

Amendment No. 362

Senate Amendment to Senate Bill No. 298	(BDR 22-536)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 298--SENATOR KIECKHEFER

MARCH 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to inland ports. (BDR 22-536)

FISCAL NOTE: Effect on Local Government: No.
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 inland ports; revising provisions relating to the creation, maintenance and operation of inland ports and inland port authorities; **requiring the Office of Economic Development within the Office of the Governor to conduct an interim study concerning the viability of and funding options associated with developing inland ports in certain areas in this State;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Inland Port Authority Act governs the creation, operation and maintenance of an inland port and inland port authority. (Chapter 277B of NRS) An inland port is defined in existing law as an area located away from traditional borders but having direct access to highway, railway and air transport facilities and, if applicable, intermodal facilities. (NRS 277B.050)

In addition to requiring the inclusion of certain highway, railway and air transport facilities in the area in which an inland port is created, existing law requires that the area be contiguous and prohibits the inclusion of residential property in the area. (NRS 277B.150) **Section 6** of this bill removes the requirement of contiguity and the prohibition against the inclusion of residential property in the area.

Existing law authorizes, upon application to and approval by the Office of Economic Development within the Office of the Governor, the creation, operation and maintenance of an inland port and inland port authority by one or more boards of county commissioners of counties or one or more governing bodies of incorporated cities, or both. (NRS 277B.160)

Section 7 of this bill expands the authorization to apply to create, operate and maintain an inland port and inland port authority to all governmental entities and to private entities, or a combination thereof. **Section 13** of this bill makes a conforming change as a result of the expansion of the potential applicants. **Section 7** of this bill also provides the authorization to approve applications to create, operate and maintain an inland port and inland port authority specifically to the Executive Director of the Office of Economic Development. **Section 2** of this bill adds a definition as a result of the change in approval authority made in **section 7**. **Section 3** of this bill also requires the Executive Director to adopt certain regulations concerning the creation, operation and maintenance of inland ports and inland port authorities,

Upon approval, existing law requires the creation of an inland port by ordinance and prescribes the contents of the ordinance. (NRS 277B.180) **Section 8** of this bill additionally authorizes the creation of an inland port by resolution, rule, order or other means prescribed by regulations adopted by the Executive Director pursuant to **section 3** and requires that those

regulations prescribe the contents of those methods of creation ~~and~~, with certain required elements.

Existing law requires an authority to be governed by a board of directors and prescribes its membership. (NRS 277B.200) ~~Section 9 of this bill removes specific requirements concerning the membership of a board and instead requires the appointment of the members of the board of directors of the inland port authority to be made in accordance with regulations adopted by the Executive Director pursuant to section 3. Section 9 also: (1) requires a board to adopt a code of bylaws for the governance and management of the authority. ~~and~~ (2) with certain exceptions, provides that meetings of a board are not subject to the Open Meeting Law. Section 15 of this bill makes a conforming change related to the exemption of the meetings of a board from the Open Meeting Law.~~

Existing law sets forth powers and duties of an inland port authority. (NRS 277B.300-277B.390) ~~Sections 10-12, 10 and 12~~ of this bill revise these powers and duties by: (1) specifically authorizing an inland port authority to enter into an agreement with a regional development authority; and (2) ~~requiring a board of an inland port authority to approve certain agreements at a public meeting held in compliance with the Open Meeting Law; and~~ ~~(3)~~ requiring an inland port authority to submit to an annual report to the Executive Director. ~~Section 14 of this bill requires the Executive Director to perform any duties prescribed pursuant to chapter 277B of NRS.~~ by law relating to inland ports and inland port authorities. ~~Section 16 of this bill removes certain provisions of existing law to address changes made by sections 7, 8 and 9.~~

Section 15.5 of this bill requires the Office of Economic Development to conduct a study during the 2021-2022 interim concerning the viability of and funding options associated with developing inland ports in each megapolitan area identified in Nevada's Plan for Recovery and Resilience (SRI International, at page 26 (December 2020)), which was prepared for the Office, and report the results of such a study to the 82nd Session of the Nevada Legislature.

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

Section 1. Chapter 277B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *“Executive Director” means the Executive Director of the Office.*

Sec. 3. *1. The Executive Director shall adopt regulations:*

(a) Prescribing the criteria for eligibility to create, operate and maintain an inland port and authority. Such criteria must include, without limitation, a requirement that, if the boundaries of an inland port include a municipally owned airport as described in paragraph (a) of subsection 1 of NRS 277B.150, the municipality that owns and operates the airport must be included in the application to create, operate and maintain the inland port and authority submitted pursuant to NRS 277B.160.

(b) Prescribing the required contents of an application and the procedure for applying to create, operate and maintain an inland port and authority pursuant to NRS 277B.160.

(c) Prescribing the manner in which an inland port and authority may be created, which must include, without limitation, creation by ordinance, resolution, rule or order. ~~and~~

(d) Prescribing the required contents ~~thereof.~~

~~*(e) Prescribing requirements regarding the composition and appointment of a board, which must, without limitation, prohibit an elected official of any governmental entity from serving as a member of a board.*~~ *of an ordinance, resolution, rule, order or other means authorized to create an inland port and authority, which must include, without limitation:*

1 (1) A description of the boundaries of the inland port;

2 (2) The location of the principal office of the authority;

3 (3) The name of the inland port and authority; and

4 (4) The number of directors who will compose the board.

5 (e) Prescribing requirements for the operation of an inland port and
6 authority.

7 (f) Prescribing the powers an authority may exercise, which must include,
8 without limitation, the powers and limitations prescribed by NRS 277B.300 to
9 277B.390, inclusive.

10 (g) Prescribing the conditions for revocation of approval to create, operate
11 and maintain an inland port and authority.

12 (h) To ensure compliance with any applicable federal law governing inland
13 ports.

14 2. The Executive Director may adopt such other regulations as he or she
15 determines to be necessary or advisable to carry out the provisions of this chapter.

16 **Sec. 4.** NRS 277B.020 is hereby amended to read as follows:

17 277B.020 As used in this chapter, unless the context otherwise requires, the
18 words and terms defined in NRS 277B.030 to ~~[277B.070.] 277B.060,~~ inclusive,
19 **and section 2 of this act** have the meanings ascribed to them in those sections.

20 **Sec. 5.** NRS 277B.030 is hereby amended to read as follows:

21 277B.030 "Authority" means an inland port authority created pursuant to ~~[this~~
22 ~~chapter.] NRS 277B.180.~~

23 **Sec. 6.** NRS 277B.150 is hereby amended to read as follows:

24 277B.150 1. ~~[Subject to the requirements set forth in NRS 277B.150 to~~
25 ~~277B.180, inclusive, an] An~~ inland port may be created only in ~~[a contiguous] an~~
26 area that ~~[~~

27 ~~— (a) Includes] includes~~ at least two of the following:

28 ~~[(1)] (a)~~ A municipally owned airport with a runway of at least 4,500 feet.

29 ~~[(2)] (b)~~ A portion of a highway that is part of the National Highway

30 System.

31 ~~[(3)] (c)~~ Operating assets of at least one Class I railroad as classified by the
32 Surface Transportation Board.

33 ~~[(b) Does not include any residential property.]~~

34 2. ~~[All areas within the boundaries of an inland port must be within the~~
35 ~~boundaries of the county or counties and incorporated city or cities, as applicable,~~
36 ~~of the one or more participating entities which apply to the Office pursuant to NRS~~
37 ~~277B.160 for the creation of the inland port.~~

38 ~~— 3. If the] The~~ boundaries of an inland port ~~[will include a municipally owned~~
39 ~~airport as described in subparagraph (1) of paragraph (a) of subsection 1:~~

40 ~~— (a) The municipality that owns and operates the airport must be a participating~~
41 ~~entity; or~~

42 ~~— (b) If the municipality that owns and operates the airport is not a participating~~
43 ~~entity, the municipality, by ordinance, must approve of the inclusion of the airport~~
44 ~~within the boundaries of the inland port.] may:~~

45 (a) Be non-contiguous.

46 (b) Include residential property.

47 **Sec. 7.** NRS 277B.160 is hereby amended to read as follows:

48 277B.160 1. One or more ~~[participating] persons or governmental~~ entities ,
49 **or a combination thereof,** may apply to the ~~[Office] Executive Director~~ to create,
50 operate and maintain an inland port and authority.

51 2. ~~[A participating entity is eligible to apply to the Office pursuant to~~
52 ~~subsection 1 if the county or incorporated city, as applicable, of the participating~~

entity is located in whole or in part within the proposed boundaries of the inland port.

~~3.~~ The ~~{Office}~~ Executive Director may approve the creation of an inland port and authority if ~~{the Office}~~:

(a) *The boundaries of the inland port comply with the requirements prescribed by NRS 277B.150;*

(b) *The applicant meets the eligibility criteria prescribed by the regulations adopted pursuant to section 3 of this act; and*

(c) *The Executive Director determines that the ~~{proposed}~~ creation of the inland port and authority ~~{will}~~:*

(1) Is consistent with the State Plan for Economic Development developed pursuant to NRS 231.053; and

(2) Will serve the economic interests of this State.

3. The Executive Director may consult with state and local agencies in determining whether to approve the creation of an inland port and authority.

Sec. 8. NRS 277B.180 is hereby amended to read as follows:

277B.180 If ~~{a participating entity}~~ an applicant obtains approval of the ~~{Office}~~ Executive Director for the creation of an inland port and authority pursuant to NRS 277B.160, the ~~{participating entity}~~ applicant shall create the inland port and authority by ordinance ~~{The ordinance must include, without limitation:~~

~~1. A description of the boundaries of the inland port;~~

~~2. The location of the principal office of the authority;~~

~~3. The name of the inland port and authority; and~~

~~4. The number of directors who will compose the board of the authority pursuant to NRS 277B.200.], resolution, rule, order or other means prescribed by the regulations adopted pursuant to section 3 of this act.~~

Sec. 9. NRS 277B.200 is hereby amended to read as follows:

277B.200 1. An authority must be governed by a board ~~{}~~ of directors with an odd-numbered membership set by the ~~{participating entity or entities. If there is more than one participating entity, the membership of~~

~~2. As soon as reasonably practicable after an authority is created pursuant to NRS 277B.180, the members of the board must be appointed in accordance with the requirements prescribed by the regulations adopted pursuant to section 3 of this act.~~

~~3. As soon as reasonably practicable after the members of a board have been appointed pursuant to subsection 2, the board of directors must be agreed to by all of the participating entities.] applicant that created the inland port and authority pursuant to NRS 277B.180. The board of directors must be composed of:~~

(a) One director appointed by each county ~~{that is a participating entity, if any;}~~ within the boundaries of the inland port;

(b) One director appointed by each city ~~{that is a participating entity.}~~ within the boundaries of the inland port, if any;

(c) If ~~{the authority includes}~~ a municipally owned airport described in ~~{subparagraph (1) of}~~ paragraph (a) of subsection 1 of NRS 277B.150, is within the boundaries of the inland port, one director appointed by:

(1) In a county whose population is 700,000 or more, the department of aviation of the county; or

(2) In a county whose population is less than 700,000, the governing body of the airport authority, if any, and if there is not an airport authority, by the governing body of the municipality which owns the airport; and

(d) Any other directors appointed in accordance with this section and as provided in ~~{an}~~ the ordinance ~~{adopted by a participating entity pursuant to NRS~~

~~277B.180.~~ resolution, rule, order or other means used to create the inland port and authority.

~~2. A director must reside within the boundaries of the [participating entity that appoints him or her.~~ inland port and authority governed by the board.

~~3. [The following persons are not eligible to be appointed to a board:~~

~~(a) An elected official of any governmental entity [;~~

~~(b) An employee of a participating entity.]~~ is not eligible to be appointed to a board.

~~4. Except as otherwise provided in this section, the directors described in subsection 1 must be appointed to terms of 4 years. The terms must be staggered in such a manner that, to the extent possible, the terms of one-half of the directors will expire every 2 years. The initial directors of the authority shall, at the first meeting of the board after their appointment, draw lots to determine which directors will initially serve terms of 2 years and which will serve terms of 4 years. A director may be reappointed.~~

~~5. A vacancy occurring during the term of a director must be filled by the appointing [participating entity] authority for the unexpired term as soon as is reasonably practicable.~~

~~6. As soon as reasonably practicable after the directors have been appointed pursuant to subsection 1, the board shall adopt a code of bylaws for the governance and management of the authority.~~

~~4. Except as otherwise provided in NRS 277B.320, the meetings of a board are not subject to the provisions of chapter 241 of NRS.]~~

Sec. 10. NRS 277B.310 is hereby amended to read as follows:

~~277B.310 1.~~ An authority may enter into an agreement with any person ~~[,] or governmental entity,~~ including, without limitation, the United States or ~~[any other governmental entity,]~~ a regional development authority, for any purpose of the authority.

~~2. As used in this section, "regional development authority" has the meaning ascribed to it in NRS 231.009.~~

Sec. 11. ~~[NRS 277B.320 is hereby amended to read as follows:~~

~~277B.320 1. An authority may enter into an agreement that provides for the lease of rights of way, the granting of easements or the issuance of franchises, concessions, licenses or permits. Any such agreement must be approved by the board at a public meeting held in compliance with the provisions of chapter 241 of NRS concerning open meetings.~~

~~2. Except as otherwise provided in subsections 3, 4 and 5, with the consent of any county, city or other governmental entity, an authority may:~~

~~(a) Use streets, alleys, roads, highways and other public ways of the county, city or other governmental entity; and~~

~~(b) Relocate, raise, reroute, change the grade of or alter, at the expense of the authority:~~

~~(1) A street, alley, highway, road or railroad;~~

~~(2) Electric lines and facilities;~~

~~(3) Telegraph and telephone properties and facilities;~~

~~(4) Pipelines and facilities;~~

~~(5) Conduits and facilities; and~~

~~(6) Other property,~~

~~as necessary or useful in the construction, reconstruction, repair, maintenance and operation of the inland port.~~

~~3. An authority may not alter:~~

~~(a) A highway that is part of the state highway system without the consent of the Department of Transportation.~~

~~1 (b) A railroad without the consent of the railroad company;~~
~~2 (c) A municipally owned airport;~~
~~3 4. If an inland port includes a municipally owned airport;~~
~~4 (a) An authority may not interfere with or exercise any control over~~
~~5 commercial air transportation operations or airlines that operate at the airport; and~~
~~6 (b) The airport authority, department of aviation or other existing governing~~
~~7 body that owns or manages the airport retains such ownership or management~~
~~8 control;~~
~~9 5. Nothing in this section authorizes an authority to perform any action in~~
~~10 violation of any requirement of federal law or condition to the receipt of federal~~
~~11 money.] (Deleted by amendment.)~~

12 **Sec. 12.** NRS 277B.360 is hereby amended to read as follows:

13 277B.360 ~~{At the request of the Office, an}~~ An authority shall :

14 1. *Annually prepare and submit to the Executive Director a report*
 15 *regarding the operations and activities of the inland port and authority.*

16 2. *At the request of the Executive Director, report to the [Office] Executive*
 17 *Director* on all issues and activities necessary for the administration of the
 18 authority.

19 **Sec. 13.** NRS 277B.380 is hereby amended to read as follows:

20 277B.380 An authority may not provide retail utility services or duplicate a
 21 service or facility of ~~[another]~~ a governmental entity.

22 **Sec. 14.** NRS 231.053 is hereby amended to read as follows:

23 231.053 After considering any advice and recommendations of the Board, the
 24 Executive Director:

25 1. Shall direct and supervise the administrative and technical activities of the
 26 Office.

27 2. Shall develop and may periodically revise a State Plan for Economic
 28 Development, which:

29 (a) Must include a statement of:

30 (1) New industries which have the potential to be developed in this State;

31 (2) The strengths and weaknesses of this State for business incubation;

32 (3) The competitive advantages and weaknesses of this State;

33 (4) The manner in which this State can leverage its competitive advantages
 34 and address its competitive weaknesses;

35 (5) A strategy to encourage the creation and expansion of businesses in this
 36 State and the relocation of businesses to this State; and

37 (6) Potential partners for the implementation of the strategy, including,
 38 without limitation, the Federal Government, local governments, local and regional
 39 organizations for economic development, chambers of commerce, and private
 40 businesses, investors and nonprofit entities; and

41 (b) Must not include provisions for the granting of any abatement, partial
 42 abatement or exemption from taxes or any other incentive for economic
 43 development to a person who will locate or expand a business in this State that is
 44 subject to the tax imposed pursuant to NRS 362.130 or the gaming license fees
 45 imposed by the provisions of NRS 463.370.

46 3. Shall develop criteria for the designation of regional development
 47 authorities pursuant to subsection 4.

48 4. Shall designate as many regional development authorities for each region
 49 of this State as the Executive Director determines to be appropriate to implement
 50 the State Plan for Economic Development. In designating regional development
 51 authorities, the Executive Director must consult with local governmental entities
 52 affected by the designation. The Executive Director may, if he or she determines
 53 that such action would aid in the implementation of the State Plan for Economic

1 Development, remove the designation of any regional development authority
 2 previously designated pursuant to this section and declare void any contract
 3 between the Office and that regional development authority.

4 5. Shall establish procedures for entering into contracts with regional
 5 development authorities to provide services to aid, promote and encourage the
 6 economic development of this State.

7 6. ***Shall perform any duties prescribed in chapter 277B of NRS.***

8 7. May apply for and accept any gift, donation, bequest, grant or other source
 9 of money to carry out the provisions of NRS 231.020 to 231.139, inclusive, and
 10 231.1555 to 231.1597, inclusive.

11 ~~7.7~~ 8. May adopt such regulations as may be necessary to carry out the
 12 provisions of NRS 231.020 to 231.139, inclusive, and 231.1555 to 231.1597,
 13 inclusive.

14 ~~7.8~~ 9. In a manner consistent with the laws of this State, may reorganize the
 15 programs of economic development in this State to further the State Plan for
 16 Economic Development. If, in the opinion of the Executive Director, changes to the
 17 laws of this State are necessary to implement the economic development strategy
 18 for this State, the Executive Director must recommend the changes to the Governor
 19 and the Legislature.

20 **Sec. 15.** ~~[NRS 241.016 is hereby amended to read as follows:~~

21 ~~— 241.016 1. The meetings of a public body that are quasi-judicial in nature
 22 are subject to the provisions of this chapter.~~

23 ~~— 2. The following are exempt from the requirements of this chapter:~~

24 ~~— (a) The Legislature of the State of Nevada.~~

25 ~~— (b) Judicial proceedings, including, without limitation, proceedings before the
 26 Commission on Judicial Selection and, except as otherwise provided in NRS
 27 1.4687, the Commission on Judicial Discipline.~~

28 ~~— (c) Meetings of the State Board of Parole Commissioners when acting to grant,
 29 deny, continue or revoke the parole of a prisoner or to establish or modify the terms
 30 of the parole of a prisoner.~~

31 ~~— 3. Any provision of law, including, without limitation, NRS 91.270,
 32 210A.210, 228.495, 230C.140, 230C.420, 277B.200, 281A.350, 281A.690,
 33 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220,
 34 288.500, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388D.355,
 35 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, 414.270, 422.405,
 36 433.534, 435.610, 442.774, 463.110, 480.545, 622.320, 622.340, 630.311, 630.336,
 37 631.2635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725,
 38 which:~~

39 ~~— (a) Provides that any meeting, hearing or other proceeding is not subject to the
 40 provisions of this chapter; or~~

41 ~~— (b) Otherwise authorizes or requires a closed meeting, hearing or proceeding;~~

42 ~~— prevails over the general provisions of this chapter.~~

43 ~~— 4. The exceptions provided to this chapter, and electronic communication,
 44 must not be used to circumvent the spirit or letter of this chapter to deliberate or act
 45 outside of an open and public meeting, upon a matter over which the public body
 46 has supervision, control, jurisdiction or advisory powers.] **(Deleted by
 47 amendment.)**~~

48 **Sec. 15.5. The Office of Economic Development within the Office of the**
 49 **Governor shall conduct a study during the 2021-2022 interim concerning the**
 50 **viability of and funding options associated with developing inland ports in**
 51 **each megapolitan area identified in Nevada's Plan for Recovery and Resilience**
 52 **(SRI International, at page 26 (December 2020)), which was prepared for the**

1 Office, and report the results of such a study to the 82nd Session of the Nevada
2 Legislature.

3 **Sec. 16.** NRS 277B.070, 277B.170, 277B.190 ~~and~~ **and** 277B.210 ~~and~~
4 ~~277B.220~~ are hereby repealed.

5 **Sec. 17.** 1. This section becomes effective upon passage and approval.

6 2. Sections 1 to 16, inclusive, of this act become effective:

7 (a) Upon passage and approval for the purpose of adopting any regulations and
8 performing any other preparatory administrative tasks that are necessary to carry
9 out the provisions of this act; and

10 (b) On October 1, 2021, for all other purposes.

LEADLINES OF REPEALED SECTIONS

277B.070 “Participating entity” defined.

277B.170 Creation: Public hearings after approval; notice.

277B.190 Withdrawal; dissolution.

277B.210 Officers; per diem and travel expenses.

~~[277B.220 Meetings: Quorum; compliance with Open Meeting Law.]~~