

SENATE BILL NO. 210—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF PUBLIC UTILITIES COMMISSION OF NEVADA)

FEBRUARY 20, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning regulation of utilities. (BDR 58-540)

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 utilities; revising provisions governing the establishment of the rates of certain utilities; authorizing the release of certain accident reports under certain circumstances; revising provisions governing applications for changes to railroad crossings; changing the dates for the calculation and payment of assessments by railroads; revising provisions governing the adoption of water conservation and incentive plans by utilities; revising provisions governing the provision of utility services to mobile home parks and company towns to include services from alternative sellers; providing for the acquisition of utility services by mobile home parks from alternative sellers; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 704.095 is hereby amended to read as follows:
2 704.095 The commission shall adopt regulations which provide a
3 simplified procedure *or methodology* for a change of rates for those public
4 utilities which furnish water or services for the disposal of sewage, or both,
5 to persons within this state for compensation, and which:
6 1. Serve 3,000 or fewer persons; and
7 2. Had during the immediately preceding 12-month period gross sales
8 for water or services for the disposal of sewage, or both, amounting to
9 \$1,000,000 or less.
10 **Sec. 2.** NRS 704.190 is hereby amended to read as follows:
11 704.190 1. Every public utility operating in this state shall, whenever
12 an accident occurs in the conduct of its operation causing death, give
13 prompt notice thereof to the commission, in such manner and within such
14 time as the commission may prescribe. If , in its judgment , the public
15 interest requires it, the commission may cause an investigation to be made



1 forthwith of any accident, at such place and in such manner as the
2 commission deems best.

3 2. Every such public utility shall report to the commission, at the time,
4 in the manner and on such forms as the commission by its printed rules and
5 regulations prescribes, all accidents happening in this state and occurring
6 in, on or about the premises, plant, instrumentality or facility used by any
7 such utility in the conduct of its business.

8 3. The commission shall adopt all reasonable rules and regulations
9 necessary for the administration and enforcement of this section. The rules
10 and regulations must ~~in any event~~ require that all accidents required to be
11 reported pursuant to this section be reported to the commission at least
12 once every calendar month by such officer or officers of the utility as the
13 commission directs.

14 4. The commission shall adopt and utilize all accident report forms,
15 which ~~forms~~ must be so designed as to provide a concise and accurate
16 report of the accident. ~~and which~~ The report must ~~in any event~~ show
17 the true cause of the accident. The accident report forms adopted for the
18 reporting of railroad accidents must *, as near as practicable,* be the same
19 in design as ~~near as may be as~~ the railroad accident report forms provided
20 and used by the Surface Transportation Board.

21 5. If any accident *is* reported to the commission ~~is reported~~ by the
22 utility as being caused by or through the negligence of an employee and
23 thereafter the employee is absolved from such negligence by the utility and
24 found not to be responsible for the accident, that fact must be reported by
25 the utility to the commission.

26 6. All accident reports required pursuant to this section must be filed in
27 the office of the commission and there preserved. Notwithstanding any
28 ~~other provisions of law,~~ *specific statute to the contrary,* neither any
29 accident report made as required by this chapter, nor any report of the
30 commission made pursuant to ~~any accident investigation made by it,~~ *its*
31 *investigation of an accident,* may be open to public inspection or disclosed
32 to any person, except *, upon request, to a governmental agency or the*
33 *utility that filed the accident report, or* upon order of the commission, nor
34 may ~~either or any of the reports,~~ *any such report,* or any portion thereof,
35 be admitted as evidence or used for any purpose in ~~any~~ *a* suit or action
36 for damages growing out of any matter mentioned in the ~~accident report or~~
37 ~~report of any such investigation,~~ *report.*

38 7. *If a utility or governmental agency receives a report concerning*
39 *the utility pursuant to subsection 6 and the utility does not disclose the*
40 *information contained in the report or otherwise waives the*
41 *confidentiality of that information:*

42 (a) *The information received by the utility or a governmental agency*
43 *remains confidential; and*

44 (b) *The information may not be admitted as evidence or used for any*
45 *purpose in a suit or action for damages growing out of any matter*
46 *mentioned in the report.*

47 **Sec. 3.** NRS 704.300 is hereby amended to read as follows:

48 704.300 1. After an investigation and hearing ~~it~~ which has been
49 initiated either upon the commission's own motion ~~it~~ or as the result of the



1 filing of a formal application or complaint by the department of
2 transportation, the board of county commissioners of any county, the town
3 board or council of any town or municipality, or any railroad company, the
4 commission may determine, and order for the safety of the traveling public:

5 (a) The elimination, alteration, addition or change of a highway crossing
6 or crossings over any railroad at grade, or above or below grade, including
7 its approaches and surface.

8 (b) Changes in the method of crossing at grade, or above or below
9 grade.

10 (c) The closing of a crossing and the substitution of another therefor.

11 (d) The removal of obstructions to the public view in approaching any
12 crossing.

13 (e) Such other details of use, construction and operation as may be
14 necessary to make grade-crossing elimination, changes and betterments for
15 the protection of the public and the prevention of accidents effective.

16 2. *A formal application must be filed with the commission by the*
17 *department of transportation, the board of county commissioners of any*
18 *county, the town board or council of any town or municipality, or any*
19 *railroad company to:*

20 (a) *Eliminate, alter, add or change a highway crossing or crossings*
21 *over any railroad at grade, or above or below grade, including its*
22 *approaches and surface;*

23 (b) *Add or remove a traffic lane through a crossing;*

24 (c) *Add an active warning device to a crossing that does not have such*
25 *a device;*

26 (d) *Remove an active warning device at a crossing;*

27 (e) *Realign a roadway or track through a crossing, if the realignment*
28 *is more than 20 degrees from its current alignment; or*

29 (f) *Make any changes to the elevation of a track.*

30 *The commission shall act on an application filed pursuant to this*
31 *subsection within 6 months after the date on which it receives the*
32 *application.*

33 3. The commission shall order that the cost of any elimination,
34 removal, addition, change, alteration or betterment so ordered must be
35 divided and paid in such proportion by the state, county, town or
36 municipality and the railroad or railroads interested as is provided
37 according to the circumstances occasioning the cost, in NRS 704.305.

38 ~~3.1~~ 4. All costs incurred by reason of any hearing held under this
39 section before the commission, including , but not limited to *the*
40 publication of notices, reporting, transcripts and rental of *a* hearing room,
41 must be apportioned 50 percent to the governmental unit or units affected
42 and 50 percent to the railroad or railroads.

43 **Sec. 4.** NRS 704.309 is hereby amended to read as follows:

44 704.309 1. The commission shall levy and collect an annual
45 assessment from each railroad subject to the jurisdiction of the commission
46 that transports cargo into, out of or through this state to support the
47 activities of the commission relating to railroad safety.

48 2. The annual assessment levied on railroads:



1 (a) Must be equal to the costs incurred by the commission that are not
2 offset by the fees paid pursuant to NRS 459.512.

3 (b) Must be not more than 1 cent per ton of cargo transported by the
4 railroads into, out of or through this state during the immediately preceding
5 calendar year.

6 3. On or before ~~August~~ *September* 1 of each year, the commission
7 shall:

8 (a) Calculate the amount of the assessment to be levied pursuant to this
9 section for the previous fiscal year; and

10 (b) Mail to each railroad subject to the provisions of this section to the
11 current address of the railroad on file with the commission a notice
12 indicating the amount of the assessment. The failure of the commission to
13 so notify a railroad does not invalidate the assessment.

14 4. An assessment levied pursuant to this section is due on or before
15 ~~October~~ *November* 1 of each year. Each railroad that is subject to the
16 provisions of this section which fails to pay the assessment on or before
17 ~~November~~ *December* 1, shall pay, in addition to the assessment, a penalty
18 of 1 percent of the total unpaid balance for each month or portion thereof
19 that the assessment is delinquent or \$10, whichever is greater, except that
20 no penalty may exceed \$1,000 for each delinquent payment.

21 5. If a railroad sells or transfers its certificate of public convenience
22 and necessity or sells or transfers substantially all of its assets, the
23 commission shall calculate, levy and collect the accrued assessment for the
24 current year not later than 30 days after the sale or transfer, unless the
25 purchaser or transferee has assumed liability for the assessment. For the
26 purposes of this subsection, the jurisdiction of the commission over the sale
27 or transfer of a railroad continues until the assessment of the railroad has
28 been paid.

29 6. The commission may bring an appropriate action in its own name
30 for the collection of any assessment and penalty that is not paid pursuant to
31 this section.

32 **Sec. 5.** NRS 704.662 is hereby amended to read as follows:

33 704.662 1. Except as otherwise provided in subsection 5, each public
34 utility which furnishes, for compensation, any water for municipal,
35 industrial or domestic purposes shall adopt a plan of water conservation
36 based on the climate and the living conditions in its service area in
37 accordance with the provisions of NRS 704.6622. The provisions of the
38 plan must only apply to the public utility's property and its customers.

39 2. As part of the procedure of adopting a plan, the public utility shall
40 provide an opportunity for any interested party, including, but not limited
41 to, any private or public entity that supplies water for municipal, industrial
42 or domestic purposes, to submit written views and recommendations on the
43 plan.

44 3. Except as otherwise provided in subsection 6, the plan:

45 (a) Must be available for inspection by members of the public during
46 office hours at the office of the public utility; and

47 (b) May be revised from time to time to reflect the changing needs and
48 conditions of the service area. Each such revision must be filed with the



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1 commission and made available for inspection by members of the public
2 within 30 days after its adoption.

3 4. ~~[[The plan must be submitted to the commission on or before July 1,~~
4 ~~1992. The commission shall review the plan for compliance with this~~
5 ~~section within 30 days after its submission.]]~~ The plan must be approved by
6 the commission before it is put into effect.

7 5. In lieu of adopting a plan pursuant to subsection 1, a public utility
8 which is subject to the provisions of NRS 704.095 may elect to comply
9 with a plan of water conservation adopted by the commission for this
10 purpose.

11 6. If the public utility is required by order of the commission to file a
12 management plan for water resources, the public utility may adopt and file
13 the plan of water conservation with the commission at the same time it is
14 required to file the management plan for water resources.

15 **Sec. 6.** NRS 704.6624 is hereby amended to read as follows:

16 704.6624 1. Each public utility which furnishes, for compensation,
17 any water for municipal, industrial or domestic purposes shall ~~[- on or~~
18 ~~before July 1, 1992.]~~ adopt a plan to provide incentives:

- 19 (a) To encourage water conservation in its service area;
20 (b) To retrofit existing structures with plumbing fixtures designed to
21 conserve the use of water; and
22 (c) For the installation of landscaping that uses a minimal amount of
23 water.

24 2. As part of the procedure of adopting a plan, the public utility shall
25 provide an opportunity for any interested person to submit written views
26 and recommendations on the plan.

27 3. The plan:

28 (a) Must be available for inspection by members of the public during
29 office hours at the office of the public utility; and

30 (b) May be revised from time to time to reflect the changing needs and
31 conditions of the service area. Each such revision must be filed with the
32 commission and made available for inspection by members of the public
33 within 30 days after its adoption.

34 4. The commission shall review the plan for compliance with this
35 section within 30 days after its submission. The plan must be approved by
36 the commission before it is put into effect.

37 **Sec. 7.** NRS 704.905 is hereby amended to read as follows:

38 704.905 As used in NRS ~~[704.910]~~ 704.905 to 704.960, inclusive:

39 1. ***"Alternative seller" includes:***

40 (a) ***For electric services, an alternative seller as that term is defined in***
41 ***NRS 704.967; and***

42 (b) ***For gas services, an alternative seller as that term is defined in***
43 ***NRS 704.994.***

44 2. "Company town" means a community whose primary purpose is to
45 provide housing to employees of a person who owns not less than 70
46 percent of the dwellings, and may include commercial or other supporting
47 establishments.

48 ~~[2.]~~ 3. "Dwelling" includes a commercial or other supporting
49 establishment.



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1 ~~13-1~~ 4. "Utility" includes a public utility and all city, county or other
2 governmental entities which provide electric, gas or water service to a
3 mobile home park or a company town.

4 **Sec. 8.** NRS 704.910 is hereby amended to read as follows:

5 704.910 1. The provisions of NRS 704.910 to 704.960, inclusive,
6 apply to mobile home parks governed by the provisions of chapters 118B
7 and 461A of NRS, utilities *and alternative sellers* which provide *utility*
8 service to those parks and landlords who operate those parks.

9 2. A utility *or an alternative seller* which provides gas, water or
10 electricity to any landlord exclusively for distribution or resale to tenants
11 residing in mobile homes or for the landlord's residential use shall not
12 charge the landlord for those services at a rate higher than the current rates
13 offered by the utility *or alternative seller, as appropriate*, to its residential
14 customers.

15 **Sec. 9.** NRS 704.920 is hereby amended to read as follows:

16 704.920 1. The provisions of NRS 704.920 to 704.960, inclusive,
17 apply to company towns, utilities *and alternative sellers* which provide
18 *utility* services to company towns, and persons who own and operate
19 company towns.

20 2. The commission shall require a public utility *or an alternative*
21 *seller, as appropriate*, which provides ~~service~~ *utility services* to a mobile
22 home park or to a company town, or an independent person who is
23 qualified, to conduct examinations to examine and test the lines and
24 equipment for distributing electricity and gas within the park or town at the
25 request of the manufactured housing division of the department of business
26 and industry or a city or county which has responsibility for the
27 enforcement of the provisions of chapter 461A of NRS. The utility ~~H~~ *or*
28 *alternative seller*, the person selected to conduct the examination and the
29 commission may enter a mobile home park or company town at reasonable
30 times to examine and test the lines and equipment, whether or not they are
31 owned by a utility ~~H~~ *or an alternative seller*.

32 3. The utility *or alternative seller, as appropriate*, or the person
33 selected to conduct the examination, shall conduct the examination and
34 testing to determine whether any line or equipment is unsafe for service
35 under the safety standards adopted by the commission for the maintenance,
36 use and operation of lines and equipment for distributing electricity and
37 gas, and shall report the results of the examination and testing to the
38 commission.

39 4. The owner of the mobile home park or company town shall pay for
40 the costs of the examination and testing.

41 5. If the landlord of a mobile home park or owner of a company town
42 refuses to allow the examination and testing to be made as provided in this
43 section, the commission shall deem the unexamined lines and equipment to
44 be unsafe for service.

45 6. If the commission finds:

46 (a) Or deems any lines or equipment within a mobile home park or
47 company town to be unsafe for service, it shall take appropriate action to
48 protect the safety of the residents of the park or town.



1 (b) Such lines or equipment to be unsafe for service or otherwise not in
2 compliance with its safety standards, it may, after a hearing, order the
3 landlord or owner to repair or replace such lines and equipment. For this
4 purpose ~~he~~, *the landlord or owner* may expend some or all of the money
5 in his account for service charges for utilities, which he is required to keep
6 under NRS 704.940.

7 **Sec. 10.** NRS 704.930 is hereby amended to read as follows:

8 704.930 If a utility ~~furnishes~~ *or an alternative seller provides a*
9 *utility* service to a mobile home park or company town and the landlord of
10 the park or owner of the town charges his tenants or the occupants of his
11 dwellings for that service, ~~he~~ *the landlord or owner* shall:

12 1. Provide that service to his tenants or the occupants of his dwellings
13 in a manner which is consistent with the utility's tariffs on file with the
14 commission, *if applicable*, and any law, ordinance or governmental
15 regulation relating to the provision of ~~those services~~ *that service*. The
16 landlord or owner of the town shall not interrupt such a service for
17 nonpayment of charges unless the interruption is performed in a manner
18 which is consistent with the utility's tariffs on file with the commission, *if*
19 *applicable*, and any law, ordinance or governmental regulation relating to
20 the manner of interrupting such a service for nonpayment of charges.

21 2. Not more than 5 days after he receives notice of a proposed increase
22 in the ~~utility's rates~~, *rates of the utility service*, give notice to his tenants
23 or those occupants of the proposed increase.

24 **Sec. 11.** NRS 704.940 is hereby amended to read as follows:

25 704.940 1. In a mobile home park or company town where the
26 landlord or owner is billed by a gas or electric utility *or an alternative*
27 *seller* and in turn charges the tenants or occupants of the dwellings for the
28 service provided by the utility ~~it~~ *or alternative seller*, and the park or
29 town:

30 (a) Is equipped with individual meters for each lot, the landlord or
31 owner shall not charge a tenant or occupant for that service at a rate higher
32 than the rate paid by the landlord or owner.

33 (b) Is not equipped with individual meters for each lot, the landlord or
34 owner shall prorate the cost of the service equally among the tenants of the
35 park or occupants of the dwellings who use the service, but the prorated
36 charges must not exceed in the aggregate the cost of the service to the
37 landlord or owner.

38 2. In a mobile home park or company town that:

39 (a) Is equipped with individual water meters for each lot, the individual
40 meters must be read and billed by the purveyor of the water.

41 (b) Is not equipped with individual water meters for each lot and the
42 landlord or owner is billed by the purveyor of the water and in turn charges
43 the tenants or occupants of the dwellings for the service provided by the
44 purveyor, the landlord or owner shall prorate the cost of the service equally
45 among the tenants of the park or occupants of the dwellings who use the
46 service, but the prorated charges must not exceed in the aggregate the cost
47 of the service to the landlord or owner.

48 The landlord or owner of a mobile home park that converts from a master-
49 metered water system to individual water meters for each mobile home lot



1 shall not charge or receive any fee, surcharge or rent increase to recover
2 from his tenants the costs of the conversion. The owner of a company town
3 that is not equipped with individual water meters shall not convert from the
4 master-metered water system to individual water meters.

5 3. To the extent *that* the cost of providing *a utility* service to the
6 common area of a mobile home park or company town can be identified,
7 the landlord or owner may not recover the cost of ~~{service provided by}~~ the
8 utility *service provided* to the common area by directly charging a tenant or
9 the occupant of a dwelling for those services.

10 4. The landlord of a mobile home park or owner of a company town
11 may assess and collect a charge to reimburse him for the actual cost of the
12 service charge he is required to pay to a water utility serving the park or
13 town. If he collects such a charge, he shall prorate the actual cost of the
14 service charge to the tenants or occupants of dwellings who use the service.
15 He shall not collect more than the aggregate cost of the service to him.

16 5. The landlord may assess and collect a service charge ~~{for gas and~~
17 ~~electric utilities}~~ from the tenants of the park ~~{}~~ *for the provision of gas*
18 *and electric utility services*, but the amount of the charge must not be more
19 than the tenants would be required to pay the ~~{serving utility}~~ *utility or*
20 *alternative seller providing the service*. The landlord shall:

21 (a) Keep the money from the service charges in a separate account and
22 expend it only for federal income taxes which must be paid as a result of
23 the collection of the service charge, for preventive maintenance or for
24 repairing or replacing utility lines or equipment when ordered or granted
25 permission to do so by the commission; and

26 (b) Retain for at least 3 years a complete record of all deposits and
27 withdrawals of money from the account and file the record with the
28 commission on or before March 30 of each year.

29 6. Money collected by the landlord or owner for service provided by a
30 utility *or an alternative seller* to the tenants of a mobile home park or
31 occupants of the dwellings may not be used to maintain, repair or replace
32 utility lines or equipment serving the common area of the mobile home
33 park or company town.

34 7. The owner of a company town who provides a utility service
35 directly to the occupants of the town may charge the occupants their pro
36 rata share of his cost of providing that service. Where meters are available,
37 the pro rata share must be based on meter readings. Where meters are not
38 available, the owner shall determine a fair allocation which must be
39 explained in detail to the commission in the reports required by NRS
40 704.960. The commission may modify the allocation in accordance with its
41 regulations if it determines the owner's method not to be fair. The
42 commission shall adopt regulations governing the determination of the
43 costs which an owner of a company town may recover for providing a
44 utility service directly to the occupants of that town and the terms and
45 conditions governing the provision of that service.

46 8. The landlord or owner shall itemize all charges for ~~{utilities}~~ *utility*
47 *services* on all bills for rent or occupancy. ~~{He}~~ *The landlord or owner*
48 may pass through to the tenant or occupant any increase in a rate for a



1 utility *service* and shall pass through any decrease in a charge for a utility
2 *service* as it becomes effective.

3 9. The landlord or owner shall retain for at least 3 years a copy of all
4 billings for ~~utilities~~ *utility services* made to his tenants or the occupants of
5 his dwellings and shall make these records available upon request to the
6 commission for verification of charges made for ~~utilities~~ *utility services*.

7 10. A landlord whose interest in a mobile home park terminates for
8 any reason shall transfer to his successor in interest any balance remaining
9 in the account for service charges for utilities. Evidence of the transfer
10 must be filed with the commission.

11 11. The commission may at any time examine all books and records
12 which relate to the landlord's or owner's purchase of or billing for a
13 service provided by a utility *or an alternative seller* if he is charging the
14 tenants of the mobile home park or occupants of the dwellings for that
15 service.

16 **Sec. 12.** NRS 461A.230 is hereby amended to read as follows:

17 461A.230 1. Each mobile home park constructed after July 1, 1981,
18 but before October 1, 1989, must provide direct electrical and gas service
19 from ~~the~~ *a utility or an alternative seller* to each lot if those services are
20 available.

21 2. Each mobile home park constructed after October 1, 1989, must
22 provide direct:

23 (a) Electrical and gas service from a public utility *or an alternative*
24 *seller*, or a city, county or other governmental entity which provides
25 electrical or gas service, to each lot if those services are available.

26 (b) Water service from a public utility or a city, county or other
27 governmental entity which provides water service, the provisions of NRS
28 704.230 notwithstanding, to the park if that service is available.

29 3. In a county whose population is 400,000 or more, each mobile home
30 park constructed after October 1, 1995, must provide direct water service,
31 as provided in paragraph (b) of subsection 2, that is connected to individual
32 meters for each lot. The individual meters must be installed in compliance
33 with any uniform design and construction standards adopted by the public
34 utility or city, county or other governmental entity which provides water
35 service in the county.

36 4. *As used in this section, "alternative seller" includes:*

37 (a) *For electric services, an alternative seller as that term is defined in*
38 *NRS 704.967; and*

39 (b) *For gas services, an alternative seller as that term is defined in*
40 *NRS 704.994.*

41 **Sec. 13.** 1. This section and section 4 of this act become effective on
42 July 1, 2001.

43 2. Sections 1, 2, 3 and 5 to 12, inclusive, of this act become effective
44 on October 1, 2001.

