

Amendment No. 533

Assembly Amendment to Assembly Bill No. 549

(BDR 19-41)

Proposed by: Assemblywoman Kirkpatrick**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 underlining* is newly added transitory language.

LJM/BJE



Date: 4/26/2011

A.B. No. 549—Revises various provisions governing homeland security.
(BDR 19-41)



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; ~~revising various provisions governing homeland security; establishing a statewide repository for the protection of critical infrastructure information;~~ increasing the number of voting members on the Nevada Commission on Homeland Security; revising provisions governing ~~certain confidential information; revising provisions relating to the Nevada Commission on Homeland Security;~~ 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 ~~provides that it is within the public interest that the Legislature enact provisions to protect this State from acts of terrorism. (NRS 239C.010) Section 15 of this bill specifies that such provisions should include securing statewide critical infrastructure and key resources. Section 14 of this bill establishes a statewide repository for the protection of critical infrastructure information for the purpose of storing confidential and protected critical infrastructure information which may be accessed by emergency response agencies when responding to an act of terrorism or a related all hazards emergency. Sections 14, 26, 29, 25, 27 and 29 of this bill provide that a person who unlawfully discloses certain confidential information is guilty of a gross misdemeanor or a category C felony, depending on the actions of the person relating to such disclosure. Sections 2-13 of this bill add new definitions relating to homeland security, and sections 17-21 of this bill revise existing definitions.~~

~~Existing law also~~ 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 ~~14~~ 16 members, to include a representative of the

broadcaster community. ~~[Section 22 also requires the Governor to appoint as a nonvoting member on the Commission a representative to represent the tribal nations in Nevada. Section 24 of this bill additionally requires the Commission to make recommendations to the Governor on the use and distribution of funding that is received by the State which is related to homeland security.] 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 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. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. 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 ~~14~~ ~~15~~ 16 voting members that the Governor determines to be appropriate and who serve at the Governor's pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more. ~~14~~

(b) The chief of the county fire department in each county whose population is 100,000 or more. ~~14~~

(c) A member of the medical community in a county whose population is 400,000 or more. ~~14~~ ~~and~~

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

(e) *A representative of the broadcaster community. As used in this paragraph, "broadcaster" has the meaning ascribed to it in NRS 432.310.*

(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 ~~;~~ ~~and~~

~~(c) A representative recommended by the Inter-Tribal Council of Nevada, Inc., to represent the tribal nations in Nevada;~~

➤ 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 ~~[obtained]~~ prepared ~~and~~ ~~for]~~ maintained ~~[through or by a law enforcement agency, counter terrorism center or fusion intelligence center in this State,]~~ for the purpose of ~~[detecting, deterring,]~~ preventing or responding to an act of terrorism ~~is~~ 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 ~~[duly authorized emergency response]~~ 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:

(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. ~~If the Governor determines that the disclosure or release of any type of 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, the Governor may declare such a document, record or other item of information to be confidential through the issuance of an executive order.~~

(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 ~~[that is confidential pursuant to subsection 1 or]~~ subject to an executive order issued pursuant to subsection 1 ~~[2]~~ 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" ~~["emergency response"]~~ personnel" includes:

(a) State, county and city ~~[and tribal]~~ emergency managers;

(b) Members and staff of ~~[counter-]~~ 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 ~~[is duly authorized]~~ as having an operational

1 need to know of information that is prepared or maintained for the purpose of
2 preventing or responding to an act of terrorism; and

3 (d) Employees of a public health agency, if the agency is one that would
4 respond to a disaster and if the head of the agency has designated the employee ~~is~~
5 ~~duly authorized~~ as having an operational need to know of information that is
6 prepared or maintained for the purpose of preventing or responding to an act of
7 terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in
8 NRS 414.0335.

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

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

11 **Sec. 29.** NRS 239C.270 is hereby amended to read as follows:

12 239C.270 1. Each utility shall:

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

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

17 2. Each utility shall:

18 (a) ~~(b)~~ As soon as practicable but not later than December 31 , 2003, ~~for~~
19 ~~each year,~~ submit its vulnerability assessment and emergency response plan to the
20 Division; ~~into the repository for the protection of critical infrastructure~~
21 ~~information;~~ and

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

27 3. Except as otherwise provided in NRS 239.0115, each vulnerability
28 assessment and ~~into the repository for the protection of critical infrastructure~~
29 ~~information.~~

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

34 ~~4. and is exempt from the provisions of NRS 239.010.~~

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

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

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

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

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

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

46 (a) A gross misdemeanor; or

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

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

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

- 1 Sec. 30. (Deleted by amendment.)
- 2 Sec. 31. (Deleted by amendment.)
- 3 Sec. 32. (Deleted by amendment.)
- 4 Sec. 33. (Deleted by amendment.)
- 5 Sec. 34. (Deleted by amendment.)
- 6 Sec. 35. (Deleted by amendment.)
- 7 Sec. 36. (Deleted by amendment.)
- 8 Sec. 37. (Deleted by amendment.)
- 9 Sec. 38. (Deleted by amendment.)
- 10 Sec. 39. (Deleted by amendment.)