

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; 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



25 the Executive Director to adopt certain regulations concerning the creation,
26 operation and maintenance of inland ports and inland port authorities,

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

33 Existing law requires an authority to be governed by a board of directors and
34 prescribes its membership. (NRS 277B.200) **Section 9** of this bill removes specific
35 requirements concerning the membership of a board and instead requires the
36 appointment of the members of the board of directors of the inland port authority to
37 be made in accordance with regulations adopted by the Executive Director pursuant
38 to **section 3**. **Section 9** also: (1) requires a board to adopt a code of bylaws for the
39 governance and management of the authority; and (2) with certain exceptions,
40 provides that meetings of a board are not subject to the Open Meeting Law. **Section**
41 **15** of this bill makes a conforming change related to the exemption of the meetings
42 of a board from the Open Meeting Law.

43 Existing law sets forth powers and duties of an inland port authority. (NRS
44 277B.300-277B.390) **Sections 10-12** of this bill revise these powers and duties by:
45 (1) specifically authorizing an inland port authority to enter into an agreement with
46 a regional development authority; (2) requiring a board of an inland port authority
47 to approve certain agreements at a public meeting held in compliance with the
48 Open Meeting Law; and (3) requiring an inland port authority to submit to an
49 annual report to the Executive Director. **Section 14** of this bill requires the
50 Executive Director to perform any duties prescribed pursuant to chapter 277B of
51 NRS. **Section 16** of this bill removes certain provisions of existing law to address
52 changes made by **sections 7, 8 and 9**.

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

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

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

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

6 *(a) Prescribing the criteria for eligibility to create, operate and*
7 *maintain an inland port and authority.*

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

11 *(c) Prescribing the manner in which an inland port and*
12 *authority may be created, which must include, without limitation,*
13 *creation by ordinance, resolution, rule or order, and the required*
14 *contents thereof.*

15 *(d) Prescribing requirements regarding the composition and*
16 *appointment of a board, which must, without limitation, prohibit*



1 *an elected official of any governmental entity from serving as a*
2 *member of a board.*

3 *(e) Prescribing requirements for the operation of an inland*
4 *port and authority.*

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

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

10 *(h) To ensure compliance with any applicable federal law*
11 *governing inland ports.*

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

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

16 277B.020 As used in this chapter, unless the context otherwise
17 requires, the words and terms defined in NRS 277B.030 to
18 ~~[277B.070.]~~ **277B.060**, inclusive, *and section 2 of this act* have the
19 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
22 pursuant to ~~[this 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~~
25 ~~277B.150 to 277B.180, inclusive, an]~~ **An** inland port may be created
26 only in ~~[a contiguous]~~ **an** area that ~~[-~~

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

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

30 ~~[(2)]~~ **(b)** A portion of a highway that is part of the National
31 Highway System.

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

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

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

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

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



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

5 (a) *Be non-contiguous.*

6 (b) *Include residential property.*

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

8 277B.160 1. One or more ~~[participating]~~ *persons or*
9 *governmental* entities, *or a combination thereof*, may apply to the
10 ~~[Office]~~ *Executive Director* to create, operate and maintain an
11 inland port and authority.

12 2. ~~[A participating entity is eligible to apply to the Office~~
13 ~~pursuant to subsection 1 if the county or incorporated city, as~~
14 ~~applicable, of the participating entity is located in whole or in part~~
15 ~~within the proposed boundaries of the inland port.~~

16 ~~—3.]~~ The ~~[Office]~~ *Executive Director* may approve the creation
17 of an inland port and authority if ~~[the Office]~~ :

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

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

22 (c) *The Executive Director* determines that the ~~[proposed]~~
23 *creation of the* inland port and authority ~~[will]~~ :

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

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

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

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

31 277B.180 If ~~[a participating entity]~~ *an applicant* obtains
32 approval of the ~~[Office]~~ *Executive Director* for the creation of an
33 inland port and authority pursuant to NRS 277B.160, the
34 ~~[participating entity]~~ *applicant* shall create the inland port and
35 authority by ordinance ~~[. The ordinance must include, without~~
36 ~~limitation:~~

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

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

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

40 ~~— 4. The number of directors who will compose the board of the~~
41 ~~authority pursuant to NRS 277B.200.]~~ *, resolution, rule, order or*
42 *other means prescribed by the regulations adopted pursuant to*
43 *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. The board of directors must be composed of:

~~—(a) One director appointed by each county that is a participating entity, if any;~~

~~—(b) One director appointed by each city that is a participating entity, 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, 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 ordinance adopted by a participating entity pursuant to NRS 277B.180.~~

~~2. A director must reside within the boundaries of the participating entity that appoints him or her.~~

~~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.~~

~~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 for the unexpired term as~~



1 ~~soon as is reasonably practicable.~~ shall adopt a code of bylaws for
2 the governance and management of the authority.

3 4. Except as otherwise provided in NRS 277B.320, the
4 meetings of a board are not subject to the provisions of chapter
5 241 of NRS.

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

7 277B.310 1. An authority may enter into an agreement with
8 any person ~~[.]~~ or governmental entity, including, without limitation,
9 the United States or ~~[any other governmental entity.]~~ a regional
10 development authority, for any purpose of the authority.

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

13 **Sec. 11.** NRS 277B.320 is hereby amended to read as follows:

14 277B.320 1. An authority may enter into an agreement that
15 provides for the lease of rights-of-way, the granting of easements or
16 the issuance of franchises, concessions, licenses or permits. Any
17 such agreement must be approved by the board at a public meeting
18 held in compliance with the provisions of chapter 241 of NRS
19 concerning open meetings.

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

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

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

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

28 (2) Electric lines and facilities;

29 (3) Telegraph and telephone properties and facilities;

30 (4) Pipelines and facilities;

31 (5) Conduits and facilities; and

32 (6) Other property,

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

35 3. An authority may not alter:

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

38 (b) A railroad without the consent of the railroad company.

39 (c) A municipally owned airport.

40 4. If an inland port includes a municipally owned airport:

41 (a) An authority may not interfere with or exercise any control
42 over commercial air transportation operations or airlines that operate
43 at the airport; and



1 (b) The airport authority, department of aviation or other
2 existing governing body that owns or manages the airport retains
3 such ownership or management control.

4 5. Nothing in this section authorizes an authority to perform
5 any action in violation of any requirement of federal law or
6 condition to the receipt of federal money.

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

8 277B.360 ~~[At the request of the Office, an]~~ **An** authority shall :

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

12 **2. At the request of the Executive Director,** report to the
13 ~~[Office]~~ **Executive Director** on all issues and activities necessary for
14 the administration of the authority.

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

16 277B.380 An authority may not provide retail utility services
17 or duplicate a service or facility of ~~[another]~~ **a** governmental entity.

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

19 231.053 After considering any advice and recommendations of
20 the Board, the Executive Director:

21 1. Shall direct and supervise the administrative and technical
22 activities of the Office.

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

25 (a) Must include a statement of:

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

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

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

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

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

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

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



1 pursuant to NRS 362.130 or the gaming license fees imposed by the
2 provisions of NRS 463.370.

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

5 4. Shall designate as many regional development authorities
6 for each region of this State as the Executive Director determines to
7 be appropriate to implement the State Plan for Economic
8 Development. In designating regional development authorities, the
9 Executive Director must consult with local governmental entities
10 affected by the designation. The Executive Director may, if he or
11 she determines that such action would aid in the implementation of
12 the State Plan for Economic Development, remove the designation
13 of any regional development authority previously designated
14 pursuant to this section and declare void any contract between the
15 Office and that regional development authority.

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

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

21 7. May apply for and accept any gift, donation, bequest, grant
22 or other source of money to carry out the provisions of NRS
23 231.020 to 231.139, inclusive, and 231.1555 to 231.1597, inclusive.

24 ~~7.1~~ 8. May adopt such regulations as may be necessary to
25 carry out the provisions of NRS 231.020 to 231.139, inclusive, and
26 231.1555 to 231.1597, inclusive.

27 ~~8.1~~ 9. In a manner consistent with the laws of this State, may
28 reorganize the programs of economic development in this State to
29 further the State Plan for Economic Development. If, in the opinion
30 of the Executive Director, changes to the laws of this State are
31 necessary to implement the economic development strategy for this
32 State, the Executive Director must recommend the changes to the
33 Governor and the Legislature.

34 **Sec. 15.** NRS 241.016 is hereby amended to read as follows:

35 241.016 1. The meetings of a public body that are quasi-
36 judicial in nature are subject to the provisions of this chapter.

37 2. The following are exempt from the requirements of this
38 chapter:

39 (a) The Legislature of the State of Nevada.

40 (b) Judicial proceedings, including, without limitation,
41 proceedings before the Commission on Judicial Selection and,
42 except as otherwise provided in NRS 1.4687, the Commission on
43 Judicial Discipline.



1 (c) Meetings of the State Board of Parole Commissioners when
2 acting to grant, deny, continue or revoke the parole of a prisoner or
3 to establish or modify the terms of the parole of a prisoner.

4 3. Any provision of law, including, without limitation, NRS
5 91.270, 219A.210, 228.495, 239C.140, 239C.420, **277B.200**,
6 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150,
7 287.0415, 287.04345, 287.338, 288.220, 288.590, 289.387, 295.121,
8 360.247, 388.261, 388A.495, 388C.150, 388D.355, 388G.710,
9 388G.730, 392.147, 392.467, 394.1699, 396.3295, 414.270,
10 422.405, 433.534, 435.610, 442.774, 463.110, 480.545, 622.320,
11 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557,
12 686B.170, 696B.550, 703.196 and 706.1725, which:

13 (a) Provides that any meeting, hearing or other proceeding is not
14 subject to the provisions of this chapter; or

15 (b) Otherwise authorizes or requires a closed meeting, hearing
16 or proceeding,

17 ↪ prevails over the general provisions of this chapter.

18 4. The exceptions provided to this chapter, and electronic
19 communication, must not be used to circumvent the spirit or letter of
20 this chapter to deliberate or act, outside of an open and public
21 meeting, upon a matter over which the public body has supervision,
22 control, jurisdiction or advisory powers.

23 **Sec. 16.** NRS 277B.070, 277B.170, 277B.190, 277B.210 and
24 277B.220 are hereby repealed.

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

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

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

31 (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.

