

CHAPTER 540A - REGIONAL PLANNING AND MANAGEMENT

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GENERAL PROVISIONS

- NRS 540A.010 Definitions.** As used in this chapter, unless the context otherwise requires:
1. "Board" means the board of county commissioners.
 2. "Commission" means the Northern Nevada Water Planning Commission created by section 36 of chapter 531, [Statutes of Nevada 2007, at page 3293](#).
 3. "Comprehensive plan" or "plan" means the plan developed by a regional water commission created by special act.
 4. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources. (Added to NRS by [1995, 2648](#); A [1997, 1342](#); [2007, 3286](#))

NRS 540A.020 Applicability of chapter. This chapter applies only to counties whose population is 100,000 or more but less than 700,000.
(Added to NRS by [1995, 2648](#); A [1997, 656, 1342](#); [2011, 1295](#))

- NRS 540A.030 Boundaries of region.**
1. In each county to which this chapter applies, except as otherwise provided in subsections 2 and 3, the region within which water is to be managed, and with respect to which plans for its use are to be made, pursuant to this chapter is the entire county except:
 - (a) Any land within the region defined by [NRS 277.200](#), the Tahoe Regional Planning Compact; and
 - (b) Lands located within any Indian reservation or Indian colony which are held in trust by the United States.
 2. The board may exclude from the region any land which it determines is unsuitable for inclusion because of its remoteness from the sources of supply managed pursuant to this chapter or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the region.
 3. The board may include within the region an area otherwise excluded if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or another benefit from planning or management performed in the region.

(Added to NRS by [1995, 2649](#); A [1997, 1342](#); [2011, 3737](#); [2013, 2367](#))

ADMINISTRATION BY BOARD OF COUNTY COMMISSIONERS

NRS 540A.040 Super majority required for actions governed by this chapter. An affirmative vote of two-thirds of the members elected to the board is required to take action with respect to any matter governed by this chapter.

(Added to NRS by [1995, 2649](#); A [1997, 1342](#))

NRS 540A.050 Grants; contracts; employees; disposition of property. The board may for the purposes of this chapter:

1. Accept grants of money.
2. Enter into contracts, including interlocal agreements, consistent with its authority under this chapter.
3. Employ and fix the compensation of employees and professional advisers.
4. Acquire, hold, lease and dispose of real and personal property inside and outside the region, without limitation, by requirements applicable to a board of county commissioners in its capacity as the governing body of a county.

(Added to NRS by [1995, 2649](#); A [1997, 1342](#))

NRS 540A.240 Acquisition and use of water rights and other sources of water in accordance with plan; imposition of charge by board. The board may acquire water rights or other sources of water, within or outside the region, for future use in accordance with the adopted comprehensive plan. Any right or source of water belonging to a local government or governmental agency within the region must be used in accordance with the adopted comprehensive plan. The board may impose a reasonable charge upon a person seeking a commitment from a public utility to provide water, for making water from a source so acquired available for that use.

(Added to NRS by [1995, 2656](#); A [1997, 1342](#))

REMEDATION OF QUALITY OF WATER

NRS 540A.250 Creation of district for remediation; recovery of expenses.

1. The board shall create a district for remediation of the quality of water if the county or district health officer or the Administrator of the Division certifies in writing to the board that a condition exists in an area of the region which is affecting or will affect the quality of water that is available for municipal, industrial or domestic use within the region.

2. Upon receipt of the certificate, the board shall proceed, in cooperation with the health officer and the Division, to verify the existence and extent of the condition and establish the appropriate boundaries of the district. Money expended by the board for this purpose may be recovered, after the district is established, from the proceeds of bonds issued pursuant to [NRS 540A.267](#) or from a fee or tax imposed pursuant to [NRS 540A.265](#).

3. The district created pursuant to this section must include:

(a) The area where the condition which requires remediation is determined by the board to be present or for which remediation is determined by the board to be necessary, including any area to which the condition is expected to migrate unless remediation is carried out; and

(b) If the board determines that the condition which requires remediation affects the quantity or quality of drinking water within the region, the wholesale and retail service area of any provider of water that has used or uses for any portion of its supply wells located in the area described in paragraph (a).

(Added to NRS by [1995, 2657](#); A [1997, 656, 1335](#))

NRS 540A.260 Preparation and approval of plan for remediation; duty of board to determine costs of developing and carrying out plan; liability of owner or lessee of property.

1. Before creating a district for remediation pursuant to [NRS 540A.250](#), the board shall prepare a plan for remediation which must be approved by the Division.

2. The plan for remediation may include any action which is reasonable and economically feasible in the event of the release or threat of release of any hazardous substance into the environment which may affect the water quality in this state. Such action may include:

(a) Monitoring, assessing and evaluating the water which may be affected by the substance;

(b) Removing or disposing of the substance or remedying the condition of the water in any other manner; and

(c) Taking such actions as are necessary to prevent, minimize or mitigate damage to the affected water.

3. After the plan for remediation is approved by the Division, the board shall determine, and may from time to time redetermine, the costs of developing and carrying out the plan for remediation. The costs may include all or part of:

(a) The cost of acquisition, construction, equipment or other improvement of real and personal property in developing and carrying out the plan for remediation;

(b) The cost of engineering and design in connection with developing and carrying out the plan for remediation;

(c) The cost of operation, maintenance, monitoring, administration, collection and other continuing charges in connection with developing and carrying out the plan for remediation;

(d) Any reimbursements as provided in subsection 2 of [NRS 540A.250](#) or [NRS 540A.270](#);

(e) Principal, interest and other charges due in connection with bonds or other borrowing incurred to pay the costs of developing and carrying out the plan for remediation;

(f) The cost of operation, maintenance, administration and other continuing charges in connection with carrying out the responsibilities of the district for remediation, including the cost to notify the general public of the plan for remediation and the activities of the district; and

(g) All other costs and expenses that the board determines are reasonably related to the development and carrying out of the plan for remediation or the financing thereof, or to the activities or responsibilities of the district for remediation.

4. An owner or lessee of property within the district who did not cause or contribute to the condition which the district was created to remedy is not subject to criminal or civil liability, including, without limitation, any liability for the cost of remediation or any related damage or injury caused by the condition, except to the extent of any unpaid assessments levied against the property.

5. No person, governmental agency or charitable organization, whether or not otherwise exempt from assessment or taxation, except the Federal Government, is exempt from an assessment levied pursuant to this section.

(Added to NRS by [1995, 2657](#); A [1997, 656, 1336](#))

NRS 540A.262 Prerequisites to determining, expanding or amending boundaries of district for remediation; Hearing; publication of notice of hearing; adoption of ordinance; certain bonds or financial obligations paid in full; territory not required to be contiguous.

1. Before determining the boundaries of a district for remediation, the board shall hold a hearing. It shall cause notice of the hearing to be published at least once not less than 15 days before the hearing in a display advertisement at least 3 by 5 inches in size in a newspaper of general circulation in the county. The notice must contain a description of the boundaries of the district by assessor's parcel number, or by metes and bounds or other legal description, or state that a description of the boundaries of the district is on file at the office of the county clerk for public examination.

2. After the hearing, the board shall make such adjustments to the proposed boundaries of the district as appear to the board to be necessary, but the boundaries may not be expanded to include any property not included in the proposed boundaries of the district described in the notice of hearing or filed with the county clerk unless another hearing is held, after notice given by publication in the manner provided in subsection 1. After the hearing and any adjustment to the boundaries of the district required by this section, the board shall designate the boundaries of the district by ordinance, which may not be adopted as if an emergency existed.

3. The board may from time to time amend the boundaries of the district. Any such amendment must be made by ordinance adopted after a hearing held in the manner provided in subsection 1. Notice of that hearing must be given by publication in the manner provided in subsection 1. The board may not amend the boundaries of the district to exclude any property if bonds have been issued or other financial obligations incurred for the district until those bonds or other financial obligations have been paid in full.

4. The territory of the district established pursuant to subsection 2 and, if applicable, expanded pursuant to subsection 3 need not be contiguous.

(Added to NRS by [1997, 1332](#))

NRS 540A.265 Determination of annual fee for properties within district for remediation; collection and enforcement of fee; duty of persons who sell water to provide board with list of clients; power of board to impose ad valorem tax on property within district in lieu of annual fee.

1. The board, by ordinance, which may not be adopted as if an emergency existed, may determine and from time to time redetermine the amount of an annual fee, to recover the costs of developing and carrying out the plan for remediation, to be imposed on the properties in the district for remediation. In making the determination, the board may apportion the fee on the basis of improved square footage, zoning, current or previous land use, area or any other factor determined relevant and equitable by the board. If the condition requiring remediation affects the quality or quantity of drinking water within the region, the fee must:

(a) Be based upon a percentage of the total amount billed in the preceding calendar year to each parcel or property within the district for water by the provider of retail water service to the parcel or property;

(b) Be weighted and adjusted between parcels or properties within the district, if applicable, to reflect varying levels of effect of the contamination, varying levels of value resulting from remediation or other factors deemed relevant by the board;

(c) For any parcel or property for which the fee is weighted or adjusted, not be less than one-half or more than twice the percentage established pursuant to paragraph (a); and

(d) For parcels or properties within the district where retail water service is not provided or for which a full calendar year's billing is unavailable, be based upon an estimated billing taking into account a partial year's billing extended to 12 months or an average of fees for parcels or properties with comparable zoning or uses.

2. A fee imposed pursuant to subsection 1 must be collected by the county treasurer with the general taxes of the county, and the payment therefor must be enforced in the same manner and with same remedies as are provided for the collection of general taxes.

3. If so requested by the county, all persons who sell water at wholesale or retail within the district shall furnish to the county, within 3 months after a request or at a later time specified by the board, a list identifying by assessor's parcel number each property for use on which water was sold and the amount billed with respect to each parcel for water during the year designated by the board. No charge may be made to the county for furnishing the list.

4. In lieu of the fee authorized by subsection 1, the board may constitute the district for remediation as a special taxing district and impose a general ad valorem tax on all taxable property in the district at a rate sufficient to pay the costs of developing and carrying out the plan for remediation. The board is the governing body of any special taxing district established pursuant to this subsection. The budget of any such special taxing district must be included as part of the budget of the county and its meetings must be held as part of the meetings of the board. Any tax imposed pursuant to this subsection is exempt from the limitations on taxes ad valorem stated in [chapter 354](#) of NRS. No portion of any tax imposed pursuant to this subsection may be allocated to any redevelopment area or tax increment area whose boundaries overlap in whole or in part the district for remediation.

(Added to NRS by [1997, 1333](#))

NRS 540A.267 Power of board to issue bonds or otherwise become obligated to pay costs of developing and carrying out plan for remediation; bonds or other obligations secured by certain fees or taxes.

1. The board may issue bonds and otherwise borrow money in anticipation of the fees or taxes, or any combination thereof, collected pursuant to [NRS 540A.265](#) to pay the costs of developing and carrying out the plan for remediation, including any of the costs mentioned in subsection 3 of [NRS 540A.260](#).

2. The board may issue those bonds as, or may borrow money evidenced by, special obligations of the county secured solely by those fees or taxes, or any combination thereof, or general obligations of the county, whose payment is additionally secured by those fees or taxes, or any combination thereof.

3. The taxes or fees that are pledged as additional security for those general obligations are pledged revenues for the purposes of subsection 3 of [NRS 350.020](#).

(Added to NRS by [1997, 1334](#))

NRS 540A.269 Applicability of [chapters 332](#) and [338](#) of NRS to contract for plan for remediation; county ownership of property on which remediation equipment or improvements are located not required if certain conditions met.

1. [Chapters 332](#) and [338](#) of NRS do not apply to a contract made by a person to accomplish the purposes of [NRS 540A.250](#) to [540A.285](#), inclusive, or to a contract made by the county to carry out the plan for remediation with any provider of water service to the district for remediation.

2. The county need not own the property on which any remediation equipment or improvements are located or used, or acquire ownership of any remediation equipment or improvements whose cost is paid from money of the county, including proceeds of bonds issued pursuant to [NRS 540A.267](#), if the board determines there are adequate contractual safeguards to ensure that the equipment or improvements are used to further the plan for remediation.

(Added to NRS by [1997, 1334](#))

NRS 540A.270 Reimbursement of expenses to identify, study and remedy condition if costs and expenses in conformity with plan; establishment of criteria for reimbursement; reimbursement subject to availability of proceeds from certain bonds, fees or taxes.

1. The board may reimburse a person, governmental agency or public utility for any expenses incurred in identifying, studying and remedying, or attempting in good faith to remedy, the condition before the district is created, or thereafter for costs and expenses that are in conformity with and further the plan for remediation or operation of the district. No reimbursement may be allowed for any expense that any person incurs in connection with disturbing the ground for the construction or improvement of property in the district unless the board determines that the cost or expense is in furtherance of the plan for remediation and is a cost or expense which would have been cost-effective and beneficial to incur to further the plan for remediation.

2. The board may establish criteria for the reimbursement of a person, governmental agency or public utility for expenses pursuant to subsection 1. The criteria must include adequate safeguards so that costs reimbursed include only the actual costs of the activities undertaken as provided in this section. No reimbursement may be provided for any cost incurred after the creation of the district unless before the cost is incurred by the person or entity seeking reimbursement, the amount is approved by the board and the board determines that the cost is in furtherance of the plan for remediation. The board may establish criteria with respect to the amount of reimbursement for particular activities and with respect to the process to be followed in establishing reasonable costs for reimbursement, including, at the board's discretion, any requirement for bidding on any construction or any acquisition of equipment.

3. The reimbursement may be made only if money is available from the proceeds of bonds issued or from fees or taxes imposed pursuant to [NRS 540A.250](#) to [540A.285](#), inclusive, which are not otherwise required to be expended for other purposes. Those sections do not constitute a requirement that the county make any reimbursements.

(Added to NRS by [1995, 2658](#); A [1997, 1338](#))

NRS 540A.280 State Department of Conservation and Natural Resources authorized to recover costs of remediation from person who caused or contributed to condition requiring remediation; priority of distribution of money recovered from responsible person; use of money distributed to board.

1. If, during an investigation to establish the boundary of a district for remediation, development of a plan for remediation or the carrying out of the plan, the board acquires evidence that a person has caused or contributed to the condition requiring remediation, the board shall provide this evidence to the Division for appropriate action. In addition to any other action authorized by statute, the Department may by legal action recover from the person responsible the costs of remediation incurred by the county or district. Any monetary recovery from the person responsible, excluding any money recovered as a penalty, must be distributed and applied in the following order of priority:

(a) To the Department to pay the costs of recovery and to offset the costs of remediation incurred by the Department; and

(b) To the board to offset the costs of remediation incurred by the county or district.

2. Any recovery distributed to the board must be used to reduce the fee or tax or to defray any increase in the fee or tax that would otherwise be charged against the parcels or properties within the district, as determined by the board.

3. As used in this section, "Department" means the State Department of Conservation and Natural Resources.

(Added to NRS by [1995, 2658](#); A [1997, 1338](#))

NRS 540A.285 Determination by board conclusive and incontestable in absence of fraud or gross abuse of discretion; review of determination by district court.

1. A determination by the board pursuant to [NRS 540A.250](#) to [540A.285](#), inclusive, including a determination of the boundaries of a district for remediation or any expansion thereof, determination of the costs of developing or carrying out a plan for remediation, determination of the apportionment of the fee to recover those costs pursuant to [NRS 540A.265](#), determination of the amount of any fee or tax pursuant to [NRS 540A.265](#), determination as to guidelines for the provision of any reimbursement of the cost of remediation pursuant to [NRS 540A.270](#), determination of the amount of any reimbursements and any determinations made in connection with the issuance of bonds pursuant to [NRS 540A.267](#), is conclusive and incontestable in the absence of fraud or gross abuse of discretion.

2. A property owner or other person who is aggrieved by a determination of the board pursuant to [NRS 540A.250](#) to [540A.285](#), inclusive, may seek review of the determination in the district court in and for the county within 15 days after the board makes the determination. Such a review may not be sought after the expiration of that period. If, in such an appeal, the court finds that the determination was a result of fraud or gross abuse of discretion, it shall remand the matter to the board for a new determination. If the court does not find the determination was a result of fraud or gross abuse of discretion, it shall uphold the action of the board.

(Added to NRS by [1997, 1334](#))