
ASSEMBLY BILL NO. 233—ASSEMBLYMAN PERKINS

MARCH 21, 2005

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to Nevada Commission on Homeland Security. (BDR 19-1200)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 5)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 homeland security; providing that the Nevada Commission on Homeland Security consists of 10 members; providing that the Director of the Department of Public Safety may employ certain persons on behalf of the Nevada Commission on Homeland Security; requiring the Commission to approve the submission of an application by a response agency for a grant relating to acts of terrorism or other related emergencies; requiring a response agency to adopt and implement any national system administered by the United States Department of Homeland Security for preventing and responding to acts of terrorism; revising provisions relating to membership of the Commission; revising provisions relating to exceptions to the Open Meeting Law; revising provisions relating to appointment of committees of the Commission; revising provisions relating to the inspection, copying, duplication or reproduction of restricted documents; revising provisions relating to emergency response plans; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law creates the Nevada Commission on Homeland Security, consisting of such a number of members as determined by the Governor to be appropriate. (NRS 239C.120) The Commission is required to develop policies and programs for preventing and responding to acts of terrorism and related emergencies, and the Chairman of the Commission may appoint committees from its membership to assist in carrying out the Commission's duties. (NRS 239C.160, 239C.170) Under existing law, the Governor must provide staff assistance to the Commission and may designate a state agency to provide such assistance. (NRS 239C.180)

This bill requires the Governor to appoint 10 members to the Commission, and authorizes the Governor to remove any member whom he appointed if the member is absent from two consecutive meetings. This bill authorizes the Department of Public Safety to employ staff in the classified service of the State to carry out the duties of the Commission.

This bill requires the Chairman of the Commission to appoint a Committee on Legislation and Bylaws, a Committee on Finance and other committees to assist in carrying out the duties of the Commission. All committees appointed by the Chairman must comply with the provisions of the Open Meeting Law. However, the Chairman must approve the inspection, copying, duplication or reproduction of minutes and information prepared or received by the Commission and committees. The Chairman is also authorized to remove any committee member whom he appointed if the member is absent from two consecutive committee meetings.

Existing law authorizes limited inspection of restricted documents. (NRS 239C.220) A restricted document includes any blueprint or plan of a school, place of worship, airport, gaming establishment, governmental building or any other building or facility that is likely to become the target of a terrorist attack. (NRS 239C.090)

This bill establishes the circumstances in which a restricted document may be inspected, copied, duplicated or reproduced. Before access will be granted, the requestor must submit certain personal information and fingerprints for a background check to the public officer or employee in custody of the restricted document. The Commission must adopt regulations to carry out these provisions, including establishing the fee for performing a background check and notifying a person of the results of the background check.

Existing law requires each political subdivision to adopt and maintain a plan to respond to acts of terrorism and related emergencies. (NRS 239C.250-239C.270) Each plan must be filed with the Division of Emergency Management of the Department of Public Safety and with each response agency that provides services to the political subdivision. (NRS 239C.080)

This bill authorizes the Division of Emergency Management to contract with a qualified person to store response plans filed with the Division. The Division may adopt regulations to provide for the electronic filing of response plans with the Division or with a response agency.

This bill requires a response agency to submit applications for the funding of activities related to acts of terrorism or other related emergencies to the Nevada Commission on Homeland Security for review and approval before submitting the application to the funding entity. Response agencies must also adopt any national system administered by the United States Department of Homeland Security for preventing and responding to acts of terrorism.



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

Section 1. Chapter 239C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Division" means the Division of Emergency Management of the Department of Public Safety.*

Sec. 3. *The Director of the Department of Public Safety may employ such persons in the classified service of the State as he determines to be necessary to carry out the duties of the Commission, including, without limitation, an Executive Assistant to the Commission, a Policy Analyst to the Commission, a Grant Analyst to the Commission, and a Specialist in Public Information to the Commission.*

Sec. 4. 1. *Before submitting an application for money to fund activities relating to acts of terrorism or other related emergencies to a local government, this State, any other state, the Federal Government or any agency or instrumentality thereof, or any private entity, a response agency shall submit a copy of the application to the Commission.*

2. The Commission shall review and approve or disapprove an application submitted pursuant to subsection 1.

3. A response agency shall not submit an application for money to fund activities related to acts of terrorism or other related emergencies to a local government, this State, any other state, the Federal Government or any agency or instrumentality thereof, or any private entity, until the Commission has approved the application pursuant to subsection 2.

Sec. 5. 1. *A response agency shall:*

(a) Adopt any national system that is administered by the United States Department of Homeland Security pursuant to federal law in preparation for, prevention of, response to and recovery from a domestic incident, including, without limitation, an act of terrorism.

(b) Submit to the Commission documentation evidencing that the response agency has adopted the national system.

2. The Commission shall adopt regulations to carry out the provisions of this section.

Sec. 6. NRS 239C.020 is hereby amended to read as follows:

239C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 239C.030 to 239C.110, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.



1 **Sec. 7.** NRS 239C.120 is hereby amended to read as follows:
2 239C.120 1. The Nevada Commission on Homeland Security
3 ~~[, consisting of the members appointed pursuant to this section,]~~ is
4 hereby created.

5 2. The Governor shall appoint to the Commission ~~[a number~~
6 ~~of]~~ 10 members that he determines to be appropriate, except that the
7 Commission must include at least:

8 (a) One member who is a representative of a Nevada law
9 enforcement agency; and

10 (b) One member who is not employed in the field of law
11 enforcement and is not otherwise affiliated with the field of law
12 enforcement.

13 3. The Senate Majority Leader shall appoint one member of the
14 Senate as a nonvoting member of the Commission.

15 4. The Speaker of the Assembly shall appoint one member of
16 the Assembly as a nonvoting member of the Commission.

17 5. Except for the initial members, the term of office of each
18 member of the Commission who is a Legislator is 2 years and
19 commences on July 1 of the year of appointment.

20 6. The Governor or his designee shall:

21 (a) Serve as Chairman of the Commission; and

22 (b) Appoint a member of the Commission to serve as Vice
23 Chairman of the Commission.

24 *7. The Governor may remove a member he appointed to the*
25 *Commission for absence from two consecutive meetings of the*
26 *Commission.*

27 **Sec. 8.** NRS 239C.140 is hereby amended to read as follows:

28 239C.140 1. Except as otherwise provided in subsections 2 ,
29 3 and ~~[3,]~~ 4, the Commission *and any committee appointed*
30 *pursuant to NRS 239C.170* shall comply with the provisions of
31 chapter 241 of NRS and all meetings of the Commission *and any*
32 *committee appointed pursuant to NRS 239C.170* must be
33 conducted in accordance with that chapter.

34 2. The Commission *or a committee appointed pursuant to*
35 *NRS 239C.170* may hold a closed meeting to:

36 (a) Receive security briefings;

37 (b) Discuss procedures for responding to acts of terrorism and
38 related emergencies; or

39 (c) Discuss deficiencies in security with respect to public
40 services, public facilities and infrastructure,

41 ➔ if the Commission *or the committee* determines, upon a majority
42 vote of its members, that the public disclosure of such matters
43 would be likely to compromise, jeopardize or otherwise threaten the
44 safety of the public.



3. All information and materials received or prepared by the Commission *or a committee appointed pursuant to NRS 239C.170* during a meeting closed pursuant to subsection 2 and all minutes and audiovisual or electronic reproductions of such a meeting are confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

4. Any inspection, copying, duplication or reproduction of:

(a) Information and materials received or prepared by the Commission or a committee appointed pursuant to NRS 239C.170 other than information and materials relating to a meeting closed pursuant to subsection 2; and

(b) Minutes and audiovisual or electronic reproductions of a meeting other than a meeting closed pursuant to subsection 2, ➔ must be approved by the Chairman of the Commission or his designee.

Sec. 9. NRS 239C.160 is hereby amended to read as follows:

239C.160 The Commission shall, within the limits of available money:

1. Make recommendations to the Governor, the Legislature, agencies of this State, political subdivisions, businesses located within this State and private persons who reside in this State with respect to actions and measures that may be taken to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies.

2. Propose goals and programs that may be set and carried out, respectively, to counteract or prevent potential acts of terrorism and related emergencies before such acts of terrorism and related emergencies can harm or otherwise threaten residents of this State and visitors to this State.

3. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this State and visitors to this State, including, without limitation, airports, the Capitol Complex, dams, gaming establishments, governmental buildings, highways, hotels, information technology infrastructure, lakes, places of worship, power lines, public buildings, public utilities, reservoirs, rivers and their tributaries, and water facilities:

(a) Identify and categorize such buildings, facilities, geographic features and infrastructure according to their susceptibility to and need for protection from acts of terrorism and related emergencies; and

(b) Study and assess the security of such buildings, facilities, geographic features and infrastructure from acts of terrorism and related emergencies.



4. Examine the use, deployment and coordination of response agencies within this State to ensure that those agencies are adequately prepared to protect residents of this State and visitors to this State from acts of terrorism and related emergencies.

5. Assess, examine and review the use of information systems and systems of communication used by response agencies within this State to determine the degree to which such systems are compatible and interoperable. After conducting the assessment, examination and review, the Commission shall establish a state plan setting forth criteria and standards for the compatibility and interoperability of those systems when used by response agencies within this State.

6. Assess, examine and review the operation and efficacy of telephone systems and related systems used to provide emergency 911 service.

7. To the extent practicable, cooperate and coordinate with the Division ~~{of Emergency Management of the Department of Public Safety}~~ to avoid duplication of effort in developing policies and programs for preventing and responding to acts of terrorism and related emergencies.

8. Perform any other acts related to their duties set forth in subsections 1 to 7, inclusive, that the Commission determines are necessary to protect or enhance:

(a) The safety and security of the State of Nevada;

(b) The safety of residents of the State of Nevada; and

(c) The safety of visitors to the State of Nevada.

Sec. 10. NRS 239C.170 is hereby amended to read as follows:

239C.170 *1. The Chairman of the Commission ~~{may,}~~ shall, with the approval of the Commission, appoint ~~{committees from its members}~~ a Committee on Legislation and Bylaws and a Committee on Finance to assist in carrying out the duties of the Commission. The Chairman of the Commission shall appoint to each committee the number of members that he determines to be appropriate, except that the committee must include at least three members of the Commission. At its first meeting and annually thereafter, each committee shall elect a Chairman and a Vice Chairman from the members of the committee who are members of the Commission.*

2. In addition to the committees required pursuant to subsection 1, the Chairman of the Commission may, with the approval of the Commission, appoint other committees to assist in carrying out the duties of the Commission. If the Chairman of the Commission appoints such a committee, the Chairman of the Commission shall appoint to each committee the number of members that he determines to be appropriate. At its first meeting



1 *and annually thereafter, each committee shall elect a Chairman*
2 *and a Vice Chairman.*

3 *3. The Chairman of the Commission may remove a member*
4 *he appointed to a committee pursuant to subsection 1 or 2 for*
5 *absence from two consecutive meetings of the committee.*

6 **Sec. 11.** NRS 239C.180 is hereby amended to read as follows:

7 239C.180 The Governor shall provide , *in addition to any*
8 *persons employed pursuant to section 3 of this act*, such staff
9 assistance to the Commission as he deems appropriate and may
10 designate a state agency to provide such assistance.

11 **Sec. 12.** NRS 239C.220 is hereby amended to read as follows:

12 239C.220 1. Unless made confidential by specific statute, a
13 restricted document may be inspected ~~{only by a person who~~
14 ~~provides:}~~, *copied, duplicated or reproduced only:*

15 (a) *Upon the lawful order of a court of competent jurisdiction;*

16 (b) *Upon a request which states that the inspection, copying,*
17 *duplication or reproduction of the restricted document is*
18 *reasonably necessary in the case of an act of terrorism or other*
19 *related emergency;*

20 (c) *Upon a request which states that the inspection, copying,*
21 *duplication or reproduction of the restricted document is*
22 *reasonably necessary to protect the rights and obligations of a*
23 *governmental entity or the public;*

24 (d) *Upon the request of a reporter or editorial employee who is*
25 *employed by or affiliated with a newspaper, press association or*
26 *commercially operated and federally licensed radio or television*
27 *station and who uses the restricted document in the course of such*
28 *employment or affiliation; or*

29 (e) *Upon the request of a registered architect, licensed*
30 *contractor or a designated employee of any such architect or*
31 *contractor who uses the restricted document in his professional*
32 *capacity.*

33 *2. Before a restricted document may be inspected, copied,*
34 *duplicated or reproduced, the person requesting to inspect, copy,*
35 *duplicate or reproduce the restricted document shall submit to the*
36 *public officer or employee in custody of the restricted document:*

37 (a) His name;

38 (b) A copy of his driver's license or other photographic
39 identification that is issued by a governmental entity;

40 (c) The name of his employer, if any;

41 (d) His citizenship; ~~{and}~~

42 (e) *A completed fingerprint card, a form authorizing an*
43 *investigation of the background of the person and the submission*
44 *of his fingerprints to the Central Repository for Nevada Records of*
45 *Criminal History and the Federal Bureau of Investigation and the*



1 *fee for conducting the investigation of the background of the*
2 *person; and*

3 (f) Except as otherwise provided in this paragraph, a statement
4 of the purpose for the inspection. A person is not required to
5 indicate the purpose for inspecting a restricted document if the
6 person is an employee of any fire-fighting or law enforcement
7 agency.

8 ~~[2.—Except as otherwise provided in subsection 3.]~~

9 *3. Before providing a restricted document to a person for*
10 *inspection, copying, duplicating or reproducing,* a public officer or
11 employee shall ~~[observe any person while the person inspects a~~
12 ~~restricted document in a location and in a manner which ensures that~~
13 ~~the person does not copy, duplicate or reproduce the restricted~~
14 ~~document in any way.~~

15 ~~—3. A restricted document may be copied, duplicated or~~
16 ~~reproduced:~~

17 ~~—(a) Upon the lawful order of a court of competent jurisdiction;~~

18 ~~—(b) As is reasonably necessary in the case of an act of terrorism~~
19 ~~or other related emergency;~~

20 ~~—(c) To protect the rights and obligations of a governmental entity~~
21 ~~or the public;~~

22 ~~—(d) Upon the request of a reporter or editorial employee who is~~
23 ~~employed by or affiliated with a newspaper, press association or~~
24 ~~commercially operated and federally licensed radio or television~~
25 ~~station and who uses the restricted document in the course of such~~
26 ~~employment or affiliation; or~~

27 ~~—(e) Upon the request of a registered architect, licensed contractor~~
28 ~~or a designated employee of any such architect or contractor who~~
29 ~~uses the restricted document in his professional capacity.~~

30 ~~—4.]~~ *conduct an investigation of the background of the person,*
31 *including, without limitation, submitting the fingerprints of the*
32 *applicant to the Central Repository for Nevada Records of*
33 *Criminal History and the Federal Bureau of Investigation.*

34 *4.* A public officer or employee shall inform any person who
35 inspects , *copies, duplicates or reproduces* a restricted document of
36 the provisions of this section.

37 *5. The Commission shall adopt regulations to carry out the*
38 *provisions of this section, including, without limitation,*
39 *establishing the fee for performing a background check and*
40 *notifying a person of the results of the background check pursuant*
41 *to this section.*

42 **Sec. 13.** NRS 239C.230 is hereby amended to read as follows:

43 239C.230 1. A public officer or employee who is the
44 custodian of a restricted document shall establish a log to record:



(a) The information described in subsection ~~H~~ 2 of NRS 239C.220 when a person is allowed to inspect the document; and

(b) The date and time of the inspection.

2. The log is not a public record and may be inspected only by:

(a) A representative of a law enforcement agency; or

(b) A reporter or editorial employee who is employed by or affiliated with a newspaper, press association or commercially operated and federally licensed radio or television station.

Sec. 14. NRS 239C.250 is hereby amended to read as follows:

239C.250 1. Each political subdivision shall adopt and maintain a response plan. Each new or revised plan must be filed within 10 days after adoption or revision with:

(a) The Division ; ~~[of Emergency Management of the Department of Public Safety;]~~ and

(b) Each response agency that provides services to the political subdivision.

2. The response plan required by subsection 1 must include:

(a) A drawing or map of the layout and boundaries of the political subdivision;

(b) A drawing or description of the streets and highways within, and leading into and out of, the political subdivision, including any approved routes for evacuation;

(c) The location and inventory of emergency response equipment and resources within the political subdivision;

(d) The location of any unusually hazardous substances within the political subdivision;

(e) A telephone number that may be used by residents of the political subdivision to receive information and to make reports with respect to an act of terrorism or related emergency;

(f) The location of one or more emergency response command posts that are located within the political subdivision;

(g) A depiction of the location of each police station, sheriff's office and fire station that is located within the political subdivision;

(h) Plans for the continuity of the operations and services of the political subdivision, which plans must be consistent with the provisions of NRS 239C.260; and

(i) Any other information that the Commission may determine to be relevant.

3. ~~[A]~~ *Except as otherwise provided in this subsection, a* plan filed pursuant to the requirements of this section, including any revisions adopted thereto, is confidential and must be securely maintained by the entities with whom it is filed pursuant to subsection 1. *The Division may contract with a qualified person for the maintenance of response plans filed with the Division.* An officer, employee or other person to whom the plan is entrusted by



1 the entity with whom it is filed shall not disclose the contents of
2 such a plan except:

3 (a) Upon the lawful order of a court of competent jurisdiction;
4 or

5 (b) As is reasonably necessary in the case of an act of terrorism
6 or related emergency.

7 *4. The Division may adopt regulations providing for the*
8 *electronic filing of a response plan with the Division or a response*
9 *agency.*

10 **Sec. 15.** NRS 239C.270 is hereby amended to read as follows:
11 239C.270 1. Each utility shall:

12 (a) Conduct a vulnerability assessment in accordance with the
13 requirements of the federal and regional agencies that regulate the
14 utility; and

15 (b) Prepare and maintain an emergency response plan in
16 accordance with the requirements of the federal and regional
17 agencies that regulate the utility.

18 2. Each utility shall:

19 (a) As soon as practicable but not later than December 31, 2003,
20 submit its vulnerability assessment and emergency response plan to
21 the Division ; ~~{of Emergency Management of the Department of~~
22 ~~Public Safety;}~~ and

23 (b) At least once each year thereafter, review its vulnerability
24 assessment and emergency response plan and, as soon as practicable
25 after its review is completed but not later than December 31 of each
26 year, submit the results of its review and any additions or
27 modifications to its emergency response plan to the Division . ~~{of~~
28 ~~Emergency Management of the Department of Public Safety;}~~

29 3. Each vulnerability assessment and emergency response plan
30 of a utility and any other information concerning a utility that is
31 necessary to carry out the provisions of this section is confidential
32 and must be securely maintained by each person or entity that has
33 possession, custody or control of the information.

34 4. A person shall not disclose such information, except:

35 (a) Upon the lawful order of a court of competent jurisdiction;

36 (b) As is reasonably necessary to carry out the provisions of this
37 section or the operations of the utility, as determined by the Division
38 ; ~~{of Emergency Management of the Department of Public Safety;}~~
39 or

40 (c) As is reasonably necessary in the case of an emergency
41 involving public health or safety, as determined by the Division . ~~{of~~
42 ~~Emergency Management of the Department of Public Safety;}~~

43 5. If a person knowingly and unlawfully discloses such
44 information or assists, solicits or conspires with another person to
45 disclose such information, the person is guilty of:



1 (a) A gross misdemeanor; or
2 (b) A category C felony and shall be punished as provided in
3 NRS 193.130 if the person acted with the intent to:

4 (1) Commit, cause, aid, further or conceal, or attempt to
5 commit, cause, aid, further or conceal, any unlawful act involving
6 terrorism or sabotage; or

7 (2) Assist, solicit or conspire with another person to commit,
8 cause, aid, further or conceal any unlawful act involving terrorism
9 or sabotage.

10 **Sec. 16.** 1. The term of office of a person appointed before
11 the effective date of this act to the Nevada Commission on
12 Homeland Security pursuant to subsection 2 of NRS 239C.120
13 expires on the effective date of this act.

14 2. On or after the effective date of this act and on or before
15 July 1, 2005, the Governor shall appoint the 10 members required to
16 be appointed to the Nevada Commission on Homeland Security
17 pursuant to the amendatory provisions of section 7 of this act.

18 **Sec. 17.** The provisions of NRS 354.599 do not apply to any
19 additional expenses of a local government that are related to the
20 provisions of this act.

21 **Sec. 18.** This act becomes effective upon passage and
22 approval.



