

ASSEMBLY BILL NO. 86—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE COMMITTEE TO CONDUCT
AN INTERIM STUDY CONCERNING WILDFIRES)

PREFILED JANUARY 26, 2021

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the recovery of certain expenses and costs incurred in extinguishing certain fires and emergencies. (BDR 42-111)

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 emergencies; revising provisions relating to the recovery of expenses incurred by certain governmental entities in extinguishing a fire or meeting an emergency; authorizing, with certain exceptions, counties, cities and certain general improvement districts to bring an action to recover certain expenses related to wildfires; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person, firm, association or agency who willfully or negligently causes a fire or other emergency which threatens human life may, in certain circumstances, be liable for the expenses incurred in extinguishing the fire or meeting the emergency to the federal, state, county or municipal agency which incurred those expenses. (NRS 472.540, 474.550) **Sections 1 and 2** of this bill: (1) revise the circumstances under which a person, firm, association or agency may be liable for such expenses to remove the requirement that the fire or other emergency must have threatened human life for expenses to be recovered; and (2) provide that, with certain exceptions, a person, firm, association or agency may also be liable for the expenses incurred in extinguishing a fire or meeting an emergency by a city agency or general improvement district created to furnish fire protection.

Sections 3-5 of this bill authorize, with certain exceptions, the governing body of a county, city or general improvement district created to furnish fire protection to bring an action against a person, firm, association or agency that is responsible for



15 willfully or negligently causing a wildfire to recover any expenses incurred in
16 extinguishing the wildfire and reasonable attorney's fees and litigation expenses.

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

1 **Section 1.** NRS 472.540 is hereby amended to read as follows:

2 472.540 1. Except as otherwise provided in this section or by
3 specific statute, if the State Forester Firewarden determines that a
4 person, firm, association or agency is responsible for willfully or
5 negligently causing any fire or other emergency, ~~[which threatens~~
6 ~~human life.]~~ the person, firm, association or agency may be charged
7 with the expenses incurred in extinguishing the fire or meeting the
8 emergency, together with the cost of necessary patrol. This charge
9 constitutes a debt of the person, firm, association or agency charged
10 and is collectible by the federal, state, county, *city* or municipal
11 agency, *or general improvement district created pursuant to NRS*
12 *318.1181 for the purpose of furnishing fire protection*, incurring
13 such expenses in the same manner as in the case of an obligation
14 under a contract, express or implied.

15 2. *In determining whether a person, firm, association or*
16 *agency is responsible for willfully or negligently causing a fire*
17 *pursuant to subsection 1, the State Forester Firewarden shall*
18 *consider, without limitation, whether the person, firm, association*
19 *or agency failed to exercise reasonable care given:*

20 (a) *The forecasted and existing weather conditions;*

21 (b) *The conditions of fuel moisture; and*

22 (c) *The topography of the area of the fire.*

23 3. *Notwithstanding the provisions of subsections 1 and 2, a*
24 *person, firm, association or agency is immune from liability for*
25 *the payment of expenses and costs described in subsection 1 if the*
26 *person, firm, association or agency immediately notified the*
27 *nearest fire-fighting agency of the fire, was forthright and truthful*
28 *in responding to questions from the State Forester Firewarden,*
29 *any fire-fighting agency and any other state or local agency*
30 *investigating the fire, and at least one of the following*
31 *circumstances apply:*

32 (a) *The person, firm, association or agency had permission*
33 *from a federal, state or local agency to start a fire or conduct a*
34 *controlled burn and was in compliance with the terms of such*
35 *permission;*

36 (b) *The person, firm, association or agency started a warning*
37 *fire to protect human life due to dangerous weather conditions; or*



(c) *The person, firm, association or agency is in the business of raising livestock and started a controlled campfire for the purpose of branding livestock.*

4. If the State Forester Firewarden determines that the fire or other emergency ~~[which threatens human life]~~ was the result of an unavoidable accident, the State Forester Firewarden shall not charge the person, firm, association or agency that caused the fire or emergency the expenses incurred in extinguishing the fire or meeting the emergency.

5. *As used in this section:*

(a) *"Fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.*

(b) *"Livestock" has the meaning ascribed to it in NRS 569.0085.*

Sec. 2. NRS 474.550 is hereby amended to read as follows:

474.550 1. Except as otherwise provided in this section and NRS 527.126, within the boundaries of any fire protection district created pursuant to this chapter, any person, firm, association or agency which willfully or negligently causes a fire or other emergency ~~[which threatens human life]~~ may be charged with the expenses incurred in extinguishing the fire or meeting the emergency and the cost of necessary patrol. Such a charge constitutes a debt which is collectible by the federal, state, county, city or district agency, *or general improvement district created pursuant to NRS 318.1181 to furnish fire protection*, incurring the expenses in the same manner as an obligation under a contract, express or implied.

2. *In determining whether a person, firm, association or agency is responsible for willfully or negligently causing a fire, it must be considered, without limitation, whether the person, firm, association or agency failed to exercise reasonable care given:*

(a) *The forecasted and existing weather conditions;*

(b) *The conditions of fuel moisture; and*

(c) *The topography of the area of the fire.*

3. *Notwithstanding the provisions of subsections 1 and 2, a person, firm, association or agency is immune from liability for the payment of expenses and costs described in subsection 1 if the person, firm, association or agency immediately notified the nearest fire-fighting agency of the fire, was forthright and truthful in responding to questions from the State Forester Firewarden, any fire-fighting agency and any other state or local agency investigating the fire, and at least one of the following circumstances apply:*



(a) *The person, firm, association or agency had permission from a federal, state or local agency to start a fire or conduct a controlled burn and was in compliance with the terms of such permission;*

(b) *The person, firm, association or agency started a warning fire to protect human life due to dangerous weather conditions; or*

(c) *The person, firm, association or agency is in the business of raising livestock and started a controlled campfire for the purpose of branding livestock.*

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

5. *As used in this section:*

(a) *"Fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.*

(b) *"Livestock" has the meaning ascribed to it in NRS 569.0085.*

Sec. 3. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A board of county commissioners may bring an action in a court of competent jurisdiction against any person, firm, association or agency that is responsible for willfully or negligently causing a wildfire to recover any expenses incurred by the county in extinguishing the wildfire and reasonable attorney's fees and litigation expenses.*

2. *In determining whether a person, firm, association or agency is responsible for willfully or negligently causing a wildfire, it must be considered, without limitation, whether the person, firm, association or agency failed to exercise reasonable care given:*

(a) *The forecasted and existing weather conditions;*

(b) *The conditions of fuel moisture; and*

(c) *The topography of the area of the wildfire.*

3. *Notwithstanding the provisions of subsections 1 and 2, a person, firm, association or agency is immune from liability for the payment of any expenses incurred by the county in extinguishing a wildfire and attorney's fees and litigation expenses if the person, firm, association or agency immediately notified the nearest fire-fighting agency of the wildfire, was forthright and truthful in responding to questions from the State Forester Firewarden, any fire-fighting agency and any other state*



1 *or local agency investigating the wildfire, and at least one of the*
2 *following circumstances apply:*

3 (a) *The person, firm, association or agency had permission*
4 *from a federal, state or local agency to start a fire or conduct a*
5 *controlled burn and was in compliance with the terms of such*
6 *permission;*

7 (b) *The person, firm, association or agency started a warming*
8 *fire to protect human life due to dangerous weather conditions; or*

9 (c) *The person, firm, association or agency is in the business*
10 *of raising livestock and started a controlled campfire for the*
11 *purpose of branding livestock.*

12 4. *As used in this section:*

13 (a) *“Fire-fighting agency” means a public fire department,*
14 *fire protection district or other agency of this State or a political*
15 *subdivision of this State, the primary functions of which are to*
16 *control, extinguish, prevent and suppress fires.*

17 (b) *“Livestock” has the meaning ascribed to it in*
18 *NRS 569.0085.*

19 **Sec. 4.** Chapter 268 of NRS is hereby amended by adding
20 thereto a new section to read as follows:

21 1. *A city council or other governing body of a city may bring*
22 *an action in a court of competent jurisdiction against any person,*
23 *firm, association or agency that is responsible for willfully or*
24 *negligently causing a wildfire to recover any expenses incurred by*
25 *the city in extinguishing the wildfire and reasonable attorney’s*
26 *fees and litigation expenses.*

27 2. *In determining whether a person, firm, association or*
28 *agency is responsible for willfully or negligently causing a*
29 *wildfire, it must be considered, without limitation, whether the*
30 *person, firm, association or agency failed to exercise reasonable*
31 *care given:*

32 (a) *The forecasted and existing weather conditions;*

33 (b) *The conditions of fuel moisture; and*

34 (c) *The topography of the area of the wildfire.*

35 3. *Notwithstanding the provisions of subsections 1 and 2, a*
36 *person, firm, association or agency is immune from liability for*
37 *the payment of any expenses incurred by the city in extinguishing*
38 *a wildfire and attorney’s fees and litigation expenses if the person,*
39 *firm, association or agency immediately notified the nearest fire-*
40 *fighting agency of the wildfire, was forthright and truthful in*
41 *responding to questions from the State Forester Firewarden, any*
42 *fire-fighting agency and any other state or local agency*
43 *investigating the wildfire, and at least one of the following*
44 *circumstances apply:*



(a) *The person, firm, association or agency had permission from a federal, state or local agency to start a fire or conduct a controlled burn and was in compliance with the terms of such permission;*

(b) *The person, firm, association or agency started a warning fire to protect human life due to dangerous weather conditions; or*

(c) *The person, firm, association or agency is in the business of raising livestock and started a controlled campfire for the purpose of branding livestock.*

4. *As used in this section:*

(a) *“Fire-fighting agency” means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.*

(b) *“Livestock” has the meaning ascribed to it in NRS 569.0085.*

Sec. 5. NRS 318.1181 is hereby amended to read as follows:

318.1181 **1.** In the case of a district created wholly or in part for the purpose of furnishing fire protection, the board may:

~~[1-]~~ (a) Acquire fire protection equipment and acquire, construct or improve fire protection facilities and make improvements necessary and incidental thereto;

~~[2-]~~ (b) Eliminate fire hazards existing within the district in the manner prescribed in NRS 474.580 for districts created pursuant to chapter 474 of NRS;

~~[3-]~~ (c) Clear public highways and private lands of dry grass, stubble, bushes, rubbish and other inflammable material which in its judgment constitute a fire hazard;

~~[4-]~~ (d) Coordinate fire protection activities with the State Forester Firewarden; ~~and~~

~~—5-]~~ (e) Cooperate with the State Forester Firewarden in formulating a statewide plan for the prevention and control of fires ~~;~~ and

(f) *Bring an action in any court of competent jurisdiction against any person, firm, association or agency that is responsible for willfully or negligently causing a wildfire to recover any expenses incurred by the district in extinguishing the wildfire and reasonable attorney’s fees and litigation expenses.*

2. *In determining whether a person, firm, association or agency is responsible for willfully or negligently causing a wildfire, it must be considered, without limitation, whether the person, firm, association or agency failed to exercise reasonable care given:*

(a) *The forecasted and existing weather conditions;*

(b) *The conditions of fuel moisture; and*



(c) *The topography of the area of the wildfire.*

3. *Notwithstanding the provisions of paragraph (f) of subsection 1 and subsection 2, a person, firm, association or agency is immune from liability for the payment of any expenses incurred by the district in extinguishing a wildfire and attorney's fees and litigation expenses if the person, firm, association or agency immediately notified the nearest fire-fighting agency of the wildfire, was forthright and truthful in responding to questions from the State Forester Firewarden, any fire-fighting agency and any other state or local agency investigating the wildfire, and at least one of the following circumstances apply:*

(a) *The person, firm, association or agency had permission from a federal, state or local agency to start a fire or conduct a controlled burn and was in compliance with the terms of such permission;*

(b) *The person, firm, association or agency started a warning fire to protect human life due to dangerous weather conditions; or*

(c) *The person, firm, association or agency is in the business of raising livestock and started a controlled campfire for the purpose of branding livestock.*

4. *As used in this section:*

(a) *"Fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.*

(b) *"Livestock" has the meaning ascribed to it in NRS 569.0085.*

