assessment against the property under certain circumstances; and (4)~~ define the term "chronic nuisance" to specify when such a nuisance exists.

Existing law authorizes a board of county commissioners to adopt an ordinance setting forth procedures pursuant to which the board or its designee may order an owner of property within the county to take certain actions concerning the property to abate a public nuisance. (NRS 244.3605) **Section 5** of this bill eliminates certain provisions which: (1) specify that the ordinance must contain certain procedures, ~~provide the manner in which the county may recover money expended by the county to abate the nuisance and provide for the imposition of civil penalties against the owner of the property for failure to abate the nuisance;~~ and (2) specify the conditions under which the county may abate the public nuisance. ~~and (3) provide that such expenses and civil penalties are a special assessment against the property under certain circumstances.~~

Existing law authorizes a board of county commissioners to adopt an ordinance setting forth procedures pursuant to which officers, employees or other designees of the county may cover or remove certain graffiti on residential property. (NRS 244.36935) **Section 6** of this bill eliminates certain provisions that the ordinance must contain, including: (1) the circumstances under which the county may cover or remove such graffiti; and (2) the requirement that the county pay the cost of covering or removing the graffiti.

Existing law also authorizes a board of county commissioners to adopt an ordinance setting forth procedures pursuant to which the board or its designee may order an owner of nonresidential property to cover or remove certain graffiti. (NRS 244.3694) **Section 7** of this bill eliminates certain provisions which: (1) specify that the ordinance must contain certain procedures ~~and provide the manner in which the county may recover money expended by the county for labor and materials used to cover or remove the graffiti;~~ and (2) specify the conditions under which the county may cover or remove the graffiti. ~~and (3) authorize the board to provide that the cost of covering or removing the graffiti is a lien upon the nonresidential property or is a special assessment against the nonresidential property.~~

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

In a county whose population is less than 15,000, the board of county commissioners may authorize the use of county equipment on the property of any local government that is located within the county if:

1. The board adopts an ordinance which sets forth its determination that such use is in the best interest of the county.

2. The board and the governing body of the local government enter into an interlocal agreement providing for the reimbursement of the county for the use of such equipment and related labor costs.

3. An employee of the county operates the equipment.

~~[Section 1.]~~ **Sec. 1.5.** NRS 244.265 is hereby amended to read as follows:

244.265 The boards of county commissioners shall have power and jurisdiction in their respective counties to make orders respecting the property ~~of~~ within the county. ~~in conformity with any law of this State, and to take care of and preserve such property.~~

1 **Sec. 2.** NRS 244.273 is hereby amended to read as follows:

2 244.273 The board of county commissioners of each county may authorize
3 the use of county highway patrols and ~~{snowplow}~~ equipment on private roads if:

4 1. The board declares an emergency; or

5 2. The board ~~{deems}~~ adopts an ordinance which sets forth its determination
6 that such use ~~{to be}~~ is in the best interest of the county. ~~{The board shall not~~
7 ~~deem such use to be in the best interest of the county unless:~~

8 ~~—(a) The equipment is being used for routine county business in the area where~~
9 ~~the private roads are located; and~~

10 ~~—(b) The use of the equipment on private roads does not interfere with the~~
11 ~~normal operations of the county.~~ in the absence of a responsive and responsible
12 contractor that is licensed to perform the work.

13 ~~↳~~ If the board authorizes the use of a county highway patrol or ~~{snowplow}~~
14 equipment on a private road pursuant to this section, the equipment must be
15 operated by an employee of the county. The board may require the owner of the
16 road to pay the county ~~{the prevailing rental rate}~~ for the use of such equipment ~~{~~
17 and related labor costs.

18 **Sec. 3.** NRS 244.3601 is hereby amended to read as follows:

19 244.3601 1. Notwithstanding the abatement procedures set forth in NRS
20 244.360 , ~~{or 244.3605.}~~ a board of county commissioners may, by ordinance, ~~{~~
21 provide :

22 (a) Provide for a reasonable means to secure or summarily abate a dangerous
23 structure or condition that at least three persons who enforce building codes,
24 housing codes, zoning ordinances or local health regulations, or who are members
25 of a local law enforcement agency or fire department, determine in a signed, written
26 statement to be an imminent danger.

27 (b) Provide for the imposition of civil penalties.

28 2. Except as otherwise provided in subsection 3, the owner of the property on
29 which the structure or condition is located must be given reasonable written notice
30 that is:

31 (a) If practicable, hand-delivered or sent prepaid by United States mail to the
32 owner of the property; or

33 (b) Posted on the property,

34 ~~↳~~ before the structure or condition is so secured. The notice must state clearly that
35 the owner of the property may challenge the action to secure or summarily abate the
36 structure or condition and must provide a telephone number and address at which
37 the owner may obtain additional information.

38 3. If it is determined in the signed, written statement provided pursuant to
39 subsection 1 that the structure or condition is an imminent danger and the result of
40 the imminent danger is likely to occur before the notice and an opportunity to
41 challenge the action can be provided pursuant to subsection 2, then the structure or
42 condition which poses such an imminent danger that presents an immediate hazard
43 may be summarily abated. A structure or condition summarily abated pursuant to
44 this section may only be abated to the extent necessary to remove the imminent
45 danger that presents an immediate hazard. The owner of the structure or condition
46 which is summarily abated must be given written notice of the abatement after its
47 completion. The notice must state clearly that the owner of the property may seek
48 judicial review of the summary abatement and must provide an address and
49 telephone number at which the owner may obtain additional information
50 concerning the summary abatement.

51 4. The costs of securing or summarily abating the structure or condition and
52 any civil penalty that has not been collected from the owner of the property may
53 be made a special assessment against the real property on which the structure or

condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section ~~+~~

~~(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection 6 of NRS 244.3605.~~

~~(b) "Imminent", "imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety, health or property of:~~

~~(1) (a) The occupants, if any, of the real property on which the structure or condition is located; or~~

~~(2) (b) The general public.~~

Sec. 4. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) ~~1-1~~ Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) ~~1-2~~ If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) ~~1-3~~ If applicable, seek civil penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 ~~must:~~

~~(a) Contain procedures pursuant to which the owner of the property is:~~

~~(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on the owner's property of nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the district attorney for legal action;~~

~~(2) If the chronic nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the chronic nuisance;~~

~~(3) Afforded an opportunity for a hearing before a court of competent jurisdiction;~~

~~(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision;~~

~~(c) may:~~

(a) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

(b) Provide for the imposition of civil penalties.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

~~(a) Impose a civil penalty:~~

~~(1) If the property is nonresidential property, of not more than \$750 per day; or~~

~~(2) If the property is residential property, of not more than \$500 per day;~~

~~→ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;~~

~~(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and~~

1 ~~—(c) Order any other appropriate relief.~~

2 ~~—4. In addition to any other reasonable means authorized by the court for the~~
3 ~~recovery of money expended by the county to abate the chronic nuisance and,~~
4 ~~except as otherwise provided in subsection 5, for the collection of civil penalties~~
5 ~~imposed pursuant to subsection 3, the board may make the expense and civil~~
6 ~~penalties a special assessment against the property upon which the chronic nuisance~~
7 ~~is located or occurring. The special assessment may be collected pursuant to the~~
8 ~~provisions set forth in subsection 4 of NRS 244.360.~~

9 ~~—5.} Any money expended to abate the condition on the property and civil~~
10 ~~penalties that have not been collected from the owner of the property may not be~~
11 ~~made a special assessment against the property. {pursuant to subsection 4 by the~~
12 ~~board unless:~~

13 ~~—(a) At least 12 months have elapsed after the date specified in the order of the~~
14 ~~court by which the owner must abate the chronic nuisance or, if the owner appeals~~
15 ~~that order, the date specified in the order of the appellate court by which the owner~~
16 ~~must abate the chronic nuisance, whichever is later;~~

17 ~~—(b) The owner has been billed, served or otherwise notified that the civil~~
18 ~~penalties are due; and~~

19 ~~—(c) The amount of the uncollected civil penalties is more than \$5,000.~~

20 ~~—6. As used in this section:~~

21 ~~—(a) A “chronic nuisance” exists:~~

22 ~~—(1) When three or more nuisance activities exist or have occurred during~~
23 ~~any 90-day period on the property;~~

24 ~~—(2) When a person associated with the property has engaged in three or~~
25 ~~more nuisance activities during any 90-day period on the property or within 100~~
26 ~~feet of the property;~~

27 ~~—(3) When the property has been the subject of a search warrant based on~~
28 ~~probable cause of continuous or repeated violations of chapter 459 of NRS;~~

29 ~~—(4) When a building or place is used for the purpose of unlawfully selling,~~
30 ~~serving, storing, keeping, manufacturing, using or giving away a controlled~~
31 ~~substance, immediate precursor or controlled substance analog;~~

32 ~~—(5) When a building or place was used for the purpose of unlawfully~~
33 ~~manufacturing a controlled substance, immediate precursor or controlled substance~~
34 ~~analog and:~~

35 ~~—(I) The building or place has not been deemed safe for habitation by a~~
36 ~~governmental entity; or~~

37 ~~—(II) All materials or substances involving the controlled substance,~~
38 ~~immediate precursor or controlled substance analog have not been removed from or~~
39 ~~remediated on the building or place by an entity certified or licensed to do so within~~
40 ~~180 days after the building or place is no longer used for the purpose of unlawfully~~
41 ~~manufacturing a controlled substance, immediate precursor or controlled substance~~
42 ~~analog;~~

43 ~~—(b) “Commercial real estate” has the meaning ascribed to it in NRS 645.8711.~~

44 ~~—(c) “Controlled substance analog” has the meaning ascribed to it in NRS~~
45 ~~453.043.~~

46 ~~—(d) “Immediate precursor” has the meaning ascribed to it in NRS 453.086.~~

47 ~~—(e) “Nuisance activity” means:~~

48 ~~—(1) Criminal activity;~~

49 ~~—(2) The presence of debris, litter, garbage, rubble, abandoned or junk~~
50 ~~vehicles or junk appliances;~~

51 ~~—(3) Violations of building codes, housing codes or any other codes~~
52 ~~regulating the health or safety of occupants of real property;~~

53 ~~—(4) Excessive noise and violations of curfew; or~~

~~(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.~~

~~(f) "Person associated with the property" means:~~

~~(1) The owner of the property;~~

~~(2) The manager or assistant manager of the property;~~

~~(3) The tenant of the property; or~~

~~(4) A person who, on the occasion of a nuisance activity, has:~~

~~(I) Entered, patronized or visited;~~

~~(II) Attempted to enter, patronize or visit; or~~

~~(III) Waited to enter, patronize or visit;~~

~~the property or a person present on the property.~~

~~(g) "Residential property" means:~~

~~(1) Improved real estate that consists of not more than four residential units;~~

~~(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or~~

~~(3) A single family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.~~

~~The term does not include commercial real estate.]~~

Sec. 5. NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

~~(a) 1.~~ Repair, safeguard or eliminate a dangerous structure or condition;

~~(b) 2.~~ Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS;

~~(c) 3.~~ Clear weeds and noxious plant growth; or

~~(d) 4.~~ Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section,

to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 ~~must~~ may:

~~(a) 1. Contain procedures pursuant to which the owner of the property is:~~

~~(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance.~~

~~(2) If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.~~

~~(3) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.~~

~~(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.~~

~~(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.~~

~~— (a) Officers, employees or other designees of the county shall not cover or remove the graffiti unless:~~

~~— (1) The owner of the residential property consents to the covering or removal of the graffiti; or~~

~~— (2) If the board of county commissioners or its designee is unable to contact the owner of the residential property to obtain the owner's consent, the board first provides the owner of the property with written notice that is:~~

~~— (I) Sent by certified mail, return receipt requested; and~~

~~— (II) Posted on the residential property on which the graffiti will be covered or from which the graffiti will be removed;~~

~~— at least 5 days before the officers, employees or other designees of the county cover or remove the graffiti.~~

~~— (b) The county shall pay the cost of covering or removing the graffiti.~~

Sec. 7. NRS 244.3694 is hereby amended to read as follows:

244.3694 1. The board of county commissioners of a county may adopt by ordinance procedures pursuant to which the board or its designee may order an owner of nonresidential property within the county to cover or remove graffiti that is:

~~(a) 1.~~ Placed on that nonresidential property; and

~~(b) 2.~~ Visible from a public right-of-way,

↳ to protect the public health, safety and welfare of the residents of the county and to prevent blight upon the community.

2. An ordinance adopted pursuant to subsection 1 ~~must~~ may:

~~(a) Contain procedures pursuant to which the owner of the property is:~~

~~— (1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of graffiti and the date by which the owner must cover or remove the graffiti; and~~

~~— (2) Afforded an opportunity for a hearing and an appeal before the board or its designee.~~

~~— (b) Provide that the date specified in the notice by which the owner must cover or remove the graffiti is tolled for the period during which the owner requests a hearing and receives a decision.~~

~~— (c) Provide the manner in which the county will recover money expended for labor and materials used to cover or remove the graffiti if the owner fails to cover or remove the graffiti.~~

(b) Provide for the imposition of civil penalties.

3. ~~{~~The board or its designee may direct the county to cover or remove the graffiti and may recover the amount expended by the county for labor and materials used to cover or remove the graffiti if:

~~— (a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to cover or remove the graffiti within the period specified in the notice;~~

~~— (b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to cover or remove the graffiti within the period specified in the order; or~~

~~— (c) The board has denied the appeal of the owner and the owner has failed to cover or remove the graffiti within the period specified in the order.~~

4. ~~In addition to any other reasonable means of recovering money expended by the county to cover or remove the graffiti, the board may ~~;~~:~~

~~— (a) Provide that the cost of covering or removing the graffiti is a lien upon the nonresidential property on which the graffiti was covered or from which the graffiti was removed; or~~

~~—(b) Make~~ make the cost of covering or removing the graffiti and any civil penalty that has not been collected from the owner of the property a special assessment against the nonresidential property on which the graffiti was covered or from which the graffiti was removed.

~~5. A lien authorized pursuant to paragraph (a) of subsection 4 must be perfected by:~~

~~—(a) Mailing by certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last known owner of the property at his or her last known address, as determined by the real property assessment roll in the county in which the nonresidential property is located; and~~

~~—(b) Filing with the county recorder of the county in which the nonresidential property is located, a statement of the amount due and unpaid and describing the property subject to the lien.~~

~~6. A special assessment authorized pursuant to paragraph (b) of subsection 4 may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.~~

~~7. As used in this section, “nonresidential property” means all real property other than residential property. The term does not include real property owned by a governmental entity.~~

Sec. 8. This act becomes effective on January 1, 2014.