

ASSEMBLY BILL NO. 549—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 28, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions governing homeland security. (BDR 19-41)

FISCAL NOTE: Effect on Local Government: No.
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 homeland security; increasing the number of voting members on the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities, public entities and private businesses 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 establishes the Nevada Commission on Homeland Security, for which the Governor appoints the voting members and certain nonvoting members. The Commission has certain duties relating to the protection of residents of this State and visitors to this State from acts of terrorism and related emergencies. (NRS 239C.120, 239C.160) **Section 22** of this bill increases the number of voting members that the Governor must appoint to the Commission from 14 members to 16 members, to include a representative of the broadcaster community and a representative recommended by the Inter-Tribal Council of Nevada, Inc.

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 26** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. **Section 26** also clarifies that the documents, records and other items of information subject to an executive



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18 order of confidentiality for security purposes may be inspected by and released to
19 the Legislative Auditor when conducting a postaudit.

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

- 1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** (Deleted by amendment.)
3 **Sec. 3.** (Deleted by amendment.)
4 **Sec. 4.** (Deleted by amendment.)
5 **Sec. 5.** (Deleted by amendment.)
6 **Sec. 6.** (Deleted by amendment.)
7 **Sec. 7.** (Deleted by amendment.)
8 **Sec. 8.** (Deleted by amendment.)
9 **Sec. 9.** (Deleted by amendment.)
10 **Sec. 10.** (Deleted by amendment.)
11 **Sec. 11.** (Deleted by amendment.)
12 **Sec. 12.** (Deleted by amendment.)
13 **Sec. 13.** (Deleted by amendment.)
14 **Sec. 14.** (Deleted by amendment.)
15 **Sec. 15.** (Deleted by amendment.)
16 **Sec. 16.** (Deleted by amendment.)
17 **Sec. 17.** (Deleted by amendment.)
18 **Sec. 18.** (Deleted by amendment.)
19 **Sec. 19.** (Deleted by amendment.)
20 **Sec. 20.** (Deleted by amendment.)
21 **Sec. 21.** (Deleted by amendment.)
22 **Sec. 22.** NRS 239C.120 is hereby amended to read as follows:
23 239C.120 1. The Nevada Commission on Homeland Security
24 is hereby created.
25 2. The Governor shall appoint to the Commission ~~14~~ 16
26 voting members that the Governor determines to be appropriate and
27 who serve at the Governor's pleasure, which must include at least:
28 (a) The sheriff of each county whose population is 100,000 or
29 more. ~~14~~
30 (b) The chief of the county fire department in each county
31 whose population is 100,000 or more. ~~14~~
32 (c) A member of the medical community in a county whose
33 population is 400,000 or more. ~~14 and~~
34 (d) An employee of the largest incorporated city in each county
35 whose population is 400,000 or more.
36 (e) *A representative of the broadcaster community. As used in*
37 *this paragraph, "broadcaster" has the meaning ascribed to it in*
38 *NRS 432.310.*



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(f) A representative recommended by the Inter-Tribal Council of Nevada, Inc., or its successor organization, to represent tribal nations in Nevada.

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 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}~~ *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 or her designee shall:

(a) Serve as Chair of the Commission; and

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

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. 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 218G.010 to 218G.555, 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. *Any information that is inspected by or released to the Legislative Auditor pursuant to this subsection is not subject to the exception from confidentiality set forth in NRS 218G.130.*

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



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

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

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

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

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

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

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

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

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

(g) Vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. As used in this paragraph, "public entities" means departments, agencies or instrumentalities of the State or any of its political subdivisions. The term includes general improvement districts.

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

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

(a) State, county and city emergency managers;

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

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

(d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know *of* 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. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. 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) ~~[(b)]~~ As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) ~~[(c)]~~ 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



1 and any other information concerning a utility that is necessary to
2 carry out the provisions of this section is confidential and must be
3 securely maintained by each person or entity that has possession,
4 custody or control of the information.

5 4. ~~[A]~~ *Except as otherwise provided in NRS 239C.210, a*
6 person shall not disclose such information, except:

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

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

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

13 (d) Pursuant to the provisions of NRS 239.0115.

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

17 (a) A gross misdemeanor; or

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

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

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

26 **Sec. 30.** (Deleted by amendment.)

27 **Sec. 31.** (Deleted by amendment.)

28 **Sec. 32.** (Deleted by amendment.)

29 **Sec. 33.** (Deleted by amendment.)

30 **Sec. 34.** (Deleted by amendment.)

31 **Sec. 35.** (Deleted by amendment.)

32 **Sec. 36.** (Deleted by amendment.)

33 **Sec. 37.** (Deleted by amendment.)

34 **Sec. 38.** (Deleted by amendment.)

35 **Sec. 39.** (Deleted by amendment.)

