

CHAPTER 540A - REGIONAL PLANNING AND MANAGEMENT

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 water planning commission created by [NRS 540A.080](#).
3. "Comprehensive plan" or "plan" means the plan developed pursuant to [NRS 540A.130](#).
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)

NRS 540A.020 Applicability of chapter. This chapter applies only to counties whose population is 100,000 or more but less than 400,000.

(Added to NRS by 1995, 2648; A 1997, 656, 1342)

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)

ADMINISTRATION

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.060 Conservation; sewerage; public information; recommendations concerning management and use of water. In addition to adopting and revising the comprehensive plan, the board shall, upon the recommendation of the commission:

1. Develop methods for conserving existing supplies of water which are consistent with statutorily required plans;
 2. Develop methods of collecting and treating sewage in order to protect and conserve supplies of water;
 3. Provide information to members of the public regarding present and potential uses of water; and
 4. Make recommendations concerning the management and use of water within the region to:
 - (a) The governing body and the planning commission of each city in the region;
 - (b) The governing board for regional planning and the regional planning commission;
 - (c) The public utilities commission of Nevada and the state engineer; and
 - (d) The United States of America.
- (Added to NRS by 1995, 2656; A 1997, 1342)

NRS 540A.070 Imposition and collection of fee for planning and administration of chapter and implementation of certain plans.

1. To fund the planning and administration required by this chapter and the implementation of the plan developed pursuant to [NRS 540A.130](#), the board may impose a fee at a rate of not to exceed 1.5 percent of the amount otherwise billed, to be collected by each supplier of water from its customers within the region. The fee must be imposed by ordinance which may not be adopted as if an emergency existed.

2. A supplier or provider shall state separately on its billings to customers the amount charged because of any fee imposed pursuant to subsection 1.

(Added to NRS by 1995, 2649; A 1997, 1335, 1342)

Water Planning Commission

NRS 540A.080 Creation; voting membership; terms of members; vacancies.

1. A water planning commission is hereby created in each county. Each commission must consist of nine voting members who are residents of Nevada appointed as follows:

- (a) One member appointed by the governing body of the largest city in the county;
- (b) One member appointed by the governing body of the next largest city in the county;
- (c) One member appointed by the board;
- (d) One member appointed by the board to represent owners of domestic wells;
- (e) One member appointed by the governing body of a general improvement district having the greatest number of customers for water and sewerage in the region;
- (f) One member appointed by the supplier of water having the greatest number of customers for water in the region which is a public utility;
- (g) One member appointed by the governing body of the Indian reservation which is largest in area in the county, if the county contains an Indian reservation or, if there is not an Indian reservation located within the county or the governing body of the reservation does not appoint a member, one member appointed by the other members of the commission to represent the public at large;
- (h) One member of the public at large appointed by the governing bodies of the two largest cities in the county by mutual agreement to represent environmental, biological, conservation or public concerns; and
- (i) One member appointed by the governing body of the irrigation district which has the largest number of members in the region.

The first members appointed in each county pursuant to paragraphs (a), (b) and (c) shall serve initial terms of 4 years. The first members appointed pursuant to paragraphs (d), (f) and (h) shall serve initial terms of 3 years. The first members appointed pursuant to paragraphs (e), (g) and (i) shall serve initial terms of 2 years.

2. After the initial terms, the term of office of each member is 3 years. A member may be reappointed. A vacancy must be filled for the unexpired term by the appointing authority.

3. Each appointing authority shall designate an alternate, to serve when the appointed member is temporarily not available, for the same term.

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

NRS 540A.090 Nonvoting membership. In addition to the voting members, the commission includes the following nonvoting members:

1. One member appointed by the public utilities commission of Nevada;
 2. One member appointed by the advocate for customers of public utilities in the office of the attorney general;
 3. One member appointed by the administrator of the division of environmental protection of the state department of conservation and natural resources;
 4. One member appointed by the state engineer;
 5. One member appointed by the administrator of the division of water planning of the state department of conservation and natural resources;
 6. One member appointed by the board of directors of the water conservancy district which is largest in area which includes any part of the region;
 7. One member appointed by the county or district board of health;
 8. One member of the public at large appointed by the affirmative vote of a majority of the voting members; and
 9. Additional members with expertise in an area that the majority of the voting members determines is necessary, appointed by the affirmative vote of a majority of the voting members.
- (Added to NRS by 1995, 2650; A 1997, 1342)

NRS 540A.100 Qualifications of members. The members of the commission appointed pursuant to [NRS 540A.080](#) and [540A.090](#) may not hold any elective governmental office but may be engaged or employed in private enterprise or be employees of state or local government and each member must be qualified pursuant to at least one of the following subsections:

1. A professional engineer licensed pursuant to the provisions of [chapter 625 of NRS](#) with experience related to comprehensive planning, natural resources or environmental protection;
 2. A specialist in hydrology;
 3. Experienced in law, management or planning related to water;
 4. Experienced in municipal finance;
 5. Experienced in construction, planning or operation of facilities or systems for supplying or treating water, for collecting or treating sewage, for drainage of storm water, or for control of floods; or
 6. Knowledgeable in the areas of water conservation, biology, natural systems, water quality and water management.
- (Added to NRS by 1995, 2651; A 1997, 1069, 1342)

NRS 540A.110 Selection of chairman. The commission shall establish a schedule for the selection of its chairman for a term of 1 year, in rotation, from among the members appointed by the governing bodies of the county and cities.

(Added to NRS by 1995, 2651; A 1997, 1342)

NRS 540A.120 Meetings; quorum; compensation of members.

1. The commission shall meet at the call of the chairman or any three voting members. The commission shall establish a schedule of regular meetings and provide for the calling of a special meeting when action is required before a regular meeting would occur.
 2. A quorum consists of a majority of the voting members. The affirmative vote of a majority of the voting members is required to take action, unless a larger proportion is required by this chapter for a particular action.
 3. No member of the commission is entitled to compensation for his services as a member.
- (Added to NRS by 1995, 2651; A 1997, 1342)

COMPREHENSIVE REGIONAL PLAN

NRS 540A.130 Development and revision; contents.

1. The commission shall develop, and as necessary recommend revisions to, a comprehensive plan for the region covering the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm waters and control of floods.
2. The proposed plan must consist of written text, appropriate maps and goals and policies to deal with current and future problems affecting the region as a whole with respect to the subjects of the plan.
3. The plan must:
 - (a) Describe the problems and needs of the region relating to the subjects of the plan;

(b) Except as otherwise provided in [NRS 540A.290](#), [540A.300](#) and [540A.310](#), identify the providers of services relating to those subjects within the region and the area within which each provides service, including service areas for public utilities;

(c) Identify alternatives to reduce demand or increase supply;

(d) Identify existing and future sources of water needed to meet the present or future needs of the region;

(e) Define priorities and general location for additional major facilities needed to provide services relating to the subjects of the plan; and

(f) Describe programs to mitigate drought, achieve conservation of water, protect wellheads and otherwise manage water.

(Added to NRS by 1995, 2651; A 1997, 1342)

NRS 540A.140 Required elements. The plan must include the following elements:

1. Quality of surface water, which must include:

(a) Compliance with standards of quality for bodies of water;

(b) Locations and capacities of plants to treat waste water;

(c) Intended quantity and quality of discharge from those plants and its reuse, service areas and interceptors; and

(d) Programs to attain protection from pollution by both concentrated and diffuse sources.

2. Quality of ground water, which must include:

(a) Compliance with standards of quality for hydrographic basins and septic tanks;

(b) Capacities for withdrawal of water from hydrographic basins;

(c) Programs to protect wellheads;

(d) Programs to clean up contaminated ground water for hydrographic basins; and

(e) Programs to attain protection from pollution by both concentrated and diffuse sources.

3. Supply of surface water, which must include:

(a) Existing and planned sources of surface water;

(b) Existing and planned uses for all surface water, including municipal and industrial uses, requirements for return flow, reserves for drought and future growth, uses to improve quality of water, uses to provide habitat and uses in conjunction with underground water;

(c) Major facilities to convey and store surface water;

(d) Standards, service areas, rates of flow and reserves for storage; and

(e) Facilities to treat surface water.

4. Supply of underground water, which must include:

(a) Existing and planned sources of underground water;

(b) Existing and planned uses for all underground water, including municipal and industrial uses, maintenance of minimum ground water level and need for recharge, reserves for drought and future growth, uses to improve quality of water, uses to provide habitat and uses in conjunction with surface water;

(c) Major facilities to extract and convey underground water;

(d) Compliance with standards for treated and nontreated water, services areas, rates of flow and reserves for storage; and

(e) Facilities to treat and store underground water.

5. Control of floods and drainage of storm water, as it relates to surface water, which must include:

(a) Minimum standards of design for controlling floods in the region;

(b) Nonstructural alternatives and standards for facilities to control floods in the region and single drainage basins;

(c) Regional facilities to control floods; and

(d) Generalized facilities and standards of design for single drainage basins.

6. Control of floods and drainage of storm water, as it relates to underground water, which must include:

(a) Ground water level and capacity for additional storage of water underground as a means of mitigating floods;

(b) Location and capacities of major facilities for controlling floods which utilize storage of water underground to mitigate floods; and

(c) Standards of design for devices to infiltrate storm water and other minor facilities for controlling floods which utilize storage of water underground to mitigate floods.

7. Cost and financing, which must include an estimate of the cost of each major facility, source of water or other requirement of the plan and an analysis of alternatives for financing and funding the facility,

source or other requirement, or alternatives thereto, as well as the effect of the funding alternatives on other facilities included in the plan. The estimate of cost must state the financial impact on persons within the region, including, without limitation, all direct and indirect costs of connecting to the system, if any.

(Added to NRS by 1995, 2652; A 1997, 1342)

NRS 540A.150 Consistency with other plans and federal law.

1. The plan must be consistent with and carry out the provisions of the comprehensive regional plan adopted by the governing board for regional planning pursuant to [NRS 278.0276](#) and the comprehensive plans, area plans and master plans for the use of land which are adopted by local governmental entities within the region.

2. The plan must be consistent with and carry out or support the carrying out of all aspects of Public Law 101-618, 104 Stat. 3324.

3. The plan or an amendment must be consistent with the state water plan in effect at the time that the plan is adopted.

(Added to NRS by 1995, 2653; A 1997, 1335, 1342)

NRS 540A.160 Consideration of information from other entities and persons; review of other plans; coordination. In developing the proposed plan, the commission shall:

1. Receive and consider information from public utilities and other entities supplying municipal and industrial water within the region;

2. Receive and consider information from entities providing sanitary sewerage, treatment of sewage, drainage of storm water and control of floods within the region;

3. Receive and consider information from entities concerned with quality of water within the region;

4. Review and consider the state water plan, existing water conservation plans, each existing regional plan and master plan that has been adopted pursuant to the provisions of [chapter 278 of NRS](#) and applies to any area in the region, and any similar plan of a local government, and may seek and consider the advice of each local planning commission and any other affected entity;

5. Coordinate the elements of the proposed plan and make them consistent with each other;

6. Consider existing statutes and ordinances adopted by local governmental entities;

7. Recognize and coordinate the needs of the incorporated areas of the region with the unincorporated areas of the region; and

8. Receive and consider information from other interested persons.

(Added to NRS by 1995, 2653; A 1997, 1342)

NRS 540A.170 Public hearings; adoption of resolution for submission of plan or amendment.

1. Before submitting the proposed plan to the board, the commission shall hold at least one public hearing on the plan within the region.

2. Before acting on a proposed amendment to the adopted plan, the commission shall hold at least one public hearing on the proposed amendment at a location in the region relevant to the proposed amendment.

3. Notice of the time and place of each hearing must be given by publication in a newspaper of general circulation in the region at least 10 days before the day of the hearing. If there is more than one newspaper of general circulation in the region, notice must be given by publication in at least two such newspapers.

4. The decision to submit the proposed plan or any amendment to the adopted plan to the board must be made by resolution of the commission carried by the affirmative votes of not fewer than two-thirds of the total voting members of the commission. The resolution must refer expressly to the text, maps and descriptive or other matter intended by the commission to constitute the plan or amendment.

(Added to NRS by 1995, 2653; 1997, 1342)

NRS 540A.180 Submission of plan or amendment to board; board required to hold public hearing; notice; copy of proposed plan or amendment to be available for public inspection.

1. An attested copy of the proposed plan or an amendment must be submitted to the board.

2. Before taking any action on the proposed plan or an amendment, the board shall convene a public hearing.

3. Notice of the hearing must be given at least 10 days before the date of beginning the hearing. The notice must include, without limitation:

(a) A statement of the time, place and nature of the hearing;

(b) A statement of the legal authority under which the hearing is to be held; and

(c) A reference to the particular sections of the statutes and regulations involved.

4. Not less than 30 days before the hearing the board shall place a copy of the proposed plan or amendment in the office of the county clerk and publish notice that the plan or amendment is available for public inspection. Notice of the time and place of the hearing must be published at least 10 days before the date of beginning the hearing. Each notice required by this subsection must be published in a newspaper of general circulation in the region. If there is more than one newspaper of general circulation in the region, notice must be given by publication in at least two such newspapers. The notice must be a display advertisement not less than 3 inches by 5 inches in size.

(Added to NRS by 1995, 2654; A 1997, 1342)

NRS 540A.190 Changes and additions.

1. The board shall not change or add to the proposed plan or an amendment as submitted by the commission until it has submitted the substance of the proposed change or addition to the commission in writing with its reasons for the change or addition.

2. The commission shall, if it agrees to the change or addition, revise the submitted plan or amendment accordingly. If the commission does not agree, it shall report to the board in writing its reason for disagreeing and any alternative proposal.

3. In either case, the commission shall present its revision or report to the board within 40 days after the board's change or amendment is submitted to it.

4. If the commission does not agree with the proposed change or addition and the board refuses to rescind its proposal or to accept an alternative proposal of the commission, the commission shall revise the originally submitted plan or amendment to incorporate the change or addition proposed by the board.

(Added to NRS by 1995, 2654; A 1997, 1342)

NRS 540A.200 Review by regional planning commission; effect of nonconformity with comprehensive regional plan.

1. After adoption by the board, the plan or an amendment must be submitted for review to the regional planning commission established by [NRS 278.0262](#). The regional planning commission shall review the plan or amendment only for conformance with the comprehensive regional plan adopted pursuant to [NRS 278.0276](#) and the comprehensive plans and master plans for the use of land which are adopted by local governmental entities within the region. The regional planning commission shall review the plan or amendment at one or more public hearings. Notice of the time and place of a hearing must be given in accordance with [NRS 278.0276](#).

2. If the regional planning commission fails to make a determination within 40 days after the submission of the plan or amendment, the plan or amendment shall be deemed to conform to the comprehensive regional plan.

3. If the regional planning commission determines that the plan or amendment does not conform to the comprehensive regional plan, it shall state its reasons why the plan or amendment does not conform. Unless an appeal is filed pursuant to [NRS 540A.210](#), the commission and the board shall respectively develop and adopt, in accordance with [NRS 540A.160](#) to [540A.190](#), inclusive, proposed revisions to the plan or amendment, and the board shall resubmit the revised plan or amendment to the regional planning commission.

(Added to NRS by 1995, 2655; A 1997, 1342)

NRS 540A.210 Appeal of determination by regional planning commission.

1. An affected entity that disagrees with the reasons given by the regional planning commission for its determination of conformance or nonconformance may file an appeal with the governing board for regional planning not later than 10 days after the determination of conformance or nonconformance. As used in this subsection, "affected entity" means a city within the region or a governmental entity or public utility providing services related to the subject matter of the comprehensive plan within the region.

2. Within 45 days after its receipt of an appeal, the governing board shall consider the appeal and issue its decision. If the decision of the governing board is that the plan or amendment does not conform to the comprehensive regional plan, it shall

state its reasons why the plan does not conform. The commission and the board shall then respectively develop and adopt, in accordance with [NRS 540A.160](#) to [540A.190](#), inclusive, proposed revisions to the plan, and the board shall resubmit the revised plan to the regional planning commission for review.

(Added to NRS by 1995, 2655; A 1997, 1342)

NRS 540A.220 Periodic review. The adopted plan must be reviewed by the commission on a schedule to be established by the board, which must at least provide for review of the initial plan within 5 years after

its adoption and every 3 years thereafter. After each review, the commission shall submit any proposed amendment to the board or report that there are none.

(Added to NRS by 1995, 2655; A 1997, 1342)

NRS 540A.230 Construction of certain facilities following approval of plan.

1. Except as otherwise provided in subsection 2, on and after the date the plan is finally approved, no facility intended to provide a service relating to a subject of the comprehensive plan within the region may be constructed, if the facility is of such a kind or size as to affect the working of the comprehensive plan as distinct from providing normal service to customers, unless it is included in the plan or has been reviewed and approved as provided in subsection 3.

2. The plan may allow for the construction of facilities not included within it in order to meet an emergency as defined in the plan.

3. A proposal to construct a facility described in subsection 1 within the region must be submitted to the commission for review and recommendation to the board concerning its conformance with the adopted plan. If the commission fails to make such a recommendation within 30 days after the proposal is submitted to it, the commission shall be deemed to have made a recommendation that the proposal conforms to the adopted plan. The board shall consider the recommendation of the commission and approve or disapprove the proposal as conforming to the adopted plan. Any disapproval must be accompanied by recommended actions to be taken to make the proposal conform to the plan. The commission and the board shall limit their review to the substance and content of the adopted plan and shall not consider the merits or deficiencies of a proposal in a manner other than is necessary to enable them to make a determination concerning conformance with the adopted plan.

4. The board shall provide by ordinance for the commission or its staff to make final decisions concerning the conformance of classes of proposed facilities to the adopted plan. An ordinance adopted pursuant to this section must provide an opportunity for the applicant or a protestant to appeal from a decision of the staff or commission to the board.

(Added to NRS by 1995, 2655; 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)

REMEDIATION 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)

SUPPLYING OF WATER

NRS 540A.290 Property or facility of county: Transfer to or operation or management by largest supplier in region which is public utility. The board of county commissioners may sell or lease, to the largest supplier of water within the region which is a public utility, at a negotiated price, any property or facility used by the county to supply water within the region, or contract for the operation or management of the property or facility by the public utility.

(Added to NRS by 1995, 2658)

NRS 540A.300 Agreement between board and largest supplier in region which is public utility; compliance with regulations of public utilities commission of Nevada; withholding of certain information from board.

1. The board of county commissioners and the largest supplier of water within the region which is a public utility shall enter into an agreement which defines the respective areas within the region where the public utility and all systems for the supply of water which are controlled or operated by the board will provide retail water services. The agreement must resolve all issues related to service territories of the public utility and all systems for the supply of water which are controlled or operated by the board. An agreement executed pursuant to this subsection does not become effective until the public utilities commission of Nevada approves the terms of the agreement.

2. The agreement entered into pursuant to subsection 1 governs the provision of retail water services by the public utility and the board, unless the agreement is amended by the mutual agreement of the board and the public utility.

3. The public utility must comply with any applicable regulations of the public utilities commission of Nevada when providing water services within the region.

4. The public utility may withhold from the board at any time before an agreement is finalized pursuant to subsection 1 any information which is confidential, proprietary or which may cause a competitive disadvantage to the public utility if the information is disseminated.

(Added to NRS by 1995, 2658; A 1997, 2012)

NRS 540A.310 Duties of largest supplier in region which is public utility.

1. The largest supplier of water within the region which is a public utility shall provide wholesale water services in a manner consistent with its water resource plan as approved by the public utilities commission of Nevada.

2. The largest supplier of water within the region which is a public utility shall provide all wholesale water services to any system of water supply operated or controlled by the board of county commissioners from water resources recognized in its water resource plan as approved by the public utilities commission of Nevada, except to the extent that:

- (a) There is an existing system or a system under construction for the provision of wholesale water services;
 - (b) The public utility enters into an agreement with the board on or before June 15, 1995;
 - (c) A subdivision map has been approved on or before June 15, 1995, in an unincorporated area of the region; or
 - (d) The public utility and the board agree that it is more economical for the board to provide such services.
- (Added to NRS by 1995, 2659; A 1995, 2659; 1997, 656, 2012)