

ASSEMBLY BILL NO. 151—ASSEMBLYMEN OCEGUERA, CONKLIN, ANDERSON, PARKS, ATKINSON, BUCKLEY, CARPENTER, CHRISTENSEN, CLABORN, DENIS, GERHARDT, GOICOECHEA, GRADY, HARDY, HETTRICK, HORNE, KIRKPATRICK, LESLIE, MARVEL, MCCLEARY, MUNFORD, PARNELL, PERKINS, PIERCE, SHERER AND SMITH

MARCH 1, 2005

JOINT SPONSORS: SENATORS CARLTON, SCHNEIDER, TOWNSEND, TITUS, COFFIN, HORSFORD, LEE AND MCGINNESS

Referred to Committee on Commerce and Labor

SUMMARY—Imposes fee on residential subscription television service and dedicates proceeds from fee to assist certain governmental entities in acquiring, improving and maintaining communications technology for first responders. (BDR 58-268)

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 communications; imposing a fee on the gross revenue that a company derives from its sales of residential subscription television service to subscribers in this State; establishing the First Responders' Communications Technology Trust Fund; dedicating the proceeds from the fee to the Trust Fund to assist certain governmental entities in acquiring, improving and maintaining communications technology for first responders; providing for the administration of the Trust Fund and the distribution of money from the Trust Fund; creating an Advisory Board for the Trust Fund; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Under existing law, some local governments may collect license taxes and franchise fees from certain companies providing residential subscription television service within their local jurisdictions. (NRS 244.335, 268.095, 711.200)

This bill imposes a statewide fee on certain companies providing residential subscription television service. Such service includes cable television service, direct broadcast satellite television service, microwave television transmission service or any similar subscription multichannel video programming service.

This bill requires the Department of Taxation to administer and collect the statewide fee. The proceeds from the statewide fee must be deposited in the newly created First Responders' Communications Technology Trust Fund.

This bill provides that the money in the Trust Fund must be used to award grants each fiscal year to local governments and Indian tribes to acquire, improve and maintain communications technology that provides for transmission, reception and interoperability among first responders, such as fire, police, medical, public health and safety, and civil defense personnel. For a specified period, 60 percent of the money in the Trust Fund must be awarded to local governments and Indian tribes with a population of less than 400,000 within their jurisdictions. The Director of the Department of Public Safety and a newly created Advisory Board are charged with administering and awarding grants from the Trust Fund.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 15, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Advisory Board" means the Advisory Board for the First Responders' Communications Technology Trust Fund created pursuant to section 20 of this act.*

Sec. 4. *"Community antenna television company" has the meaning ascribed to it in NRS 711.030.*

Sec. 5. *"Community antenna television service" means any subscription multichannel video programming service that is provided through a community antenna television system pursuant to chapter 711 of NRS.*

Sec. 6. *"Direct broadcast satellite television company" means any person who provides direct broadcast television service to one or more subscribers in this State.*

Sec. 7. *"Direct broadcast satellite television service" means any subscription multichannel video programming service that is transmitted or broadcasted by satellite directly to the premises of a subscriber without the use of any ground equipment to receive or*



1 *distribute the programming, other than ground equipment that is*
2 *used:*

3 *1. At the premises of the subscriber to receive the*
4 *programming; or*

5 *2. To uplink the programming to the satellite.*

6 **Sec. 8.** *“Director” means the Director of the Department of*
7 *Public Safety.*

8 **Sec. 9.** *“First responder” means a person who is an*
9 *employee or contractor of a political subdivision or an Indian tribe*
10 *and who has a duty to respond and provide emergency aid or*
11 *assistance in the event of an act of terrorism, a natural disaster or*
12 *any other emergency situation. The term includes, without*
13 *limitation, fire, police, medical, public health and safety, and civil*
14 *defense personnel.*

15 **Sec. 10.** *“Indian tribe” means any Indian tribe, band, colony*
16 *or group within this State, or any intertribal organization within*
17 *this State.*

18 **Sec. 11.** *“Microwave television transmission company”*
19 *means any person who provides microwave television transmission*
20 *service to one or more subscribers in this State.*

21 **Sec. 12.** *“Microwave television transmission service” means*
22 *any subscription multichannel video programming service which*
23 *is provided through a system that transmits video programming by*
24 *use of microwave technology pursuant to 47 C.F.R. Parts 21*
25 *and 74.*

26 **Sec. 13.** *“Political subdivision” means any political*
27 *subdivision in this State, and any agency or instrumentality*
28 *thereof, that employs or contracts with first responders. The term*
29 *includes, without limitation, any county, city, town, fire protection*
30 *district, hospital district, health district or other general or special*
31 *purpose district.*

32 **Sec. 14.** *“Residential subscription television service” means*
33 *a community antenna television service, a direct broadcast satellite*
34 *television service, a microwave television transmission service or*
35 *any similar subscription multichannel video programming service.*

36 **Sec. 15.** *“Trust Fund” means the First Responders’*
37 *Communications Technology Trust Fund created pursuant to*
38 *section 18 of this act.*

39 **Sec. 16.** *1. For the privilege of providing residential*
40 *subscription television service to subscribers in this State, there is*
41 *hereby imposed on each company providing such service a fee in*
42 *the amount of 5 percent of the gross revenue that the company*
43 *derives from its sales of residential subscription television service*
44 *to subscribers in this State.*



1 2. *The fee imposed by this section does not apply to any gross*
2 *revenue of a company which is not attributable to the company's*
3 *sales of residential subscription television service to subscribers in*
4 *this State.*

5 3. *The Department of Taxation shall adopt regulations for*
6 *determining the gross revenue that a company derives from its*
7 *sales of residential subscription television service to subscribers in*
8 *this State. In adopting the regulations, the Department of*
9 *Taxation shall do all the following:*

10 (a) *Consider any applicable regulations adopted by the Federal*
11 *Communications Commission.*

12 (b) *Allow for a deduction from gross revenue in an amount*
13 *equal to any revenue derived by the company from its sales of*
14 *residential subscription television service to a community antenna*
15 *television company, a direct broadcast satellite television company,*
16 *a microwave television transmission company or any other similar*
17 *company for resale by the other company. The amount of the*
18 *deduction must be equal to the proportion of those sales which the*
19 *other company uses to provide service to one or more subscribers*
20 *in this State or which the other company uses to resell to another*
21 *company providing service to one or more subscribers in this*
22 *State.*

23 (c) *Allow for a deduction from gross revenue for any fee or*
24 *annual assessment paid by the company for the use of one or more*
25 *pay or premium channels. The amount of the deduction must be*
26 *equal to the proportion of each such fee or annual assessment*
27 *which is attributable to the provision of residential subscription*
28 *television service to subscribers in this State.*

29 4. *A company providing residential subscription television*
30 *service to subscribers in this State is entitled to a credit against the*
31 *fee that is imposed pursuant to this section. The amount of the*
32 *credit must be determined on a quarterly basis and must not*
33 *exceed the amount of the fee that is due. The amount of the credit*
34 *must be equal to:*

35 (a) *Any sales, use, franchise, excise or other similar tax,*
36 *surcharge or fee that is paid by the company to any other state or*
37 *to any governmental subdivision of any other state for providing*
38 *residential subscription television service to subscribers in this*
39 *State; and*

40 (b) *Any franchise or other similar tax, surcharge or fee that is*
41 *paid by the company to any governmental subdivision in this State.*

42 **Sec. 17.** *The Department of Taxation shall adopt regulations*
43 *to provide for the collection and enforcement of the fee imposed by*
44 *section 16 of this act. The regulations must include, without*
45 *limitation:*



1 1. Provisions prescribing the forms for submitting the fee to
2 the Department of Taxation;

3 2. Provisions setting forth the period for filing returns; and

4 3. Any other regulations the Department of Taxation deems
5 necessary to carry out the provisions of this section and section 16
6 of this act.

7 **Sec. 18.** 1. The First Responders' Communications
8 Technology Trust Fund is hereby created as a trust fund in the
9 State Treasury.

10 2. The State Treasurer shall deposit in the Trust Fund:

11 (a) After transferring the amount set forth in subsection 3, all
12 fees collected pursuant to section 16 of this act; and

13 (b) All grants and gifts of money directed to the Trust Fund.

14 3. The State Treasurer shall transfer 0.75 percent of all fees
15 collected pursuant to section 16 of this act to the appropriate
16 account in the State General Fund as compensation to the State
17 for the costs of collecting the fees.

18 4. The interest and income earned on the money in the Trust
19 Fund, after deducting any applicable charges, must be credited to
20 the Trust Fund.

21 5. All claims against the Trust Fund must be paid as other
22 claims against the State are paid.

23 6. The money in the Trust Fund remains in the Trust Fund
24 and does not revert to the State General Fund at the end of any
25 fiscal year.

26 **Sec. 19.** 1. The Director of the Department of Public Safety
27 shall administer the Trust Fund.

28 2. As administrator of the Trust Fund, the Director:

29 (a) May accept gifts and grants of money from any source for
30 deposit in the Trust Fund; and

31 (b) May perform any other duties necessary to administer the
32 Trust Fund.

33 3. Except as otherwise provided in subsection 4, all money
34 that is deposited or paid into the Trust Fund may only be expended
35 pursuant to an allocation made by the Director for:

36 (a) Grants made to political subdivisions and Indian tribes
37 pursuant to section 22 of this act;

38 (b) Expenses related to the administration of the Trust Fund
39 by the Director; and

40 (c) Actual costs incurred by the Department of Public Safety
41 for providing administrative assistance to the Director.

42 4. Not more than 2 percent of the money in the Trust Fund
43 may be used for administrative expenses or other indirect costs.

44 **Sec. 20.** 1. The Advisory Board for the First Responders'
45 Communications Technology Trust Fund is hereby created.



2. *The Advisory Board consists of three members as follows:*

(a) *The Director of the Department of Public Safety, who shall serve as Chairman of the Advisory Board.*

(b) *Two members appointed by the Governor. At least one of these members must have experience in the communications industry.*

3. *After the initial term, each member appointed by the Governor pursuant to paragraph (b) of subsection 2 serves a term of 3 years. Such a member may be reappointed. If a vacancy occurs during the term of such a member, the Governor shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.*

4. *The Advisory Board is responsible to the Governor.*

5. *The Advisory Board shall meet regularly at least twice each year and may meet at other times upon the call of the Director.*

6. *Each member of the Advisory Board who is not an employee of the State is entitled to receive a salary of \$80 for each day's attendance at a meeting of the Advisory Board. Payment of salaries must be made upon itemized and verified claims.*

Sec. 21. 1. *The Advisory Board shall adopt regulations to carry out the provisions of sections 18 to 22, inclusive, of this act. Such regulations must include, without limitation, provisions which establish a program that allows political subdivisions and Indian tribes to apply for grants from the Trust Fund pursuant to section 22 of this act.*

2. *In carrying out the provisions of sections 18 to 22, inclusive, of this act, the Advisory Board shall:*

(a) *Review and evaluate each application made by a political subdivision or an Indian tribe for a grant from the Trust Fund; and*

(b) *Publish any material pertaining to its work that it deems appropriate.*

Sec. 22. 1. *The Advisory Board shall award grants from the Trust Fund to political subdivisions and Indian tribes to acquire, improve or maintain:*

(a) *Communications hardware and software for voice, data and video transmission, reception and interoperability among first responders; and*

(b) *Other communications technology as may be approved by the Director.*

2. *For each fiscal year ending before July 1, 2011, the Director shall allocate 60 percent of all money that is deposited or paid into the Trust Fund during that fiscal year to award grants to qualifying political subdivisions and Indian tribes with a*



1 *population of less than 400,000 within their jurisdictions. If, at the*
2 *end of any such fiscal year, any money remains from the 60*
3 *percent of money allocated pursuant to this subsection, the*
4 *Director may use that remaining money to award any other grant*
5 *from the Trust Fund.*

6 **Sec. 23.** As soon as practicable after the effective date of this
7 act, the Governor shall appoint two members to the Advisory Board
8 for the First Responders' Communications Technology Trust Fund
9 in accordance with the provisions of section 20 of this act. For the
10 initial terms of those members, the Governor shall appoint:

11 1. One member whose term begins on October 1, 2005, and
12 expires on September 30, 2007; and

13 2. One member whose term begins on October 1, 2005, and
14 expires on September 30, 2008.

15 **Sec. 24.** This act becomes effective:

16 1. Upon passage and approval for the purposes of allowing:

17 (a) The Department of Taxation to adopt regulations; and

18 (b) The Governor to appoint the initial members of the Advisory
19 Board for the First Responders' Communications Technology Trust
20 Fund; and

21 2. On October 1, 2005, for all other purposes.



