

Assembly Bill No. 139—Committee on
Commerce and Labor

CHAPTER.....

AN ACT relating to utilities; exempting certain public utilities from provisions governing stocks, security transactions, mergers, acquisitions, changes in control, and disposal or encumbrance of property; and providing other matters properly relating thereto.

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

Section 1. NRS 704.328 is hereby amended to read as follows:
704.328 The provisions of NRS 704.322 to 704.326, inclusive, shall not apply to any public utility engaged in ~~interstate~~ :

1. Interstate commerce if 25 percent or more of the operating revenues of such public utility are derived from interstate commerce.

2. The business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this state if the utility:

(a) Serves 15 persons or less; and

(b) Operates in a county whose population is 400,000 or more.

Sec. 2. NRS 704.329 is hereby amended to read as follows:

704.329 1. Except as otherwise provided in subsection 6, a person shall not merge with, directly acquire, indirectly acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of a public utility doing business in this state or an entity that holds a controlling interest in such a public utility without first submitting to the Commission an application for authorization of the proposed transaction and obtaining authorization from the Commission.

2. Any transaction that violates the provisions of this section is void and unenforceable and is not valid for any purpose.

3. Before authorizing a proposed transaction pursuant to this section, the Commission shall consider the effect of the proposed transaction on the public interest and the customs in this state. The Commission shall not authorize the proposed transaction unless the Commission finds that the proposed transaction:

(a) Will be in the public interest; and

(b) Complies with the provisions of NRS 704.7561 to 704.7595, inclusive, if the proposed transaction is subject to those provisions.

4. The Commission may base its authorization of the proposed transaction upon such terms, conditions or modifications as the Commission deems appropriate.

5. If the Commission does not issue a final order regarding the proposed transaction within 180 days after the date on which an application or amended application for authorization of the proposed transaction was filed with the Commission, and the proposed transaction is not subject to the provisions of NRS 704.7561 to 704.7595, inclusive, the proposed transaction shall be deemed to be authorized by the Commission.

6. The provisions of this section do not apply to:

(a) The transfer of stock of a public utility doing business in this state or to the transfer of the stock of an entity that holds a controlling interest in such a public utility, if a transfer of not more than 25 percent of the common stock of such a public utility or entity is proposed.

(b) Except as otherwise provided in this paragraph, a proposed transaction involving a public utility doing business in this state providing telecommunication services or an entity that holds a controlling interest in such a public utility if, in the most recently completed calendar year, not more than 10 percent of the gross operating revenue of the public utility or the entity that holds a controlling interest in the public utility was derived from intrastate telecommunication services provided to retail customers in this state by the public utility. Such a proposed transaction is not exempted from the provisions of this section if:

(1) Not later than 30 days after the date on which the person undertaking the proposed transaction submits the notification required by 15 U.S.C. § 18a, the regulatory operations staff of the Commission or the Consumer's Advocate requests an order from the Commission requiring the person to file an application for authorization of the proposed transaction;

(2) The request alleges in sufficient detail that the proposed transaction may materially affect retail customers of public utilities in this state; and

(3) The Commission issues an order requiring the person to file an application for authorization of the proposed transaction.

(c) A public utility engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this state if the utility:

(1) Serves 15 persons or less; and

(2) Operates in a county whose population is 400,000 or more.

7. As used in this section:

(a) "Person" means:

(1) A natural person;

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a

corporation, partnership, association, trust or unincorporated organization;

(3) A government or an agency or instrumentality of a government, including, without limitation, this state or an agency or instrumentality of this state; and

(4) A political subdivision of this state or of any other government or an agency or instrumentality of a political subdivision of this state or of any other government.

(b) "Transaction" means a merger, acquisition or change in control described in subsection 1.

Sec. 3. NRS 704.668 is hereby amended to read as follows:

704.668 1. It is unlawful for any public utility which serves 3,000 or fewer persons and furnishes water or services for the disposal of sewage, or both, to:

(a) Sell, lease or otherwise dispose of; or

(b) Encumber by mortgage, deed of trust, security agreement or otherwise,

any or all of its real property or goods, including fixtures, or any combination thereof which are necessary in the present or future performance of its duties to the public regarding water or sewage without first obtaining approval from the Commission which authorizes the public utility to do so. This limitation applies to any interest in real property, including, without limitation, easements and water rights.

2. Any such action:

(a) Which is not taken in accordance with the approval of the Commission; or

(b) Which is taken without obtaining the approval from the Commission,
is void.

3. If the public utility is disposing of all of its real property and goods, the Commission shall hold a public hearing on the matter before determining whether to approve the disposal.

4. The Commission shall adopt regulations which set forth the types and quantities of property and goods that are necessary in the performance of the duties of the various classes of public utilities.

5. The provisions of this section are not intended to limit the regulatory authority of the Commission granted in other sections of this chapter.

6. The provisions of this section do not apply to a public utility engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this state if the utility:

(a) Serves 15 persons or less; and

(b) Operates in a county whose population is 400,000 or more.

Sec. 4. This act becomes effective upon passage and approval.