

Amendment No. 85

Senate Amendment to Senate Bill No. 147

(BDR 36-960)

Proposed by: Senate Committee on Energy, Infrastructure and Transportation**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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.

MSN/TMC



Date: 3/27/2009

S.B. No. 147—Establishes provisions governing broadcasters during emergencies.
(BDR 36-960)



SENATE BILL NO. 147—SENATORS WIENER, CARE,
MCGINNESS, COPENING AND SCHNEIDER

FEBRUARY 18, 2009

Referred to Committee on Energy, Infrastructure and Transportation

SUMMARY—Establishes provisions governing broadcasters during emergencies.
(BDR 36-960)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 emergencies; requiring broadcasters in this State to develop plans for preparing for and responding to emergencies and disasters; authorizing the ~~{Nevada Broadcasters Association to establish a program}~~ ***establishment of programs*** for the training and certification of first response broadcasters in restoring, repairing and resupplying facilities and equipment during an emergency or disaster; providing that broadcasters and first response broadcasters must be given certain priority for equipment and supplies during an emergency or disaster; providing that certain equipment and supplies of a broadcaster or first response broadcaster must not be confiscated during an emergency or disaster; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 414 of NRS authorizes the Governor to prepare a comprehensive state emergency management plan and authorizes political subdivisions of this State to establish local organizations for emergency management in accordance with the state emergency management plan. (NRS 414.060, 414.090) **Section 4** of this bill requires broadcasters in this State to work in cooperation with the Division of Emergency Management of the Department of Public Safety and the Nevada Broadcasters Association to develop comprehensive, coordinated plans for preparing for and responding appropriately to an emergency or disaster.

Section 5 of this bill authorizes the Nevada Broadcasters Association, ***or its successor organization, the Nevada State Cable Telecommunications Association or its successor organization, any member of the Nevada State Cable Telecommunications Association or its successor organization and any other provider of emergency broadcasts, including, without limitation, a provider who uses emerging technologies,*** to establish a program for training and certifying first response broadcasters who, with certain restrictions, must be given access to an area affected by an emergency or disaster for the purpose of restoring, repairing or resupplying any facility or equipment critical to the ability of a broadcaster to acquire, produce and transmit essential emergency- or disaster-related public information programming. ***Each program established pursuant to section 5 must be consistent with federal law and guidelines.***

Existing law provides the Governor with broad authority to seize materials and facilities for emergency management without regard to the limitations of any existing law.

(NRS 414.070) **Sections 7 and 9** of this bill provide that this grant of authority to the Governor and the authority granted to the executive heads or governing bodies of the political subdivisions of this State must not be construed to allow the confiscation of equipment, supplies or facilities of a broadcaster or first response broadcaster if the equipment, supplies or facilities will be used to enable the broadcast of essential emergency- or disaster-related public information programming in an area affected by an emergency or disaster. **Section 6** of this bill provides that, to the extent practicable and consistent with not endangering public safety, broadcasters and first response broadcasters must be given priority for the distribution of fuel, food, water and any other equipment, supplies or facilities over all persons other than persons who provide essential emergency services, health care and utility restoration services.

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

Section 1. Chapter 414 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *“Broadcaster” has the meaning ascribed to it in NRS 432.310.*

Sec. 3. *“First response broadcaster” means a person who has been certified as a first response broadcaster pursuant to section 5 of this act.*

Sec. 4. *Broadcasters in this State shall, in cooperation with the Division of Emergency Management of the Department of Public Safety and the Nevada Broadcasters Association or its successor organization, develop comprehensive, coordinated plans for preparing for and responding appropriately to an emergency or disaster.*

Sec. 5. *1. The Nevada Broadcasters Association or its successor organization, the Nevada State Cable Telecommunications Association or its successor organization, any member of the Nevada State Cable Telecommunications Association or its successor organization and any other provider of emergency broadcasts, including, without limitation, a provider who uses emerging technologies, may establish a program for training and certifying broadcast engineers and technical personnel as first response broadcasters. ~~The~~ Each program established pursuant to this subsection must:*

(a) Be consistent with federal law and guidelines;

(b) Provide training and education concerning restoring, repairing and resupplying any facilities and equipment of a broadcaster in an area affected by an emergency or disaster; and

(c) Provide training and education concerning the personal safety of a first response broadcaster in an area affected by an emergency or disaster.

2. To the extent practicable and consistent with not endangering public safety or inhibiting recovery efforts, state and local governmental agencies shall allow a first response broadcaster access to an area affected by an emergency or disaster for the purpose of restoring, repairing or resupplying any facility or equipment critical to the ability of a broadcaster to acquire, produce and transmit essential emergency- or disaster-related public information programming, including, without limitation, repairing and maintaining transmitters and transporting fuel for generators.

Sec. 6. *To the extent practicable and consistent with not endangering public safety, during an emergency or disaster, a broadcaster or first response broadcaster in an area affected by the emergency or disaster must be given priority for the distribution of fuel, food, water and any other equipment, supplies or facilities over all persons other than persons who provide essential emergency services, health care and utility restoration services.*

Sec. 7. *To the extent practicable and consistent with not endangering public safety, the emergency powers conferred upon the Governor and upon the executive heads or governing bodies of the political subdivisions of this State must not be construed to allow the confiscation of vehicles, fuel, food, water or any other equipment, supplies or facilities from a broadcaster or first response broadcaster if the broadcaster or first response broadcaster adequately documents that the equipment, supplies or facilities will be used to enable the broadcast of essential emergency- or disaster-related public information programming in an area affected by an emergency or disaster.*

Sec. 8. NRS 414.030 is hereby amended to read as follows:
414.030 As used in this chapter, the words and terms defined in NRS 414.031 to 414.038, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 414.070 is hereby amended to read as follows:
414.070 The provisions of this section are operative only during the existence of a state of emergency or declaration of disaster. The existence of such an emergency or disaster may be proclaimed by the Governor or by resolution of the Legislature if the Governor in his proclamation, or the Legislature in its resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural, technological or man-made emergency or disaster of major proportions has actually occurred within this State, and that the safety and welfare of the inhabitants of this State require an invocation of the provisions of this section. Any such emergency or disaster, whether proclaimed by the Governor or by the Legislature, terminates upon the proclamation of the termination thereof by the Governor, or the passage by the Legislature of a resolution terminating the emergency or disaster. During the period when a state of emergency or declaration of disaster exists or continues, the Governor may exercise the following additional powers:

1. To enforce all laws and regulations relating to emergency management and to assume direct operational control of any or all forces, including, without limitation, volunteers and auxiliary staff for emergency management in the State.

2. To sell, lend, lease, give, transfer or deliver materials or perform services for the purpose of emergency management on such terms and conditions as the Governor prescribes and without regard to the limitations of any existing law, and to account to the State Treasurer for any ~~funds~~ money received for such property.

3. Except as otherwise provided in NRS 414.155 ~~§~~ *and section 7 of this act*, to procure, by purchase, condemnation, seizure or other means, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency management without regard to the limitations of any existing law. The Governor shall make compensation for the property so seized, taken or condemned on the following basis:

(a) If property is taken for temporary use, the Governor, within 90 days after the taking, shall fix the amount of compensation to be paid therefor. If the property is returned to the owner in a damaged condition, or is not returned to the owner, the Governor shall fix within 90 days the amount of compensation to be paid for the damage or failure to return the property. If the Governor deems it advisable for the State to take title to property taken under this section, he shall forthwith cause the owner of the property to be notified thereof in writing by registered or certified mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of the notice with the Secretary of State.

(b) Within the 90-day period prescribed in paragraph (a), the Governor shall make an offer in writing to the person or persons entitled to receive it of the amount of money proposed to be paid as full compensation. If the offer is accepted, the

1 money must be paid out of such fund, funds or other sources as are available and no
2 further action in law or in equity may ever be maintained in connection therewith.
3 If the offer of payment is refused, the person or persons entitled thereto have the
4 same rights as plaintiffs in actions of eminent domain insofar as the fixing of
5 damages and compensation is concerned, NRS 37.060, 37.070, 37.080 and 37.090,
6 so far as applicable, apply, and proceedings must be had in conformity therewith so
7 far as possible. The action must be commenced within 1 year after the receipt of the
8 offer of settlement from the Governor.

9 4. To provide for and compel the evacuation of all or part of the population
10 from any stricken or threatened area or areas within the State and to take such steps
11 as are necessary for the receipt and care of those persons.

12 5. Subject to the provisions of the State Constitution, to remove from office
13 any public officer having administrative responsibilities under this chapter for
14 willful failure to obey an order or regulation adopted pursuant to this chapter. The
15 removal must be upon charges after service upon the officer of a copy of the
16 charges and after giving him an opportunity to be heard in his defense. Pending the
17 preparation and disposition of charges, the Governor may suspend the officer for a
18 period not exceeding 30 days. A vacancy resulting from removal or suspension
19 pursuant to this section must be filled as provided by law.

20 6. To perform and exercise such other functions, powers and duties as are
21 necessary to promote and secure the safety and protection of the civilian
22 population.

23 **Sec. 10.** This act becomes effective upon passage and approval.