

SENATE BILL NO. 418—SENATOR SPEARMAN

MARCH 20, 2017

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to air pollution.
(BDR 40-970)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 air pollution; declaring the priorities of the Legislature to expend the proceeds from certain consent decrees, orders and settlement agreements involving emissions from vehicles; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to allocate money deposited in the Account for the Management of Air Quality from such consent decrees, orders and settlement agreements to prevent, reduce or control air pollution, to replace or repower certain school buses in this State and to construct and install publicly available hydrogen-fueling stations and electric vehicle charging stations; requiring the Division to take certain actions required by certain consent decrees, orders and settlements entered into by this State relating to emissions from vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 The United States District Court for the Northern District of California recently
2 approved two partial consent decrees in litigation between the United States
3 Department of Justice and the Volkswagen Corporation and its subsidiaries
4 regarding the installation and use of emissions testing devices in many vehicles
5 sold and operated in the United States. One provision of the partial consent decrees
6 requires the Volkswagen Corporation to fund a Mitigation Trust Fund, the money
7 from which will be disbursed to the states based on the number of affected vehicles
8 which were registered in each state. The money must be used to fund projects
9 intended to offset the excess emissions of nitrogen oxides caused by the vehicles.
10 Another provision requires the Volkswagen Corporation to direct \$2,000,000,000
11 of investments over a 10-year period to support the increased use of technology for



12 zero emission vehicles. (Partial Consent Decree, *In re Volkswagen “Clean Diesel”*
13 Marketing, Sales Practices and Products Liability Litigation, No. MDL No. 2672
14 CRB, (N.D. Cal. Sept. 30, 2016) and Second Partial Consent Decree, *In re*
15 Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability
16 Litigation, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016))

17 **Section 6** of this bill declares that the priority of the Legislature in expending
18 any proceeds from this or similar litigation is to use a portion of the proceeds to: (1)
19 prevent, reduce or control air pollution throughout the State; (2) assist schools and
20 school districts to replace or repower eligible school buses to reduce emissions of
21 nitrogen oxides and other hazardous air contaminants; and (3) construct publicly
22 available electric vehicle charging stations and hydrogen-fueling stations. **Section 7**
23 of this bill requires the eligible proceeds from any consent decrees, orders or
24 settlement agreements received by this State for the purposes of mitigating
25 emissions from vehicles or supporting the increased use of zero emission vehicles
26 be deposited in the Account for the Management of Air Quality in the State General
27 Fund.

28 **Section 8** of this bill requires the Division of Environmental Protection of the
29 State Department of Conservation and Natural Resources to: (1) establish criteria
30 for evaluating applications for projects that prevent, reduce or control air pollution
31 throughout the State and criteria for prioritizing the allocation of money for such
32 projects; (2) develop policies and procedures whereby an entity in the State may
33 apply for money in the Account for such projects; and (3) request that the
34 Department allocate all money available in the Account each year to applicants in
35 order of priority. Additionally, **section 8** of this bill requires the Division to: (1)
36 establish a method for annually evaluating school bus fleets in this State and rank
37 them based on certain criteria involving emissions; (2) develop policies and
38 procedures whereby the owners or operators of school buses in this State may apply
39 for money from the Account to replace or repower those eligible school buses to
40 reduce emissions; and (3) request that the Department allocate all the money
41 available in the Account each year to applicants in order of priority. **Section 8** also
42 requires the Division, in cooperation with the Department of Transportation and the
43 Governor’s Office of Energy, to: (1) determine and prioritize those areas of the
44 State where construction and installation of publicly available hydrogen-fueling
45 stations and electric vehicle charging stations would have the maximum impact on
46 encouraging the use of zero emission vehicles; and (2) request that the Department
47 allocate all the money available in the Account each year for that purpose for the
48 construction. **Section 8** requires the Division to establish a program to provide
49 financial incentives to promote investment in the construction of publicly available
50 hydrogen-fueling stations and electric vehicle charging stations. **Section 8** further
51 requires the Division to: (1) submit a report to the Governor annually and each odd-
52 numbered year to the Director of the Legislative Counsel Bureau for transmittal to
53 the Legislature setting forth the allocations from the Account; and (2) adopt
54 regulations. **Section 8** also authorizes the Division to take any other actions that are
55 necessary to carry out the duties imposed by **section 8**. **Section 13** of this bill
56 requires the Division to prepare and submit a Beneficiary Mitigation Plan, as
57 required by the partial consent decrees from the Volkswagen litigation, which
58 enacts the intent of the Legislature to use money from the Mitigation Trust Fund
59 to assist schools and school districts to replace or repower eligible school buses to
60 reduce emissions of nitrogen oxides and other hazardous air pollutants and to
61 construct and install publicly available hydrogen-fueling stations and electric
62 vehicle charging stations to support the increased use of zero emission vehicles.
63 **Section 13** further requires the Division, when providing input relevant to the Draft
64 National ZEV Investment Plan required by the partial consent decrees, to advocate
65 for and encourage inclusion in the National ZEV Investment Plan the construction



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66 in this State of hydrogen-fueling stations and electric vehicle charging stations.
67 Sections 9-12 of this bill make conforming changes.

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

1 **Section 1.** Chapter 445B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 1.5 to 8, inclusive, of this
3 act.

4 **Sec. 1.5.** *“Account for the Management of Air Quality” or*
5 *“Account” means the Account for the Management of Air Quality*
6 *created by NRS 445B.590.*

7 **Sec. 2.** *“Division” means the Division of Environmental*
8 *Protection of the Department.*

9 **Sec. 3.** *“Publicly available electric vehicle charging station”*
10 *means the equipment used to supply electric energy for the*
11 *recharging of the batteries in vehicles which are partly or solely*
12 *powered by electric motors that is open to the public.*

13 **Sec. 4.** *“Publicly available hydrogen-fueling station” means*
14 *the equipment used to store and dispense hydrogen fuel according*
15 *to industry codes and standards that is open to the public.*

16 **Sec. 5.** *“School bus” has the meaning ascribed to it in*
17 *NRS 483.160.*

18 **Sec. 6. 1.** *The Legislature hereby declares that its priorities*
19 *in expending the proceeds to the State of Nevada from consent*
20 *decrees, orders and settlement agreements which result in the*
21 *State receiving money for the purposes of mitigating the emissions*
22 *from any vehicles and supporting the increased use of zero*
23 *emission vehicles are:*

24 (a) *To prevent, reduce or control air pollution throughout the*
25 *State;*

26 (b) *To assist schools and school districts to replace or repower*
27 *school buses to reduce the emissions of nitrogen oxides and other*
28 *hazardous air pollutants from the buses; and*

29 (c) *To construct publicly available hydrogen-fueling stations*
30 *and publicly available electric vehicle charging stations in this*
31 *State.*

32 **2.** *To further these priorities, the Legislature hereby declares*
33 *that it is in the best interest of the residents of the State of Nevada*
34 *that:*

35 (a) *A portion of the money received by the State pursuant to*
36 *any settlement agreement entered into by this State and a*
37 *manufacturer of vehicles with diesel engines, a portion of the*
38 *money recovered by the State pursuant to a consent decree or*



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1 *order in a civil action against a manufacturer of vehicles with*
2 *diesel engines and a portion of the money received by the State*
3 *from a consent decree, order or settlement agreement for the*
4 *purposes of mitigating the emissions from any vehicles or*
5 *supporting the increased use of zero emission vehicles be*
6 *dedicated for use to prevent, reduce or control air pollution*
7 *throughout the State.*

8 *(b) A portion of the money received by the State pursuant to*
9 *any settlement agreement entered into by the State and a*
10 *manufacturer of vehicles with diesel engines, a portion of the*
11 *money recovered by the State pursuant to a consent decree or*
12 *order in a civil action against a manufacturer of vehicles with*
13 *diesel engines and a portion of the money received by the State*
14 *from a consent decree, order or settlement agreement for the*
15 *purposes of mitigating the emissions from any vehicles be*
16 *dedicated toward the achievement of the goal of assisting every*
17 *entity in this State which owns or operates a school bus to replace*
18 *or repower the school bus in a way that:*

19 *(1) Reduces emissions of nitrogen oxides and other*
20 *hazardous air pollutants from the school bus; and*

21 *(2) Mitigates the impacts of emissions of nitrogen oxides*
22 *and other hazardous air pollutants on communities that have*
23 *historically borne a disproportionate share of the adverse impact*
24 *of those emissions.*

25 *(c) A portion of the money received by the State pursuant to*
26 *any settlement agreement entered into by the State and a*
27 *manufacturer of vehicles with diesel engines, a portion of the*
28 *money recovered by the State pursuant to a consent decree or*
29 *order in a civil action against a manufacturer of vehicles with*
30 *diesel engines and a portion of the money received by the State*
31 *from a consent decree, order or settlement agreement for the*
32 *purposes of mitigating the emissions from any vehicles or*
33 *supporting the increased use of zero emission vehicles be*
34 *dedicated toward the construction of publicly available hydrogen-*
35 *fueling stations and publicly available electric vehicle charging*
36 *stations in this State to promote and encourage the use of zero*
37 *emission vehicles in a way that:*

38 *(1) Reduces emissions of nitrogen oxides and other*
39 *hazardous air pollutants from the vehicles traveling on the*
40 *highways of this State; and*

41 *(2) Supports the increased use of technology for zero*
42 *emission vehicles.*

43 **Sec. 7. 1. The State Treasurer shall deposit in the Account:**

44 *(a) The money received by this State pursuant to any*
45 *settlement entered into by the State of Nevada and a manufacturer*



1 *of vehicles equipped with diesel engines which by the terms of the*
2 *settlement may be deposited into the Account;*

3 *(b) The money received by this State pursuant to any consent*
4 *decree or order in a civil action against a manufacturer of vehicles*
5 *equipped with diesel engines which by the terms of the consent*
6 *decree or order may be deposited into the Account;*

7 *(c) The money received by this State pursuant to any consent*
8 *decree or order in a civil action or any settlement entered into by*
9 *the State of Nevada and any entity for which money is to be*
10 *received by this State for purposes that include the mitigation of*
11 *emissions from any vehicles and for which the money received, by*
12 *the terms of the consent decree, order or settlement, may be*
13 *deposited into the Account;*

14 *(d) The money received by this State pursuant to any consent*
15 *decree or order in a civil action or any settlement entered into by*
16 *the State of Nevada and any entity for which money is to be*
17 *received by this State for purposes that include supporting the*
18 *increased use of zero emission vehicle technology, may be*
19 *deposited into the Account; and*

20 *(e) Any gifts, grants, bequests or donations specifically*
21 *designated for the Account by the donor.*

22 *2. All money that is deposited or paid into the Account*
23 *pursuant to this section is hereby appropriated to be used for any*
24 *purpose authorized by the Legislature or by the Department for*
25 *expenditure or allocation in accordance with the provisions of*
26 *section 8 of this act. Money expended from the Account pursuant*
27 *to that section must not be used to supplant existing methods of*
28 *funding that are available to public agencies.*

29 **Sec. 8. 1. The Division shall:**

30 *(a) Establish criteria for evaluating applications for projects*
31 *that prevent, reduce or control air pollution throughout the State*
32 *that include, without limitation, determining which projects are*
33 *eligible for funding pursuant to the terms of any conditions*
34 *restricting the allocation of any money in the Account.*

35 *(b) Develop policies and procedures for the solicitation of and*
36 *applications by an entity in this State to obtain money from the*
37 *Account for a project that seeks to prevent, reduce or control air*
38 *pollution throughout the State.*

39 *(c) Establish criteria for prioritizing the allocation of money*
40 *from the Account for applications received pursuant to paragraph*
41 *(b) for projects to prevent, reduce or control air pollution*
42 *throughout the State.*

43 *(d) Request from the Department an allocation of all money*
44 *available in the Account each year pursuant to the determinations*



1 *made in subsection 4 to applicants in the order of priority*
2 *established pursuant to paragraph (c).*

3 *(e) Meet all applicable requirements for receiving or*
4 *expending money pursuant to any consent decree, order or*
5 *settlement of a type set forth in paragraph (a), (b), (c) or (d) of*
6 *subsection 1 of section 7 of this act.*

7 **2. The Division shall:**

8 *(a) Establish a method for annually evaluating the school bus*
9 *fleets of schools and school districts in this State to rank those*
10 *fleets based on which fleets:*

11 *(1) Emit the largest amount of nitrogen oxides or other*
12 *hazardous air contaminants;*

13 *(2) Are used primarily in communities that have*
14 *historically borne a disproportionate share of the adverse impact*
15 *of those air contaminants; and*

16 *(3) Contain the highest percentage of buses that are eligible*
17 *to be replaced or repowered pursuant to the terms of any*
18 *conditions restricting the allocation of any money in the Account.*

19 *(b) Develop policies and procedures for the solicitation of and*
20 *applications by any entity in this State which owns or operates a*
21 *school bus to obtain money from the Account for the purpose of*
22 *replacing or repowering a school bus to reduce the emission of*
23 *nitrogen oxides or other hazardous air pollutants.*

24 *(c) Establish criteria for prioritizing the allocation of money*
25 *from the Account, including, without limitation, the rankings*
26 *established pursuant to paragraph (a).*

27 *(d) Request from the Department an allocation of all money*
28 *available for that purpose in the Account each year pursuant to*
29 *the determinations made in subsection 4 to applicants in the order*
30 *of priority determined pursuant to paragraph (c).*

31 *(e) Meet all applicable requirements for receiving or*
32 *expending money pursuant to any consent decree, order or*
33 *settlement of a type set forth in paragraph (a), (b), (c) or (d) of*
34 *subsection 1 of section 7 of this act.*

35 **3. The Division, in cooperation with the Department of**
36 **Transportation and the Governor's Office of Energy, shall:**

37 *(a) Determine those areas of this State where the construction*
38 *and installation of publicly available hydrogen-fueling stations*
39 *and publicly available electric vehicle charging stations would*
40 *have the maximum impact on promoting, supporting and*
41 *encouraging the use of zero emission vehicles.*

42 *(b) Establish criteria for prioritizing the allocation of money*
43 *from the Account for the construction and installation of publicly*
44 *available hydrogen-fueling stations and publicly available electric*



1 *vehicle charging stations, including, without limitation, those*
2 *areas of the State determined pursuant to paragraph (a).*

3 *(c) Request from the Department an allocation of all money*
4 *available for that purpose in the Account each year pursuant to*
5 *the determinations made in subsection 4 to the Department of*
6 *Transportation for the construction and installation, in*
7 *accordance with the provisions of chapter 333 of NRS, of publicly*
8 *available hydrogen-fueling stations and publicly available electric*
9 *vehicle charging stations in the order of priority determined*
10 *pursuant to paragraph (b).*

11 *(d) Meet all applicable requirements for receiving or*
12 *expending money pursuant to any consent decree, order or*
13 *settlement of a type set forth in paragraph (a), (b), (c) or (d) of*
14 *subsection 1 of section 7 of this act.*

15 *4. Except as otherwise provided in subsection 5, the Division*
16 *shall:*

17 *(a) Prioritize the disbursement of money from the Account for*
18 *the purposes of subsections 1, 2 and 3 based on, without*
19 *limitation, any uses of the money which are in the best interests of*
20 *the State; and*

21 *(b) Ensure that all allocations from the Account are for*
22 *projects or purposes that meet the criteria established by the*
23 *Division in subsections 1, 2 and 3.*

24 *5. The Division shall establish by regulation a program to*
25 *provide financial incentives, including, without limitation, grants*
26 *and loans, to promote investment in the construction of publicly*
27 *available hydrogen-fueling stations and publicly available electric*
28 *vehicle charging stations. The Department shall, to the extent*
29 *money is available from the Account for that purpose, provide an*
30 *amount of money not to exceed \$2,000,000 from the Account for*
31 *use by the Division for the program.*

32 *6. The Division shall submit annually a report of all*
33 *applications and allocations made pursuant to this section to the*
34 *Governor and, on or before February 1 of each odd-numbered*
35 *year, submit each annual report for the immediately preceding 2*
36 *years to the Director of the Legislative Counsel Bureau for*
37 *transmittal to the Legislature.*

38 *7. The Division:*

39 *(a) Shall adopt any regulations; and*

40 *(b) May take any other actions,*

41 *↳ that are necessary to carry out its duties pursuant to this*
42 *section.*

43 **Sec. 9.** NRS 445B.105 is hereby amended to read as follows:

44 445B.105 As used in NRS 445B.100 to 445B.640, inclusive,
45 *and sections 1.5 to 8, inclusive, of this act, unless the context*



1 otherwise requires, the words and terms defined in NRS 445B.110
2 to 445B.155, inclusive, *and sections 1.5 to 5, inclusive, of this act*
3 have the meanings ascribed to them in those sections.

4 **Sec. 10.** NRS 445B.460 is hereby amended to read as follows:

5 445B.460 1. If, in the judgment of the Director, any person is
6 engaged in or is about to engage in any act or practice which
7 constitutes or will constitute a violation of any provision of NRS
8 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive,*
9 *of this act*, or any rule, regulation, order or operating permit issued
10 pursuant to NRS 445B.100 to 445B.640, inclusive, *and sections 1.5*
11 *to 8, inclusive, of this act*, the Director may request that the
12 Attorney General apply to the district court for an order enjoining
13 the act or practice, or for an order directing compliance with any
14 provision of NRS 445B.100 to 445B.640, inclusive, *and sections*
15 *1.5 to 8, inclusive, of this act*, or any rule, regulation, order or
16 operating permit issued pursuant to NRS 445B.100 to 445B.640,
17 inclusive ~~†~~, *and sections 1.5 to 8, inclusive, of this act.*

18 2. If, in the judgment of the control officer of a local air
19 pollution control board, any person is engaged in or is about to
20 engage in such an act or practice, the control officer may request
21 that the district attorney of the county in which the act or practice is
22 being engaged in or is about to be engaged in apply to the district
23 court for such an order.

24 3. Upon a showing by the Director or the control officer that a
25 person has engaged in or is about to engage in any such act or
26 practice, a permanent or temporary injunction, restraining order or
27 other appropriate order may be granted by the court.

28 **Sec. 11.** NRS 445B.470 is hereby amended to read as follows:

29 445B.470 1. A person shall not knowingly:

30 (a) Violate any applicable provision, the terms or conditions of
31 any permit or any provision for the filing of information;

32 (b) Fail to pay any fee;

33 (c) Falsify any material statement, representation or certification
34 in any notice or report; or

35 (d) Render inaccurate any monitoring device or method,

36 → required pursuant to the provisions of NRS 445B.100 to
37 445B.450, inclusive, *and sections 1.5 to 8, inclusive, of this act*, or
38 445B.470 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive,*
39 *of this act*, or any regulation adopted pursuant to those provisions.

40 2. Any person who violates any provision of subsection 1 shall
41 be punished by a fine of not more than \$10,000 for each day of the
42 violation.

43 3. The burden of proof and degree of knowledge required to
44 establish a violation of subsection 1 are the same as those required
45 by 42 U.S.C. § 7413(c), as that section existed on October 1, 1993.



1 4. If, in the judgment of the Director of the Department or the
2 Director's designee, any person is engaged in any act or practice
3 which constitutes a criminal offense pursuant to NRS 445B.100 to
4 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act*, the
5 Director of the Department or the designee may request that
6 the Attorney General or the district attorney of the county in which
7 the criminal offense is alleged to have occurred institute by
8 indictment or information a criminal prosecution of the person.

9 5. If, in the judgment of the control officer of a local air
10 pollution control board, any person is engaged in such an act or
11 practice, the control officer may request that the district attorney of
12 the county in which the criminal offense is alleged to have occurred
13 institute by indictment or information a criminal prosecution of the
14 person.

15 **Sec. 12.** NRS 445B.500 is hereby amended to read as follows:

16 445B.500 1. Except as otherwise provided in this section and
17 in NRS 445B.310 and 704.7318:

18 (a) The district board of health, county board of health or board
19 of county commissioners in each county whose population is
20 100,000 or more shall establish a program for the control of air
21 pollution and administer the program within its jurisdiction unless
22 superseded.

23 (b) The program:

24 (1) Must include, without limitation, standards for the control
25 of emissions, emergency procedures and variance procedures
26 established by ordinance or local regulation which are equivalent to
27 or stricter than those established by statute or state regulation;

28 (2) May, in a county whose population is 700,000 or more,
29 include requirements for the creation, receipt and exchange for
30 consideration of credits to reduce and control air contaminants in
31 accordance with NRS 445B.508; and

32 (3) Must provide for adequate administration, enforcement,
33 financing and staff.

34 (c) The district board of health, county board of health or board
35 of county commissioners is designated as the air pollution control
36 agency of the county for the purposes of NRS 445B.100 to
37 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act* and
38 the Federal Act insofar as it pertains to local programs, and that
39 agency is authorized to take all action necessary to secure for the
40 county the benefits of the Federal Act.

41 (d) Powers and responsibilities provided for in NRS 445B.210,
42 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580
43 and 445B.640 are binding upon and inure to the benefit of local air
44 pollution control authorities within their jurisdiction.



1 2. The local air pollution control board shall carry out all
2 provisions of NRS 445B.215 with the exception that notices of
3 public hearings must be given in any newspaper, qualified pursuant
4 to the provisions of chapter 238 of NRS, once a week for 3 weeks.
5 The notice must specify with particularity the reasons for the
6 proposed regulations and provide other informative details. NRS
7 445B.215 does not apply to the adoption of existing regulations
8 upon transfer of authority as provided in NRS 445B.610.

9 3. In a county whose population is 700,000 or more, the local
10 air pollution control board may delegate to an independent hearing
11 officer or hearing board its authority to determine violations and
12 levy administrative penalties for violations of the provisions of NRS
13 445B.100 to 445B.450, inclusive, *and sections 1.5 to 8, inclusive,*
14 *of this act* and 445B.500 to 445B.640, inclusive, *and sections 1.5 to*
15 *8, inclusive, of this act*, or any regulation adopted pursuant to those
16 sections. If such a delegation is made, 17.5 percent of any penalty
17 collected must be deposited in the county treasury in an account to
18 be administered by the local air pollution control board to a
19 maximum of \$17,500 per year. The money in the account may only
20 be used to defray the administrative expenses incurred by the local
21 air pollution control board in enforcing the provisions of NRS
22 445B.100 to 445B.640, inclusive **H**, *and sections 1.5 to 8,*
23 *inclusive, of this act.* The remainder of the penalty must be
24 deposited in the county school district fund of the county where the
25 violation occurred and must be accounted for separately in the fund.
26 A school district may spend the money received pursuant to this
27 section only in accordance with an annual spending plan that is
28 approved by the local air pollution control board and shall submit an
29 annual report to that board detailing the expenditures of the school
30 district under the plan. A local air pollution control board shall
31 approve an annual spending plan if the proposed expenditures set
32 forth in the plan are reasonable and limited to:

33 (a) Programs of education on topics relating to air quality; and

34 (b) Projects to improve air quality, including, without limitation,
35 the purchase and installation of equipment to retrofit school buses of
36 the school district to use biodiesel, compressed natural gas or a
37 similar fuel formulated to reduce emissions from the amount of
38 emissions produced by the use of traditional fuels such as gasoline
39 and diesel fuel,

40 ➤ which are consistent with the state implementation plan adopted
41 by this State pursuant to 42 U.S.C. §§ 7410 and 7502.

42 4. Any county whose population is less than 100,000 or any
43 city may meet the requirements of this section for administration
44 and enforcement through cooperative or interlocal agreement with
45 one or more other counties, or through agreement with the State, or



1 may establish its own program for the control of air pollution. If the
2 county establishes such a program, it is subject to the approval of
3 the Commission.

4 5. No district board of health, county board of health or board
5 of county commissioners may adopt any regulation or establish a
6 compliance schedule, variance order or other enforcement action
7 relating to the control of emissions from plants which generate
8 electricity by using steam produced by the burning of fossil fuel.

9 6. As used in this section, "plants which generate electricity by
10 using steam produced by the burning of fossil fuel" means plants
11 that burn fossil fuels in a boiler to produce steam for the production
12 of electricity. The term does not include any plant which uses
13 technology for a simple or combined cycle combustion turbine,
14 regardless of whether the plant includes duct burners.

15 **Sec. 13.** 1. The Division of Environmental Protection of the
16 State Department of Conservation and Natural Resources, in its role
17 as lead agency on behalf of this State designated as required in
18 section 4.2.1 of Appendix D to the Partial Consent Decree, shall,
19 upon a determination of Beneficiary status pursuant to section 4.0 of
20 Appendix D to the Partial Consent Decree, prepare and submit a
21 Beneficiary Mitigation Plan as required by section 4.1 of Appendix
22 D to the Partial Consent Decree which includes, without limitation,
23 those provisions of sections 1.5 to 8, inclusive, of this act which
24 enact the intent of the Legislature pursuant to section 6 of this act,
25 and to the extent that such provisions are permissible under the
26 requirements of the Partial Consent Decree and the Second Partial
27 Consent Decree.

28 2. The Division of Environmental Protection of the State
29 Department of Conservation and Natural Resources, when providing
30 input relevant to the development of a Draft National ZEV
31 Investment Plan pursuant to section 2.4 of Appendix C to the Partial
32 Consent Decree, shall advocate for and encourage inclusion in the
33 National ZEV Investment Plan the construction of publicly available
34 hydrogen-fueling stations and publicly available electric vehicle
35 charging stations which enact the intent of the Legislature pursuant
36 to section 6 of this act, to the extent that such construction is
37 permissible under the requirements of the Partial Consent Decree
38 and the Second Partial Consent Decree.

39 3. As used in this section:

40 (a) "Beneficiary" has the meaning ascribed to it in section 1.1 of
41 Appendix D to the Partial Consent Decree.

42 (b) "Beneficiary Mitigation Plan" means the submittal required
43 of a Beneficiary pursuant to section 4.1 of Appendix D to the Partial
44 Consent Decree.



1 (c) "Draft National ZEV Investment Plan" means a draft of the
2 National ZEV Investment Plan, which is required to be submitted to
3 the Environmental Protection Agency pursuant to section 2.4 of
4 Appendix C to the Partial Consent Decree.

5 (d) "National ZEV Investment Plan" has the meaning ascribed
6 to it in section 1.6 of Appendix C to the Partial Consent Decree.

7 (e) "Partial Consent Decree" means Partial Consent Decree, *In*
8 *re Volkswagen "Clean Diesel" Marketing, Sales Practices and*
9 *Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal.
10 Sept. 30, 2016).

11 (f) "Second Partial Consent Decree" means Second Partial
12 Consent Decree, *In re Volkswagen "Clean Diesel" Marketing, Sales*
13 *Practices and Products Liability Litigation*, No. MDL No. 2672
14 CRB, (N.D. Cal. Dec. 20, 2016).

15 **Sec. 14.** The provisions of subsection 1 of NRS 218D.380 do
16 not apply to any provision of this act which adds or revises a
17 requirement to submit a report to the Legislature.

18 **Sec. 15.** This act becomes effective upon passage and
19 approval.

