

Amendment No. CA10

Conference Committee Amendment to (BDR 40-804)
Assembly Bill No. 169 Second Reprint

Proposed by: Conference Committee

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

Adoption of this amendment will:

- (1) MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 169 R2 (§ 6 & NRS 439.150).
- (2) ADD an unfunded mandate not requested by the affected local government to A.B. 169 R2 (§ 6).

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.

EWR/RBL



Date: 6/1/2015

A.B. No. 169—Provides for the collection and application of graywater for a single-family residence. (BDR 40-804)



ASSEMBLY BILL NO. 169—COMMITTEE ON
HEALTH AND HUMAN SERVICES

FEBRUARY 17, 2015

Referred to Committee on Health and Human Services

SUMMARY—Provides for the collection and application of graywater for a single-family residence. (BDR 40-804)

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

CONTAINS UNFUNDED MANDATE (§ 6)
(NOT 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 graywater; requiring the State Board of Health to adopt regulations concerning systems for the collection and application of graywater for a single-family residence; requiring a permit for such graywater systems; providing that state and local governmental agencies must not prohibit graywater systems that meet certain requirements; allowing restrictions on graywater systems within common-interest communities; requiring the State Board to submit a report to the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations concerning residential individual systems for the disposal of sewage, which are commonly known as septic systems, and such regulations are effective statewide except in health districts in which the district boards of health have adopted regulations concerning such systems for the district. (NRS 444.650)

Section 6 of this bill requires the State Board of Health to adopt regulations concerning graywater systems for a single-family residence, and such regulations are effective statewide except in health districts in which the district boards of health have adopted regulations concerning such systems for the district. **Section 4** of this bill defines "graywater system" to mean any system for the collection and application of graywater originating from a single-family residence to be used for household gardening, composting or landscape irrigation.

Section 6 provides that the regulations adopted by the State Board of Health or a district board of health must: (1) prohibit graywater systems where certain conditions exist; and (2) where graywater systems are allowed, require a person to apply for and obtain a permit for the use of a graywater system. **Section 6** allows issuance of such a permit only if certain requirements are met. If the graywater system is or will be connected to a treatment works, these requirements include that the operator of the treatment works: (1) conduct an analysis of the possible effects of the graywater system on the treatment works; and (2) report the results

of the analysis to the State Board of Health or district board of health, as applicable. **Section 6** requires an operator of a treatment works to conduct such an analysis within 90 days after the date on which the analysis is requested by the proposed operator of a graywater system. ~~and authorizes the operator of the treatment works to charge a fee to cover the cost of conducting the analysis.~~ Finally, **section 6** provides that local governments may not prohibit the use of such graywater systems.

Section 8 of this bill provides that the State Environmental Commission may not require a person to obtain a permit under the Nevada Water Pollution Control Law (NRS 445A.300-445A.730) to use a graywater system if the person has obtained a permit from the appropriate board under the laws governing graywater systems.

Section 11 of this bill provides that the governing documents of a unit-owners' association may prohibit or restrict the use of graywater systems within common-interest communities. (Chapter 116 of NRS) **Section 11** also provides that if the governing documents do not prohibit or restrict the use of graywater systems, such use must comply with the laws governing graywater systems.

Section 12 of this bill requires the State Board of Health to submit to the Legislature a report stating the number and location of each permit issued pursuant to **section 6** for the operation of a graywater system.

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

Section 1. NRS 439.200 is hereby amended to read as follows:

439.200 1. The State Board of Health may by affirmative vote of a majority of its members adopt, amend and enforce reasonable regulations consistent with law:

- (a) To define and control dangerous communicable diseases.
- (b) To prevent and control nuisances.
- (c) To regulate sanitation and sanitary practices in the interests of the public health.
- (d) To provide for the sanitary protection of water and food supplies.
- (e) To govern and define the powers and duties of local boards of health and health officers, except with respect to the provisions of NRS 444.440 to 444.620, inclusive, 444.650, *and sections 3 to 6, inclusive, of this act*, 445A.170 to 445A.955, inclusive, and chapter 445B of NRS.
- (f) To protect and promote the public health generally.
- (g) To carry out all other purposes of this chapter.

2. Except as otherwise provided in NRS 444.650, *and sections 3 to 6, inclusive, of this act*, those regulations have the effect of law and supersede all local ordinances and regulations inconsistent therewith, except those local ordinances and regulations which are more stringent than the regulations provided for in this section.

3. The State Board of Health may grant a variance from the requirements of a regulation if it finds that:

- (a) Strict application of that regulation would result in exceptional and undue hardship to the person requesting the variance; and
- (b) The variance, if granted, would not:
 - (1) Cause substantial detriment to the public welfare; or
 - (2) Impair substantially the purpose of that regulation.

4. Each regulation adopted by the State Board of Health must be published immediately after adoption and issued in pamphlet form for distribution to local health officers and the residents of the State.

1 **Sec. 2.** Chapter 444 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 3 to 6, inclusive, of this act.

3 **Sec. 3.** *As used in NRS 444.650 and sections 3 to 6, inclusive, of this act,*
4 *unless the context otherwise requires, the words and terms defined in sections 4*
5 *and 5 of this act have the meanings ascribed to them in those sections.*

6 **Sec. 4.** *“Graywater system” means any system for the collection and*
7 *application of graywater originating from a single-family residence to be used for*
8 *household gardening, composting or landscape irrigation.*

9 **Sec. 5.** *“Recycled water” means water that has been used and subsequently*
10 *treated to make it suitable for use again.*

11 **Sec. 6.** 1. *The State Board of Health shall adopt regulations concerning*
12 *the use of graywater systems. Those regulations are effective except in a health*
13 *district in which a district board of health has adopted regulations concerning the*
14 *use of graywater systems in that district.*

15 2. *Except as otherwise provided in subsection 3, any regulations adopted by*
16 *the State Board of Health or a district board of health concerning the use of*
17 *graywater systems:*

18 (a) *Must prohibit the use of a graywater system in any area of the State*
19 *where there is:*

20 (1) *The reasonable potential for return flow to a river system or a lake;*

21 (2) *A requirement for return flow of effluent to a river system; or*

22 (3) *An existing alternative program for recycled water;*

23 (b) *In any area of the State not prohibited pursuant to paragraph (a), must*
24 *require a person to apply for and obtain a permit for the use of a graywater*
25 *system; and*

26 (c) *Must not conflict with the provisions of NRS 445A.300 to 445A.730,*
27 *inclusive, and section 8 of this act and any regulations adopted pursuant thereto.*

28 3. *Notwithstanding any regulations adopted pursuant to this section or NRS*
29 *444.650, in any area of the State where the use of a graywater system is otherwise*
30 *prohibited for a single-family residence, a person who owns, leases or occupies a*
31 *single-family residence that uses a residential individual system for the disposal*
32 *of sewage may apply to obtain a permit for the use of a graywater system for that*
33 *single-family residence.*

34 4. *The State Board of Health or a district board of health shall not issue a*
35 *permit pursuant to this section unless:*

36 (a) *The distribution system for the graywater provides for overflow into the*
37 *sewer system or a residential individual system for the disposal of sewage;*

38 (b) *The storage tank for the graywater is covered to restrict access and to*
39 *eliminate habitat for mosquitos or other vectors;*

40 (c) *The graywater is vertically separated from and at least 4 feet above the*
41 *groundwater table;*

42 (d) *All piping for the graywater is clearly identified as containing nonpotable*
43 *water;*

44 (e) *The graywater is used on the site where it is generated and does not run*
45 *off the property;*

46 (f) *The graywater is applied in a manner that prevents contact with people or*
47 *domestic pets;*

48 (g) *The application of the graywater is managed to prevent standing water on*
49 *the surface, avoid ponding and ensure that the hydraulic capacity of the soil is*
50 *not exceeded;*

51 (h) *The graywater is discharged below the surface of the ground;*

52 (i) *The graywater is not discharged into a natural watercourse;*

(j) If the application is for a permit for a residence that is or will be connected to a treatment works, the operator of the treatment works has conducted an analysis of the possible effect of the graywater system on the treatment works and has reported the results of the analysis, including, without limitation, any finding that the graywater system will be detrimental to the flow of or total suspended solids in water passing through the treatment works, to the State Board of Health or a district board of health, as applicable; and

(k) The use of the graywater complies with the provisions of NRS 445A.300 to 445A.730, inclusive, and section 8 of this act and any regulations adopted pursuant thereto.

5. A district board of health which adopts regulations concerning graywater systems shall consider and take into account the geologic, hydrological and topographical characteristics of the area within its jurisdiction.

6. A board of county commissioners of a county, the governing body of a city or the town board or board of county commissioners having jurisdiction over the affairs of a town shall not prohibit the use of a graywater system that meets the requirements of this section.

7. If the proposed operator of a graywater system for a residence that is or will be connected to a treatment works requests the operator of the treatment works to conduct the analysis described in paragraph (j) of subsection 4, the operator of the treatment works must conduct the analysis within 90 days after the request. ~~{The operator of the treatment works may charge a fee for conducting the analysis which must not exceed the actual cost incurred by the operator to conduct the analysis.}~~

8. As used in this section, "treatment works" has the meaning ascribed to it in NRS 445A.410.

Sec. 7. NRS 444.650 is hereby amended to read as follows:

444.650 1. The State Board of Health shall adopt regulations to control the use of a residential individual system for *the* disposal of sewage in this State. Those regulations are effective except in health districts in which a district board of health has adopted regulations to control the use of a residential individual system for *the* disposal of sewage in that district.

2. A board which adopts such regulations shall consider and take into account the geological, hydrological and topographical characteristics of the area within its jurisdiction.

3. The regulations adopted pursuant to this section must not conflict with the provisions of NRS 445A.300 to 445A.730, inclusive, *and section 8 of this act* and any regulations adopted pursuant to those provisions.

~~{4. As used in this section, "residential individual system for disposal of sewage" means an individual system for disposal of sewage from a parcel of land, including all structures thereon, that is zoned for single family residential use.}~~

Sec. 8. Chapter 445A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Commission shall not require a person to obtain a permit pursuant to this section and NRS 445A.300 to 445A.730, inclusive, for the use of a graywater system if the person has obtained a permit that meets the requirements of section 6 of this act.*

2. *As used in this section, "graywater system" has the meaning ascribed to it in section 4 of this act.*

Sec. 9. NRS 445A.310 is hereby amended to read as follows:

445A.310 As used in NRS 445A.300 to 445A.730, inclusive, *and section 8 of this act*, unless the context otherwise requires, the words and terms defined in NRS

445A.315 to 445A.420, inclusive, have the meanings ascribed to them in those sections.

Sec. 10. NRS 445A.425 is hereby amended to read as follows:

445A.425 1. Except as specifically provided in NRS 445A.625 to 445A.645, inclusive, the Commission shall:

(a) Adopt regulations carrying out the provisions of NRS 445A.300 to 445A.730, inclusive, *and section 8 of this act*, including standards of water quality and amounts of waste which may be discharged into the waters of the State.

(b) Adopt regulations providing for the certification of laboratories that perform analyses for the purposes of NRS 445A.300 to 445A.730, inclusive, *and section 8 of this act*, to detect the presence of hazardous waste or a regulated substance in soil or water.

(c) Adopt regulations controlling the injection of fluids through a well to prohibit those injections into underground water, if it supplies or may reasonably be expected to supply any public water system, as defined in NRS 445A.840, which may result in that system's noncompliance with any regulation regarding primary drinking water or may otherwise have an adverse effect on human health.

(d) Advise, consult and cooperate with other agencies of the State, the Federal Government, other states, interstate agencies and other persons in furthering the provisions of NRS 445A.300 to 445A.730, inclusive *H*, *and section 8 of this act*.

(e) Determine and prescribe the qualifications and duties of the supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment.

2. The Commission may by regulation require that supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment be certified by the Department. The regulations may include a schedule of fees to pay the costs of certification. The provisions of this subsection apply only to a package plant for sewage treatment whose capacity is more than 5,000 gallons per day and to any other plant whose capacity is more than 10,000 gallons per day.

3. In adopting regulations, standards of water quality and effluent limitations pursuant to NRS 445A.300 to 445A.730, inclusive, *and section 8 of this act*, the Commission shall recognize the historical irrigation practices in the respective river basins of this State, the economy thereof and their effects.

4. The Commission may hold hearings, issue notices of hearings, issue subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths and take testimony as it considers necessary to carry out the provisions of this section and for the purpose of reviewing standards of water quality.

5. As used in this section, "plant for sewage treatment" means any facility for the treatment, purification or disposal of sewage.

Sec. 11. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of NRS 444.650 and sections 3 to 6, inclusive, of this act, the governing documents of an association may prohibit or restrict the use of a graywater system within the common-interest community.

2. If the governing documents of an association do not prohibit or restrict the use of a graywater system within the common-interest community, the use of a graywater system within the common-interest community must comply with the provisions of NRS 444.650 and sections 3 to 6, inclusive, of this act.

3. As used in this section, "graywater system" has the meaning ascribed to it in section 4 of this act.

1 **Sec. 12.** On or before December 31, 2020, the State Board of Health shall
2 submit to the Director of the Legislative Counsel Bureau for transmittal to the next
3 regular session of the Legislature a report which must include, without limitation,
4 the number of permits issued pursuant to section 6 of this act and the regulations
5 adopted pursuant thereto and the location for which each such permit was issued.

6 **Sec. 13. The provisions of NRS 354.599 do not apply to any additional**
7 **expenses of a local government that are related to the provisions of this act.**

8 ~~{Sec. 13.}~~ **Sec. 14.** This act becomes effective:

9 1. Upon passage and approval for the purpose of adopting any regulations and
10 performing any other preparatory administrative tasks necessary to carry out the
11 provisions of this act; and

12 2. On July 1, 2016, for all other purposes.