

SENATE BILL NO. 210—SENATOR MCGINNESS

MARCH 21, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing county-owned telephone systems. (BDR 58-741)

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

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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; requiring a county-owned telephone system to participate in the fund to maintain the availability of telephone service administered by the Public Utilities Commission of Nevada; authorizing a board of county commissioners that controls and manages a county-owned telephone system to create a separate corporation to provide certain communication services; requiring a county-owned telephone system that provides certain communication services outside county boundaries to comply with the same federal, state and local requirements that would apply to a privately held company providing the same communication services; revising the provisions governing the sale or lease of a county-owned telephone system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes the Public Utilities Commission of Nevada to levy and
2 collect an assessment from certain public utilities for the purpose of establishing a
3 fund to maintain the availability of telephone service. (NRS 704.040) This fund is
4 known as the Fund for Universal Service. (NAC 704.6804-704.68056) Under
5 existing law, a county may own and operate a telephone system within the
6 boundaries of the county. (NRS 710.010-710.159) However, because a county
7 telephone system is generally exempt from regulation by the Commission, a county
8 telephone system is not subject to levy and collection of the assessment by the
9 Commission and is not entitled to receive payments from the Fund for Universal
10 Service. (NRS 710.140)



11 This bill makes a county telephone system subject to levy and collection of the
12 assessment by the Commission under the same terms and conditions as a public
13 utility regulated by the Commission. This bill also entitles a county telephone
14 system to receive payments from the Fund for Universal Service under those same
15 terms and conditions.

16 Under existing law, the board of county commissioners exercises control and
17 management of a county telephone system. (NRS 710.140) The board may
18 authorize the county telephone system to provide, outside the boundaries of the
19 county, any communication services that do not fall within the scope of activities
20 regulated under Chapter 704 of NRS. (NRS 710.145)

21 This bill authorizes the board to create a separate corporation to provide such
22 communication services. After October 1, 2006, if such communication services are
23 provided outside the boundaries of the county, the board or its corporation must
24 comply with the same federal, state and local requirements that would apply to a
25 privately held company with regard to the facilities and property it maintains
26 outside the boundaries of the county. The board or its corporation must also comply
27 with any regulations and rules of the Commission that would apply to a privately
28 held company with regard to those communication services.

29 Under existing law, the voters of the county must authorize the board to sell or
30 lease the county telephone system. (NRS 710.151-710.159) Upon authorization
31 from the voters, three disinterested persons must be appointed by the district judge
32 of the county to appraise the value of the county telephone system. After the
33 appraisal, the board may sell or lease the county telephone system only through a
34 process that uses sealed bids. (NRS 710.159)

35 This bill requires the appraisal to be completed by a reputable and qualified
36 expert in rural telecommunications selected by the board. This bill makes the
37 appraisal confidential and prohibits its disclosure before the completion of the sale
38 or lease of the county telephone system. This bill also eliminates the existing
39 process using sealed bids and allows the board to negotiate for the sale or lease of
40 the county telephone system.

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

1 **Section 1.** NRS 710.140 is hereby amended to read as follows:

2 710.140 1. The control, management and conduct of any
3 telephone line or system ~~{so}~~ purchased, acquired or constructed by
4 any county ~~{shall}~~ **must** be exercised by the board of county
5 commissioners of such county.

6 2. The board of county commissioners ~~{shall have}~~ **has** the
7 right to employ such persons as may be necessary to carry on the
8 business of ~~{the same and as may be required.}~~ **the county telephone**
9 **line or system.**

10 3. The board of county commissioners shall comply with
11 chapter 332 of NRS in letting contracts for the use and benefit of the
12 county telephone line or system.

13 4. **If the Public Utilities Commission of Nevada has provided**
14 **for the levy and collection of an assessment pursuant to subsection**
15 **7 of NRS 704.040 for a fund to maintain the availability of**
16 **telephone service, the county telephone line or system is subject to**



1 *the levy and collection of the assessment and is entitled to receive*
2 *money from the fund under the same terms and conditions as a*
3 *public utility that is subject to subsection 7 of NRS 704.040.*

4 5. *In carrying on the business of the county telephone line or*
5 *system, the board of county commissioners may create a separate*
6 *corporation to provide communication services that are not within*
7 *the scope of activities regulated pursuant to chapter 704 of NRS.*
8 *The control and management of the separate corporation must be*
9 *exercised by the board of county commissioners, and the separate*
10 *corporation is subject to all applicable provisions of NRS 710.010*
11 *to 710.159, inclusive, to the same extent as the county telephone*
12 *line or system.*

13 6. *If, after October 1, 2006, the county telephone line or*
14 *system provides, outside the territorial boundaries of the county,*
15 *any communication services that are not within the scope of*
16 *activities regulated pursuant to chapter 704 of NRS, the county*
17 *telephone line or system shall:*

18 (a) *With regard to the facilities and property it maintains*
19 *outside the territorial boundaries of the county, comply with the*
20 *same federal, state and local requirements that would apply to a*
21 *privately held company providing the same communication*
22 *services; and*

23 (b) *With regard to the provision of such services outside the*
24 *territorial boundaries of the county, comply with any regulations*
25 *and rules of the Public Utilities Commission of Nevada that would*
26 *apply to a privately held company providing the same*
27 *communication services.*

28 7. *Except as otherwise provided in subsections 4 and 6,*
29 *nothing in this section vests jurisdiction over a county telephone*
30 *line or system in the Public Utilities Commission of Nevada.*

31 8. *It is expressly provided that no general or other statute shall*
32 *limit or restrict the conduct and carrying on of ~~{such}~~ the business of*
33 *a county telephone line or system by the board of county*
34 *commissioners except as specifically set forth in this section.*

35 **Sec. 2.** *NRS 710.159 is hereby amended to read as follows:*

36 710.159 1. *If , at the primary, general or special election , it*
37 *is shown that a majority of the ballots cast favors the sale or lease of*
38 *the telephone system, ~~{three disinterested persons must be appointed~~*
39 *~~by the district judge of the county to make a correct appraisal of~~*
40 *~~the gross}~~ the board of county commissioners shall contract with a*
41 *reputable and qualified expert in rural telecommunications to*
42 *appraise the value of the telephone system. The appraisal is*
43 *confidential and must not be disclosed before the completion of*
44 *the sale or lease of the telephone system.*



2. Upon the return of the ~~{appraisement,}~~ *appraisal*, the board of county commissioners shall advertise the sale or lease, for a term of years agreed upon by the board, of the telephone system by notice published at least once a week for 5 consecutive weeks by five weekly insertions a week apart in a newspaper published within the county and having a general circulation therein. ~~{The notice must require sealed bids, to be accompanied by a certified check for at least 5 percent of the sum bid, to be deposited with the county clerk of the county on or before the date stated in the notice.}~~ *After publication of the first such notice, the board or its authorized representatives may enter into negotiations for the sale or lease of the telephone system.* If the notice is for the sale of the telephone system, ~~{no bids may be accepted by}~~ the board ~~{of county commissioners for}~~ *shall not accept* a sum less than the amount of the ~~{appraisement}~~ *appraisal* of the telephone system. If the notice is for the lease of the telephone system, ~~{no bids may be accepted by}~~ the board ~~{of county commissioners for}~~ *shall not accept* a sum less than an amount to realize not less than 7 percent per annum upon the value of the telephone system as so appraised. If the telephone system is leased, the board shall safeguard the county's interest by demanding a bond for the faithful performance of the covenants contained in the lease. The board may reject any and all ~~{bids}~~ *offers* made for such a sale or lease.

Sec. 3. This act becomes effective on July 1, 2005.

