

SENATE BILL NO. 147—SENATORS WIENER, CARE,
MCGINNESS, COPENING AND SCHNEIDER

FEBRUARY 18, 2009

Referred to Committee on Energy, Infrastructure and Transportation

SUMMARY—Establishes provisions governing broadcasters during emergencies. (BDR 36-960)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 emergencies; requiring broadcasters in this State to develop plans for preparing for and responding to emergencies and disasters; authorizing the establishment of programs for the training and certification of first response broadcasters in restoring, repairing and resupplying facilities and equipment during an emergency or disaster; providing that broadcasters and first response broadcasters must be given certain priority for equipment and supplies during an emergency or disaster; providing that certain equipment and supplies of a broadcaster or first response broadcaster must not be confiscated during an emergency or disaster; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Chapter 414 of NRS authorizes the Governor to prepare a comprehensive state
2 emergency management plan and authorizes political subdivisions of this State to
3 establish local organizations for emergency management in accordance with the
4 state emergency management plan. (NRS 414.060, 414.090) **Section 4** of this bill
5 requires broadcasters in this State to work in cooperation with the Division of
6 Emergency Management of the Department of Public Safety and the Nevada
7 Broadcasters Association to develop comprehensive, coordinated plans for
8 preparing for and responding appropriately to an emergency or disaster.
9 **Section 5** of this bill authorizes the Nevada Broadcasters Association or its
10 successor organization, the Nevada State Cable Telecommunications Association or
11 its successor organization, any member of the Nevada State Cable
12 Telecommunications Association or its successor organization and any other
13 provider of emergency broadcasts, including, without limitation, a provider who



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14 uses emerging technologies, to establish a program for training and certifying first
15 response broadcasters who, with certain restrictions, must be given access to an
16 area affected by an emergency or disaster for the purpose of restoring, repairing or
17 resupplying any facility or equipment critical to the ability of a broadcaster to
18 acquire, produce and transmit essential emergency- or disaster-related public
19 information programming. Each program established pursuant to **section 5** must be
20 consistent with federal law and guidelines.

21 Existing law provides the Governor with broad authority to seize materials and
22 facilities for emergency management without regard to the limitations of any
23 existing law. (NRS 414.070) **Sections 7 and 9** of this bill provide that this grant of
24 authority to the Governor and the authority granted to the executive heads or
25 governing bodies of the political subdivisions of this State must not be construed to
26 allow the confiscation of equipment, supplies or facilities of a broadcaster or first
27 response broadcaster if the equipment, supplies or facilities will be used to enable
28 the broadcast of essential emergency- or disaster-related public information
29 programming in an area affected by an emergency or disaster. **Section 6** of this bill
30 provides that, to the extent practicable and consistent with not endangering public
31 safety, broadcasters and first response broadcasters must be given priority for the
32 distribution of fuel, food, water and any other equipment, supplies or facilities over
33 all persons other than persons who provide essential emergency services, health
34 care and utility restoration services.

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

1 **Section 1.** Chapter 414 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 7, inclusive, of this
3 act.

4 **Sec. 2.** *“Broadcaster” has the meaning ascribed to it in*
5 *NRS 432.310.*

6 **Sec. 3.** *“First response broadcaster” means a person who*
7 *has been certified as a first response broadcaster pursuant to*
8 *section 5 of this act.*

9 **Sec. 4.** *Broadcasters in this State shall, in cooperation with*
10 *the Division of Emergency Management of the Department of*
11 *Public Safety and the Nevada Broadcasters Association or its*
12 *successor organization, develop comprehensive, coordinated plans*
13 *for preparing for and responding appropriately to an emergency*
14 *or disaster.*

15 **Sec. 5.** *1. The Nevada Broadcasters Association or its*
16 *successor organization, the Nevada State Cable*
17 *Telecommunications Association or its successor organization,*
18 *any member of the Nevada State Cable Telecommunications*
19 *Association or its successor organization and any other provider*
20 *of emergency broadcasts, including, without limitation, a provider*
21 *who uses emerging technologies, may establish a program for*
22 *training and certifying broadcast engineers and technical*



1 *personnel as first response broadcasters. Each program*
2 *established pursuant to this subsection must:*

3 *(a) Be consistent with federal law and guidelines;*

4 *(b) Provide training and education concerning restoring,*
5 *repairing and resupplying any facilities and equipment of a*
6 *broadcaster in an area affected by an emergency or disaster; and*

7 *(c) Provide training and education concerning the personal*
8 *safety of a first response broadcaster in an area affected by an*
9 *emergency or disaster.*

10 *2. To the extent practicable and consistent with not*
11 *endangering public safety or inhibiting recovery efforts, state and*
12 *local governmental agencies shall allow a first response*
13 *broadcaster access to an area affected by an emergency or disaster*
14 *for the purpose of restoring, repairing or resupplying any facility*
15 *or equipment critical to the ability of a broadcaster to acquire,*
16 *produce and transmit essential emergency- or disaster-related*
17 *public information programming, including, without limitation,*
18 *repairing and maintaining transmitters and transporting fuel for*
19 *generators.*

20 **Sec. 6.** *To the extent practicable and consistent with not*
21 *endangering public safety, during an emergency or disaster, a*
22 *broadcaster or first response broadcaster in an area affected by*
23 *the emergency or disaster must be given priority for the*
24 *distribution of fuel, food, water and any other equipment, supplies*
25 *or facilities over all persons other than persons who provide*
26 *essential emergency services, health care and utility restoration*
27 *services.*

28 **Sec. 7.** *To the extent practicable and consistent with not*
29 *endangering public safety, the emergency powers conferred upon*
30 *the Governor and upon the executive heads or governing bodies of*
31 *the political subdivisions of this State must not be construed to*
32 *allow the confiscation of vehicles, fuel, food, water or any other*
33 *equipment, supplies or facilities from a broadcaster or first*
34 *response broadcaster if the broadcaster or first response*
35 *broadcaster adequately documents that the equipment, supplies or*
36 *facilities will be used to enable the broadcast of essential*
37 *emergency- or disaster-related public information programming in*
38 *an area affected by an emergency or disaster.*

39 **Sec. 8.** NRS 414.030 is hereby amended to read as follows:

40 414.030 As used in this chapter, the words and terms defined
41 in NRS 414.031 to 414.038, inclusive, *and sections 2 and 3 of this*
42 *act* have the meanings ascribed to them in those sections.

43 **Sec. 9.** NRS 414.070 is hereby amended to read as follows:

44 414.070 The provisions of this section are operative only
45 during the existence of a state of emergency or declaration of



1 disaster. The existence of such an emergency or disaster may be
2 proclaimed by the Governor or by resolution of the Legislature if the
3 Governor in his proclamation, or the Legislature in its resolution,
4 finds that an attack upon the United States has occurred or is
5 anticipated in the immediate future, or that a natural, technological
6 or man-made emergency or disaster of major proportions has
7 actually occurred within this State, and that the safety and welfare of
8 the inhabitants of this State require an invocation of the provisions
9 of this section. Any such emergency or disaster, whether proclaimed
10 by the Governor or by the Legislature, terminates upon the
11 proclamation of the termination thereof by the Governor, or
12 the passage by the Legislature of a resolution terminating the
13 emergency or disaster. During the period when a state of emergency
14 or declaration of disaster exists or continues, the Governor may
15 exercise the following additional powers:

16 1. To enforce all laws and regulations relating to emergency
17 management and to assume direct operational control of any or all
18 forces, including, without limitation, volunteers and auxiliary staff
19 for emergency management in the State.

20 2. To sell, lend, lease, give, transfer or deliver materials or
21 perform services for the purpose of emergency management on such
22 terms and conditions as the Governor prescribes and without regard
23 to the limitations of any existing law, and to account to the State
24 Treasurer for any ~~{funds}~~ *money* received for such property.

25 3. Except as otherwise provided in NRS 414.155 ~~{}~~ *and*
26 *section 7 of this act*, to procure, by purchase, condemnation, seizure
27 or other means, construct, lease, transport, store, maintain, renovate
28 or distribute materials and facilities for emergency management
29 without regard to the limitations of any existing law. The Governor
30 shall make compensation for the property so seized, taken or
31 condemned on the following basis:

32 (a) If property is taken for temporary use, the Governor, within
33 90 days after the taking, shall fix the amount of compensation to be
34 paid therefor. If the property is returned to the owner in a damaged
35 condition, or is not returned to the owner, the Governor shall fix
36 within 90 days the amount of compensation to be paid for the
37 damage or failure to return the property. If the Governor deems it
38 advisable for the State to take title to property taken under this
39 section, he shall forthwith cause the owner of the property to be
40 notified thereof in writing by registered or certified mail, postage
41 prepaid, or by the best means available, and forthwith cause to be
42 filed a copy of the notice with the Secretary of State.

43 (b) Within the 90-day period prescribed in paragraph (a), the
44 Governor shall make an offer in writing to the person or persons
45 entitled to receive it of the amount of money proposed to be paid as



1 full compensation. If the offer is accepted, the money must be paid
2 out of such fund, funds or other sources as are available and no
3 further action in law or in equity may ever be maintained in
4 connection therewith. If the offer of payment is refused, the person
5 or persons entitled thereto have the same rights as plaintiffs in
6 actions of eminent domain insofar as the fixing of damages and
7 compensation is concerned, NRS 37.060, 37.070, 37.080 and
8 37.090, so far as applicable, apply, and proceedings must be had in
9 conformity therewith so far as possible. The action must be
10 commenced within 1 year after the receipt of the offer of settlement
11 from the Governor.

12 4. To provide for and compel the evacuation of all or part of
13 the population from any stricken or threatened area or areas within
14 the State and to take such steps as are necessary for the receipt and
15 care of those persons.

16 5. Subject to the provisions of the State Constitution, to remove
17 from office any public officer having administrative responsibilities
18 under this chapter for willful failure to obey an order or regulation
19 adopted pursuant to this chapter. The removal must be upon charges
20 after service upon the officer of a copy of the charges and after
21 giving him an opportunity to be heard in his defense. Pending the
22 preparation and disposition of charges, the Governor may suspend
23 the officer for a period not exceeding 30 days. A vacancy resulting
24 from removal or suspension pursuant to this section must be filled
25 as provided by law.

26 6. To perform and exercise such other functions, powers and
27 duties as are necessary to promote and secure the safety and
28 protection of the civilian population.

29 **Sec. 10.** This act becomes effective upon passage and
30 approval.

