

## Amendment No. 488

Assembly Amendment to Assembly Bill No. 284

(BDR 19-517)

**Proposed by:** Assemblywoman Kirkpatrick**Amendment Box:** Consistent with Amendment No. 369.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION |                          |      |                          | Initial and Date | SENATE ACTION |                          |      |                          | Initial and Date |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------------------|------|--------------------------|------------------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            | Adopted       | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Concurred In  | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Receded       | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

LJM/BJE



Date: 4/19/2009

A.B. No. 284—Revises provisions governing homeland security. (BDR 19-517)



ASSEMBLY BILL NO. 284—ASSEMBLYMEN CHRISTENSEN; ANDERSON, ATKINSON,  
GANSERT, HAMBRICK, KIRKPATRICK, MANENDO, MCARTHUR AND  
SETTELMEYER

MARCH 10, 2009

JOINT SPONSORS: SENATORS HARDY; CEGAVSKE AND LEE

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing homeland security. (BDR 19-517)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for  
Term of Imprisonment in County or City Jail or Detention  
Facility.  
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 homeland security; increasing the number of voting members of the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities in this State; ***clarifying that certain documents, records and other items of information may be inspected by and released to the Legislative Auditor when conducting a postaudit;*** providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates the Nevada Commission on Homeland Security and requires the Governor to appoint to the Commission 14 voting members that he determines to be appropriate, including certain mandatory appointments. (NRS 239C.120) **Section 1** of this bill increases the number of voting members of the Commission to 16 and requires the Governor to appoint two voting members who reflect the ethnic and geographical diversity of this State.

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 2** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities in this State. ***Section 2 also clarifies that the documents, records and other items of information subject to executive order of confidentiality for security purposes may be inspected by and released to the Legislative Auditor when conducting a postaudit.***

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

**Section 1.** NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~H4~~ 16 voting members that he determines to be appropriate and who serve at his pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more;

(b) The chief of the county fire department in each county whose population is 100,000 or more;

(c) A member of the medical community in a county whose population is 400,000 or more; ~~and~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more ~~H~~; and

*(e) Two members who reflect the ethnic and geographical diversity of this State.*

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; and

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State,

as nonvoting members of the Commission.

4. The ~~Senate~~ Majority Leader *of the Senate* shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

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

7. The Governor or his designee shall:

(a) Serve as Chairman of the Commission; and

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

**Sec. 2.** NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to ~~public~~;

*(a) Public safety and public health personnel ; and*

*(b) The Legislative Auditor conducting a postaudit pursuant to NRS 218.737 to 218.893, inclusive.*

*if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare.*

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

1 (a) Assessments, plans or records that evaluate or reveal the susceptibility of  
2 fire stations, police stations and other law enforcement stations to acts of terrorism  
3 or other related emergencies.

4 (b) Drawings, maps, plans or records that reveal the critical infrastructure of  
5 primary buildings, facilities and other structures used for storing, transporting or  
6 transmitting water or electricity, natural gas or other forms of energy.

7 (c) Documents, records or other items of information which may reveal the  
8 details of a specific emergency response plan or other tactical operations by a  
9 response agency and any training relating to such emergency response plans or  
10 tactical operations.

11 (d) Handbooks, manuals or other forms of information detailing procedures to  
12 be followed by response agencies in the event of an act of terrorism or other related  
13 emergency.

14 (e) Documents, records or other items of information that reveal information  
15 pertaining to specialized equipment used for covert, emergency or tactical  
16 operations of a response agency, other than records relating to expenditures for  
17 such equipment.

18 (f) Documents, records or other items of information regarding the  
19 infrastructure and security of frequencies for radio transmissions used by response  
20 agencies, including, without limitation:

21 (1) Access codes, passwords or programs used to ensure the security of  
22 frequencies for radio transmissions used by response agencies;

23 (2) Procedures and processes used to ensure the security of frequencies for  
24 radio transmissions used by response agencies; and

25 (3) Plans used to reestablish security and service with respect to  
26 frequencies for radio transmissions used by response agencies after security has  
27 been breached or service has been interrupted.

28 ***(g) Vulnerability assessments and emergency response plans of utilities in***  
29 ***this State.***

30 3. If a person knowingly and unlawfully discloses a document, record or other  
31 item of information subject to an executive order issued pursuant to subsection 1 or  
32 assists, solicits or conspires with another person to disclose such a document,  
33 record or other item of information, the person is guilty of:

34 (a) A gross misdemeanor; or

35 (b) A category C felony and shall be punished as provided in NRS 193.130 if  
36 the person acted with the intent to:

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

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

41 4. As used in this section, "public safety and public health personnel"  
42 includes:

43 (a) State, county and city emergency managers;

44 (b) Members and staff of terrorism early warning centers or fusion intelligence  
45 centers in this State;

46 (c) Employees of fire-fighting or law enforcement agencies, if the head of the  
47 agency has designated the employee as having an operational need to know  
48 information that is prepared or maintained for the purpose of preventing or  
49 responding to an act of terrorism; and

50 (d) Employees of a public health agency, if the agency is one that would  
51 respond to a disaster and if the head of the agency has designated the employee as  
52 having an operational need to know information that is prepared or maintained for

the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.

**Sec. 3.** NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

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

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

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~Except as otherwise provided in NRS 239C.210,~~ a person shall not disclose such information, except:

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

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

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

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

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

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

**Sec. 4.** This act becomes effective on July 1, 2009.