

Amendment No. 43

Assembly Amendment to Assembly Bill No. 34 (BDR 42-369)

Proposed by: Assembly Committee on Government Affairs

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the unfunded mandate requested by the affected local government to A.B. 34 (§ 12).

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

EMR/EGO



Date: 4/18/2015

A.B. No. 34—Repeals provisions governing certain fire protection districts and fire safety. (BDR 42-369)



ASSEMBLY BILL No. 34—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE DIVISION OF FORESTRY)

PREFILED DECEMBER 20, 2014

Referred to Committee on Government Affairs

SUMMARY—~~Repeals~~ **Makes various changes to** provisions governing certain fire protection districts and fire safety. (BDR 42-369)

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

CONTAINS UNFUNDED MANDATE (§ 12)
(REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 safety; repealing provisions governing certain fire protection districts; reenacting certain of those provisions relating to fire safety; **revising the circumstances under which a person, firm, association or agency that caused a fire or other emergency that threatens human life would be charged for the expenses incurred to extinguish the fire or meet the emergency;** authorizing the State Land Registrar to transfer title to certain real property owned by the State of Nevada to certain local fire protection districts and counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the creation of certain fire protection districts by petition to the State Forester Firewarden. (Chapter 473 of NRS) The functions of those districts are currently being transferred to other local government entities. Accordingly, **section 15** of this bill repeals the provisions of chapter 473 of NRS. Certain provisions of that chapter relating to fire safety are reenacted in chapter 472 of NRS by **sections ~~12-14~~ 2, 3 and 5** of this bill. **Sections 6-10** of this bill make conforming changes.

Existing law provides that within the boundaries of certain fire protection districts, any person, firm, association or agency responsible for causing any fire or other emergency which threatens human life may, in certain circumstances, be charged with the expenses incurred in extinguishing the fire or meeting the emergency, together with the cost of necessary patrol. (NRS 473.080, 474.550) Section 4 of this bill reenacts NRS 473.080 but removes the boundary limitation and revises the circumstances under which a person, firm, association or agency would be required to pay those expenses. Section 8.5 of this bill makes a similar change concerning those expenses with respect to county fire protection districts.

Existing law authorizes the State Land Registrar to transfer any interest in land owned by the State of Nevada. (NRS 321.003) **Sections 11-13** of this bill authorize the State Land

Registrar to transfer title to certain real property owned by the State, with certain restrictions, to certain local fire protection districts and counties as the result of the dissolution of the fire protection districts created pursuant to chapter 473 of NRS.

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

Section 1. Chapter 472 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *1. The State Forester Firewarden may prohibit or restrict the following activities on any lands within the jurisdiction of the State Forester Firewarden when a danger to public safety or natural resources exists because of conditions which create a high risk of fire:*

(a) The operation in an area of timber, brush or grass of a motor vehicle or other item of equipment powered by a motor:

(1) If the motor does not have a spark arrestor as required by law; or

(2) If the operator does not have in his or her possession an ax, shovel and at least 1 gallon of water;

(b) The operation in an area of timber, brush or grass of a motor vehicle off an existing paved, gravel or dirt road;

(c) The smoking of tobacco or other substances in any place other than a motor vehicle or an area cleared of flammable vegetation;

(d) Setting an open fire in any place other than in a fireplace located in an established picnic area or campground; or

(e) Other activities, if specified in regulations adopted by the State Forester Firewarden and the prohibition or restriction is related to reducing a high risk of fire,

but these prohibitions and restrictions do not apply in established campgrounds or picnic areas, beaches or places of habitation or to travel on state or federal highways.

2. The State Forester Firewarden shall make a public announcement and post signs in any area where the State Forester Firewarden has prohibited or restricted any activities.

3. The State Forester Firewarden shall, upon finding that a danger to public safety or to natural resources no longer exists, make known to the public the end of any prohibition or restriction in that area.

4. The provisions of this section apply only to specified prohibitions or restrictions and do not confer upon the State Forester Firewarden the power to prohibit access to land.

5. Any person violating any of the provisions of this section is guilty of a misdemeanor.

Sec. 3. *Except as otherwise provided in NRS 527.126, any person, firm, association or agency which, personally or through another, willfully, negligently or in violation of the law:*

1. Sets fire to the property, whether privately or publicly owned, of another;

2. Allows fire to be set to the property, whether privately or publicly owned, of another; or

3. Allows a fire kindled or attended by the person, firm, association or agency to escape to the property, whether privately or publicly owned, of another, is liable to the owner of the property for the damages caused by the fire.

1 Sec. 4. ~~4.4.4.1.~~ 1. Except as otherwise provided in this section or by specific
2 statute, if the State Forester Firewarden determines that a person, firm,
3 association or agency is responsible for willfully or negligently causing any fire
4 or other emergency which threatens human life, the person, firm, association or
5 agency may be charged with the expenses incurred in extinguishing the fire or
6 meeting the emergency, together with the cost of necessary patrol. This charge
7 constitutes a debt of the person, firm, association or agency charged and is
8 collectible by the federal, state or county agency incurring such expenses in the
9 same manner as in the case of an obligation under a contract, express or implied.

10 2. If the State Forester Firewarden determines that the fire or other
11 emergency which threatens human life was the result of an unavoidable accident,
12 the State Forester Firewarden shall not charge the person, firm, association or
13 agency that caused the fire or emergency the expenses incurred in extinguishing
14 the fire or meeting the emergency.

15 Sec. 5. 1. Except as otherwise provided in this section and NRS 527.126,
16 it is unlawful for any person, firm, association, corporation or agency to burn, or
17 cause to be burned, any brush, grass, logs or any other inflammable material, or
18 blast with dynamite, powder or other explosive, or set off fireworks, or operate a
19 welding torch, tarpot or any other device that may cause a fire in forest, grass or
20 brush, either on the land of the person, firm, association, corporation or agency
21 or on the land of another, or on public land, unless the burning or act is done
22 under a written permit from the State Forester Firewarden or the State Forester
23 Firewarden's duly authorized agent and in strict accordance with the terms of the
24 permit.

25 2. Written permission is not necessary:

26 (a) At any time during the year when the State Forester Firewarden
27 determines that no fire hazard exists.

28 (b) To burn materials in screened, safe incinerators, or in incinerators
29 approved by the local governmental jurisdiction, the State Forester Firewarden
30 or the State Forester Firewarden's duly authorized agent, or in small heaps or
31 piles, where the fire is set on a public road, corrals, gardens or ploughed fields,
32 and at a distance not less than 100 feet from any woodland, timber or brush-
33 covered land or field containing dry grass or other inflammable material with at
34 least one adult person in actual attendance at the fire at all times during its
35 burning.

36 3. This section does not prevent the issuance of an annual permit to any
37 public utility covering its usual and emergency operation and maintenance work.

38 4. This section does not prevent the building of necessary controlled small
39 camp and branding fires if caution is taken to make certain that the fire is
40 extinguished before leaving. In any case where the fire escapes and does injury to
41 the property of another, the escape and injury are prima facie evidence of a
42 violation of this section.

43 5. The provisions of this section apply only to areas of land that are outside
44 of incorporated cities and towns.

45 6. Any person, firm, association, corporation or agency violating any of the
46 provisions of this section is guilty of a misdemeanor.

47 Sec. 6. NRS 472.040 is hereby amended to read as follows:

48 472.040 1. The State Forester Firewarden shall:

49 (a) Supervise or coordinate all forestry and watershed work on state-owned and
50 privately owned lands, including fire control, in Nevada, working with federal
51 agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

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

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318 ~~1-4731~~ or 474 of NRS.

(l) Upon the request of the State Engineer, review a plan submitted with an application for the issuance of a temporary permit pursuant to NRS 533.436.

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

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

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

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

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

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

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

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney 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. 7. 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~~, ~~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 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. 8. NRS 474.460 is hereby amended to read as follows:

474.460 1. All territory in each county or consolidated municipality not included in any other fire protection district, except incorporated areas other than consolidated municipalities, may be organized by ordinance by the board of county commissioners of the county in which that territory lies into as many fire protection districts as necessary to provide for the prevention and extinguishment of fires in the county, until such time as that territory may be included in another fire protection district formed in accordance with the provisions of ~~chapter 473 of NRS~~ ~~or~~ NRS 474.010 to 474.450, inclusive.

2. Each such district:

(a) Is a political subdivision of the State; and

(b) Has perpetual existence unless dissolved as provided in this chapter.

3. Each such district may:

(a) Sue and be sued, and be a party to suits, actions and proceedings;

(b) Arbitrate claims; and

(c) Contract and be contracted with.

4. The board of county commissioners organizing each such district is ex officio the governing body of each such district. The governing body must be known as the board of fire commissioners.

5. The chair of the board of county commissioners is ex officio the chair of each such district.

6. The county clerk is ex officio the clerk of each such district.

7. Unless the board of fire commissioners employs a treasurer, the county treasurer is ex officio the treasurer of each such district.

Sec. 8.5. NRS 474.550 is hereby amended to read as follows:

1 474.550 1. Except as otherwise provided in this section and NRS 527.126,
2 within the boundaries of any fire protection district created pursuant to this chapter,
3 any person, firm, association or agency which willfully or negligently causes a fire
4 or other emergency which threatens human life may be charged with the expenses
5 incurred in extinguishing the fire or meeting the emergency and the cost of
6 necessary patrol. Such a charge constitutes a debt which is collectible by the
7 federal, state, county or district agency incurring the expenses in the same manner
8 as an obligation under a contract, express or implied.

9 2. If it is determined that the fire or other emergency which threatens
10 human life was the result of an unavoidable accident, the person, firm,
11 association or agency that caused the fire or emergency may not be charged the
12 expenses incurred in extinguishing the fire or meeting the emergency.

13 **Sec. 9.** NRS 332.015 is hereby amended to read as follows:

14 332.015 For the purpose of this chapter, unless the context otherwise requires,
15 “local government” means:

16 1. Every political subdivision or other entity which has the right to levy or
17 receive money from ad valorem taxes or other taxes or from any mandatory
18 assessments, including counties, cities, towns, school districts and other districts
19 organized pursuant to chapters 244, 309, 318, 379, 450, ~~473,~~ 474, 539, 541, 543
20 and 555 of NRS.

21 2. The Las Vegas Valley Water District created pursuant to the provisions of
22 chapter 167, Statutes of Nevada 1947, as amended.

23 3. County fair and recreation boards and convention authorities created
24 pursuant to the provisions of NRS 244A.597 to 244A.655, inclusive.

25 4. District boards of health created pursuant to the provisions of NRS 439.362
26 or 439.370.

27 5. The Nevada Rural Housing Authority.

28 **Sec. 10.** NRS 354.760 is hereby amended to read as follows:

29 354.760 1. All invoices or other notices issued by a local government to
30 collect an account receivable must state that if the debtor wishes to pay by check or
31 other negotiable instrument, such negotiable instrument must name as payee:

32 (a) The local government; or

33 (b) The title of the governmental official charged by law with the collection of
34 such accounts.

35 ➤ In no event may the invoice or other notice state that a check or other negotiable
36 instrument may name a natural person as payee.

37 2. Notwithstanding the provisions of subsection 1, a local government may
38 deposit into the appropriate account a check or other negotiable instrument which it
39 determines is intended as payment for an account receivable.

40 3. As used in this section, “local government” means every political
41 subdivision or other entity which has the right to levy or receive money from ad
42 valorem taxes or other taxes or from any mandatory assessments, including,
43 without limitation, counties, cities, towns, boards, authorities, school districts and
44 other districts organized pursuant to chapters 244, 244A, 309, 318, 379, 439, 450,
45 ~~473,~~ 474, 539, 541, 543 and 555 of NRS.

46 **Sec. 11.** The State Land Registrar may transfer to:

47 1. The Elko County Fire Protection District, without consideration, all the
48 interest of the State of Nevada in the real property described in subsection 1 of
49 section 13 of this act. If the real property is transferred pursuant to this subsection,
50 the Elko County Fire Protection District shall pay the costs relating to the transfer
51 of the real property.

52 2. The Truckee Meadows Fire Protection District, without consideration, all
53 the interest of the State of Nevada in the real property described in subsection 2 of

section 13 of this act. If the real property is transferred pursuant to this subsection, the Truckee Meadows Fire Protection District shall pay the costs relating to the transfer of the real property.

3. Clark County, without consideration, all the interest of the State of Nevada in the real property described in subsection 3 of section 13 of this act. If the real property is transferred pursuant to this subsection, Clark County shall pay the costs relating to the transfer of the real property.

4. The Storey County Fire Protection District, without consideration, all the interest of the State of Nevada in the real property described in subsection 4 of section 13 of this act. If the real property is transferred pursuant to this subsection, the Storey County Fire Protection District shall pay the costs relating to the transfer of the real property.

Sec. 12. If real property is transferred pursuant to section 11 of this act, the deed from the State of Nevada to the fire protection district or county, as applicable, must, subject to any easement, condition or other encumbrance of record:

1. Include restrictions:

(a) Requiring that the use of the property be for the provision of services for fire protection and related public safety services; and

(b) Prohibiting the fire protection district or county receiving the real property or any successor in title from transferring the property without the consent of the State of Nevada.

2. Provide for the reversion of title to the property to the State of Nevada upon the breach of any restriction specified in subsection 1.

Sec. 13. 1. The real property that may be transferred to the Elko County Fire Protection District pursuant to subsection 1 of section 11 of this act contains approximately 1.25 acres and is commonly known as the Independence Valley Volunteer Fire Station. Such real property may be described as follows:

The north half (N 1/2) of the northeast quarter (NE 1/4) of the southeast quarter (SE 1/4) of the northeast quarter (NE 1/4) of the southwest quarter (SW 1/4) of section 3, Township 39 North, Range 52 East, M.D.B. & M.

2. The real property that may be transferred to the Truckee Meadows Fire Protection District pursuant to subsection 2 of section 11 of this act contains approximately 1.875 acres and is commonly known as the Mount Rose Fire Station. Such real property may be described as follows:

The west half (W 1/2) of the southwest quarter (SW 1/4) of the southeast quarter (SE 1/4) of the southeast quarter (SE 1/4) of the southeast quarter (SE 1/4) and the west half (W 1/2) of the east half (E 1/2) of the southwest quarter (SW 1/4) of the southeast quarter (SE 1/4) of the southeast quarter (SE 1/4) of the southeast quarter (SE 1/4) of section 26, Township 18 North, Range 19 East, M.D.B. & M.

3. The real property that may be transferred to Clark County pursuant to subsection 3 of section 11 of this act contains approximately 0.25 acres and is commonly known as the Mount Charleston Fire Station. Such real property may be described as follows:

That portion of the northwest quarter (NW 1/4) of the northeast quarter (NE 1/4) of section 36, Township 19 South, Range 56 East, M.D.B. & M., as described in Grant, Bargain and Sale Deeds recorded on January 12, 1962, as Document Number 272260 in Book 337 and on August 20, 1962, as

Document Number 307631 in Book 381 in the Recorder's Office of Clark County, Nevada.

4. The real property that may be transferred to the Storey County Fire Protection District pursuant to subsection 4 of section 11 of this act contains approximately 1 acre and is commonly known as the Virginia City Highlands Fire Station Site. Such property may be described as follows:

That portion of the southeast quarter (SE 1/4) of the northwest quarter (NW 1/4) of section 8, Township 17 North, Range 21 East, M.D.B. & M., as described in the Grant, Bargain and Sale Deed recorded on November 20, 1979, as Document Number 45784 in Book 20 at page 179 in the Recorder's Office of Storey County, Nevada.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. NRS 473.010, 473.020, 473.030, 473.031, 473.032, 473.033, 473.034, 473.035, 473.0355, 473.036, 473.040, 473.050, 473.060, 473.065, 473.070, 473.080, 473.090, 473.100, 474.530 and 474.555 are hereby repealed.

Sec. 16. This act becomes effective on July 1, 2015.

LEADLINES OF REPEALED SECTIONS

473.010 "Federal aid" defined.

473.020 Institution of proceedings for formation of fire protection district: Petition by property owners.

473.030 Resolution of board of county commissioners: Adoption; contents.

473.031 Notice of proposed formation of district: Contents; publication.

473.032 Hearing; written objections; exclusion of land not benefited.

473.033 Inclusion of lands adjacent to proposed district; owner's application.

473.034 Determination; order of formation; regulations for organization of area.

473.035 Alteration of boundaries by inclusion of territory: Procedure; regulations.

473.0355 Alteration of boundaries by exclusion of territory: Procedure.

473.036 Effect of change in district's boundaries.

473.040 Board of directors: Composition.

473.050 Preparation of budgets; levy, collection, deposit and use of taxes.

473.060 Authorization to issue negotiable bonds; purpose; limitation on amount.

473.065 Activities within district which may be prohibited or restricted by State Forester Firewarden; public announcement and posting of prohibited or restricted activities; applicability; penalty.

473.070 Liability for damage by fire within district.

473.080 Collection of expenses for extinguishing fires or meeting other emergencies within district.

473.090 Unlawful burning, blasting or use of fireworks, welding torch or other devices in district; permits; exceptions; penalty.

473.100 Elimination of fire hazards.

474.530 Dissolution of district organized pursuant to chapter 473 of NRS or exclusion of portions.

474.555 Reorganization of district organized pursuant to chapter 473 of NRS.