

ASSEMBLY BILL NO. 486—COMMITTEE
ON COMMERCE AND LABOR

MARCH 25, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to telecommunication providers. (BDR 58-970)

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 telecommunication providers; authorizing certain telecommunication providers to elect to be relieved of the obligations and status of a provider of last resort; revising certain provisions relating to the regulation of Internet Protocol-enabled service or Voice over Internet Protocol service; providing that certain assessments and surcharges are applicable to providers of Voice over Internet Protocol services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain telecommunication providers to provide basic network service and business line service to any person requesting such service. (NRS 704.6878) **Section 2** of this bill authorizes such a provider to elect to be relieved of its duty to provide such service when certain alternative services are available by filing notice with the Public Utilities Commission of Nevada and providing certain other information to the Commission.

Under existing law, the Commission is prohibited from regulating any broadband service, including imposing any requirements relating to the terms, conditions, rates or availability of broadband service. (NRS 704.684) **Section 3** of this bill, with exceptions, prohibits any state agency or political subdivision of the State from regulating any Internet Protocol-enabled service or Voice over Internet Protocol service. **Section 4** of this bill provides that certain assessments and surcharges may be assessed against or imposed on providers of Voice over Internet Protocol services.

Sections 6, 7 and 18-34 of this bill remove obsolete references to telegraph lines and telegraph equipment.



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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *A competitive supplier may elect to be relieved of its obligations and status as a provider of last resort in any or all areas where an alternative voice service is available from any other provider and via any technology.*

2. *A competitive supplier that is a provider of last resort that elects to be relieved of its obligations as a provider of last resort shall file notice with the Commission of its election to be relieved of its obligations and status as a provider of last resort in any or all areas where an alternative voice service is available from any provider and via any technology. The notice must include a map of the area or areas and a listing of the alternative voice services available in each area.*

3. *An election notice which is filed pursuant to subsection 2 shall be deemed approved 30 days after the date on which the notice of the election is received by the Commission unless the Regulatory Operations Staff of the Commission or the Consumer's Advocate files a written objection with the Commission within that period. Such an objection must only address whether an alternative voice service is available to existing customers in the area or areas subject to the election. In making an objection pursuant to this subsection, the Regulatory Operations Staff of the Commission or the Consumer's Advocate has the burden to show that an alternative voice service is not available in the area or areas subject to the election.*

4. *If an objection is made pursuant to subsection 3, the Commission shall rule on the objection and approve or disapprove the election within 90 days after receiving the notice of the election.*

5. *Any provider of last resort who has been granted full or partial relief from its obligations as a provider of last resort by the Commission before October 1, 2013, shall be deemed to be fully released of its obligations and status as a provider of last resort for the area covered by the Commission's order.*

6. *The relief described in subsections 2 to 5, inclusive, does not affect an incumbent local exchange carrier's obligations under federal law.*

7. *Except as otherwise provided in this chapter, the Commission shall not exercise jurisdiction over an alternative voice service, including, without limitation, determining the rates,*



1 *pricing, service quality, terms, conditions or availability of an*
2 *alternative voice service.*

3 8. *For the purposes of this section, "alternative voice service"*
4 *means a retail service made available through any technology or*
5 *service arrangement, other than satellite voice service, that*
6 *provides:*

7 (a) *Voice-grade access to the public switched telephone*
8 *network; and*

9 (b) *Access to emergency 911 service.*

10 Sec. 3. 1. *Except as otherwise provided in subsection 2 and*
11 *section 4 of this act, a state agency or political subdivision of the*
12 *State may not, directly or indirectly, regulate the rates charged for,*
13 *service or contract terms for, conditions for, or requirements for*
14 *entry for Internet Protocol-enabled service or Voice over Internet*
15 *Protocol service.*

16 2. *The provisions of subsection 1 must not be construed to:*

17 (a) *Affect or limit the enforcement of criminal or civil laws,*
18 *including, without limitation, laws concerning consumer*
19 *protection and unfair or deceptive trade practices, that apply*
20 *generally to the conduct of business;*

21 (b) *Affect, mandate or prohibit the assessment of taxes or*
22 *other fees of general applicability; or*

23 (c) *Affect or modify:*

24 (1) *Any right or obligation of any telecommunication*
25 *provider, or the authority granted to the Commission pursuant to*
26 *47 U.S.C. §§ 251 and 252;*

27 (2) *Any obligation relating to the provision of video service*
28 *by any person;*

29 (3) *Any applicable wholesale tariff; or*

30 (4) *The authority of the Commission to address or affect*
31 *the resolution of disputes regarding intercarrier compensation.*

32 3. *As used in this section:*

33 (a) *"Internet Protocol-enabled service" means any service,*
34 *functionality or application which uses Internet Protocol or a*
35 *successor protocol that enables an end-user to send or receive*
36 *voice, data or video communications. The term does not include*
37 *Voice over Internet Protocol service.*

38 (b) *"Voice over Internet Protocol service" means any service*
39 *that:*

40 (1) *Enables real-time, two-way voice communication*
41 *originating from or terminating at the user's location in Internet*
42 *Protocol or a successor protocol;*

43 (2) *Uses a broadband connection from the user's location;*
44 *and*



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(3) *Permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.*

Sec. 4. 1. *A provider of Voice over Internet Protocol service is subject to:*

(a) *Assessments levied and collected pursuant to subsection 5 of NRS 704.040;*

(b) *Surcharges imposed pursuant to NRS 244A.7643 and 266.344; and*

(c) *Surcharges imposed pursuant to NRS 427A.797.*

2. *As used in this section, "Voice over Internet Protocol service" has the meaning ascribed to it in subsection 3 of section 3 of this act.*

Sec. 5. NRS 704.011 is hereby amended to read as follows:

704.011 1. "Competitive supplier" means a telecommunication provider that is subject to the provisions of NRS 704.68861 to 704.68887, inclusive ~~+~~, and *section 2 of this act.*

2. The term does not include a small-scale provider of last resort unless the provider is authorized by the Commission pursuant to NRS 704.68869 to be regulated as a competitive supplier.

Sec. 6. NRS 704.280 is hereby amended to read as follows:

704.280 The Commission may:

1. Regulate the manner in which power ~~+~~ and telephone ~~and telegraph~~ lines, pipelines and the tracks of any street, steam or electric railroad or other common carrier cross or connect with any other such lines or common carriers.

2. Prescribe such regulations and safety devices, respectively, as may be necessary for the purpose of securing adequate service and for the protection of the public.

Sec. 7. NRS 704.638 is hereby amended to read as follows:

704.638 It is unlawful for any person to post any advertising sign, display or device, including a temporary political sign, on any pole, support or other device of a public utility which is used to support a ~~telegraph~~ telephone or electric transmission line.

Sec. 8. NRS 704.6878 is hereby amended to read as follows:

704.6878 ~~+~~ The Commission shall adopt regulations that establish ~~+~~

~~(a) The~~ *the* obligations of incumbent local exchange carriers as providers of last resort giving due consideration to the status of the incumbent local exchange carriers as either competitive suppliers or small-scale providers of last resort.

~~(b) The terms, conditions and procedures under which:~~

~~(1) An incumbent local exchange carrier may be excused from the obligations of the provider of last resort; and~~



~~(2) The Commission may request an incumbent local exchange carrier to reinstate the obligations of the provider of last resort.~~

~~(c) The manner of giving prior written notice of not less than 180 days before another provider of basic network service or business line service may terminate or discontinue such services and the terms of any bond necessary to protect consumers and ensure continuity of such services.~~

~~2. The regulations adopted by the Commission may not allow an incumbent local exchange carrier to be excused from the obligations of the provider of last resort in situations where the incumbent local exchange carrier, before May 31, 2007, made an agreement to or was specifically ordered to act as the provider of last resort.~~

Sec. 9. NRS 704.68861 is hereby amended to read as follows:

704.68861 1. Except as otherwise provided in this section, any telecommunication provider operating within this State is a competitive supplier that is subject to the provisions of NRS 704.68861 to 704.68887, inclusive **H**, and *section 2 of this act*.

2. A small-scale provider of last resort is not a competitive supplier that is subject to the provisions of NRS 704.68861 to 704.68887, inclusive, *and section 2 of this act*, unless the small-scale provider of last resort is authorized by the Commission pursuant to NRS 704.68869 to be regulated as a competitive supplier.

Sec. 10. NRS 704.68863 is hereby amended to read as follows:

704.68863 The provisions of NRS 704.68861 to 704.68887, inclusive, *and section 2 of this act* do not:

1. Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

2. Limit or modify:

(a) The duties of a competitive supplier that is an incumbent local exchange carrier regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

(b) The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.

Sec. 11. NRS 704.68865 is hereby amended to read as follows:

704.68865 The Commission may adopt any regulations that are necessary to carry out the provisions of NRS 704.68861 to 704.68887, inclusive **H**, and *section 2 of this act*.



1 **Sec. 12.** NRS 704.68869 is hereby amended to read as
2 follows:

3 704.68869 1. A small-scale provider of last resort may apply
4 to the Commission to be regulated as a competitive supplier
5 pursuant to NRS 704.68861 to 704.68887, inclusive ~~H~~, and *section*
6 *2 of this act.*

7 2. The Commission may grant the application if it finds that the
8 public interest will be served by allowing the small-scale provider of
9 last resort to be regulated as a competitive supplier.

10 3. If the Commission denies the application, the small-scale
11 provider of last resort:

12 (a) May not be regulated as a competitive supplier but remains
13 subject to regulation pursuant to this chapter as a telecommunication
14 provider; and

15 (b) May not submit another application to be regulated as a
16 competitive supplier sooner than 1 year after the date the most
17 recent application was denied, unless the Commission, upon a
18 showing of good cause or changed circumstances, allows the
19 provider to submit another application sooner.

20 **Sec. 13.** NRS 704.68871 is hereby amended to read as
21 follows:

22 704.68871 1. A competitive supplier is not subject to any
23 review of earnings or monitoring of the rate base or any other
24 regulation by the Commission relating to the net income or rate of
25 return of the competitive supplier, and the Commission shall not
26 consider the rate of return, the rate base or any other earnings of the
27 competitive supplier in carrying out the provisions of NRS
28 704.68861 to 704.68887, inclusive ~~H~~, and *section 2 of this act.*

29 2. On or before May 15 of each year, a competitive supplier
30 shall file with the Commission an annual statement of income, a
31 balance sheet, a statement of cash flows for the total operations of
32 the competitive supplier and a statement of intrastate service
33 revenues, each prepared in accordance with generally accepted
34 accounting principles.

35 3. A competitive supplier is not required to submit any other
36 form of financial report or comply with any other accounting
37 requirements, including, without limitation, requirements relating to
38 depreciation and affiliate transactions, imposed upon a public utility
39 by this chapter, chapter 703 of NRS or the regulations of the
40 Commission.

41 **Sec. 14.** NRS 704.68873 is hereby amended to read as
42 follows:

43 704.68873 1. Except as otherwise provided in NRS
44 704.68861 to 704. 68887, inclusive, and *section 2 of this act*, a
45 competitive supplier:



(a) Is exempt from the provisions of NRS 704.100 and 704.110 and the regulations of the Commission relating thereto and from any other provision of this chapter governing the rates, pricing, terms and conditions of any telecommunication service; and

(b) May exercise complete flexibility in the rates, pricing, terms and conditions of any telecommunication service.

2. The rates, pricing, terms and conditions of intrastate switched or special access service provided by a competitive supplier that is an incumbent local exchange carrier and the applicability of such access service to intrastate interexchange traffic are subject to regulation by the Commission, which must be consistent with federal law, unless the Commission deregulates intrastate switched or special access service pursuant to NRS 704.68879.

3. A competitive supplier that is an incumbent local exchange carrier shall use a letter of advice to change any rates, pricing, terms and conditions of intrastate switched or special access service, universal lifeline service or access to emergency 911 service. A letter of advice submitted pursuant to this subsection shall be deemed approved if the Commission does not otherwise act on the letter of advice within 120 days after the date on which the letter is filed with the Commission.

Sec. 15. NRS 704.68875 is hereby amended to read as follows:

704.68875 1. A competitive supplier is not required to maintain or file any schedule or tariff with the Commission.

2. ~~Each~~ *For any area in which a* competitive supplier ~~that~~ is ~~an incumbent local exchange carrier;~~ *a provider of last resort, the competitive supplier:*

(a) Shall publish the rates, pricing, terms and conditions of basic network service by:

(1) Posting such rates, pricing, terms and conditions electronically on a publicly available Internet website maintained by the competitive supplier;

(2) Maintaining for inspection by the public a copy of such rates, pricing, terms and conditions at the principal office in Nevada of the competitive supplier; or

(3) Delivering to the customer a copy of the rates, pricing, terms and conditions in writing with the first invoice, billing statement or other written summary of charges for the telecommunication service provided by the competitive supplier to the customer; and

(b) May publish the rates, pricing, terms and conditions of other telecommunication service by:



(1) Posting such rates, pricing, terms and conditions electronically on a publicly available Internet website maintained by the competitive supplier;

(2) Maintaining for inspection by the public a copy of such rates, pricing, terms and conditions at the principal office in Nevada of the competitive supplier; or

(3) Delivering to the customer a copy of the rates, pricing, terms and conditions in writing with the first invoice, billing statement or other written summary of charges for the telecommunication service provided by the competitive supplier to the customer.

Sec. 16. NRS 704.68877 is hereby amended to read as follows:

704.68877 1. The Commission shall not decrease the rates or pricing of basic network service provided by a competitive supplier, unless the competitive supplier files a general rate application pursuant to paragraph (b) of subsection 2 and the Commission orders a decrease in the rates or pricing of such service in a general rate case proceeding conducted pursuant thereto.

2. Except as otherwise provided in this section, a competitive supplier that is an incumbent local exchange carrier shall not:

(a) Without the approval of the Commission, discontinue basic network service or change the terms and conditions of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007.

(b) Before January 1, 2012, increase the rates or pricing of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007, except that notwithstanding any other provision of this chapter:

(1) On or after January 1, 2011, and before January 1, 2012, the competitive supplier may, without the approval of the Commission, increase the rates or pricing of basic network service provided by the competitive supplier but the total of all increases during that period may not result in rates or pricing of basic network service that is more than \$1 above the rates or pricing set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007; and

(2) The Commission may allow the competitive supplier to increase the rates or pricing of basic network service above the amounts authorized by this subsection only if the competitive supplier files a general rate application and proves in a general rate case proceeding conducted pursuant to NRS 704.110 and 704.120 that the increase is absolutely necessary to avoid rates or prices that are confiscatory under the Constitution of the United States or the



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1 Constitution of this State. In such a general rate case proceeding, the
2 Commission:

3 (I) May allow an increase in the rates or pricing of basic
4 network service provided by the competitive supplier only in an
5 amount that the competitive supplier proves in the general rate case
6 proceeding is absolutely necessary to avoid an unconstitutional
7 result and shall not authorize in the general rate case proceeding any
8 rate, price or other relief for the competitive supplier that is not
9 proven by the competitive supplier to be absolutely necessary to
10 avoid an unconstitutional result; and

11 (II) May order a decrease in the rates or pricing of basic
12 network service provided by the competitive supplier if the
13 Commission determines in the general rate case proceeding that the
14 decrease is necessary to provide customers with just and reasonable
15 rates.

16 3. On or after January 1, 2012:

17 (a) A competitive supplier that is an incumbent local exchange
18 carrier may exercise flexibility in the rates, pricing, terms and
19 conditions of basic network service in the same manner permitted
20 for other telecommunication service pursuant to NRS 704.68873;
21 and

22 (b) The Commission shall not:

23 (1) Regulate the rates, pricing, terms and conditions of basic
24 network service provided by such a competitive supplier; or

25 (2) Require such a competitive supplier to maintain any
26 schedule or tariff for basic network service.

27 4. ~~[A]~~ *For any area in which a competitive supplier is a*
28 *provider of last resort, the* competitive supplier ~~{that is an~~
29 ~~incumbent local exchange carrier}~~ must provide reasonably detailed
30 information concerning the rates, pricing, terms and conditions of
31 basic network service in the manner required by NRS 704.68875.

32 **Sec. 17.** NRS 704.68881 is hereby amended to read as
33 follows:

34 704.68881 1. ~~[A]~~ *For any area in which a competitive*
35 *supplier is a provider of last resort, the* competitive supplier ~~{that is a~~
36 ~~provider of last resort may use an alternative technology to satisfy~~
37 ~~the} may satisfy its~~ obligation ~~{to provide basic network service or~~
38 ~~business line service in a service territory} as a provider of last~~
39 *resort through an alternative voice service provided by the*
40 *competitive supplier or an affiliate of the competitive supplier.*

41 2. ~~{Except as otherwise provided in this section, the}~~ *The*
42 Commission may not exercise jurisdiction over an alternative
43 ~~{technology}~~ *voice service* used by a competitive supplier ~~{that is a~~
44 ~~provider of last resort} or its affiliate~~ to satisfy the ~~{obligation to~~
45 ~~provide basic network service or business line service in a service~~



~~territory.] competitive supplier's obligation as a provider of last resort,~~ including, without limitation, determining the rates, pricing, ~~service quality,~~ terms, conditions or availability of an alternative ~~[technology.] voice service.~~

~~3. If a competitive supplier that is a provider of last resort uses an alternative technology to satisfy the obligation to provide basic network service or business line service in a service territory, the Commission may investigate whether basic network service or business line service provided through the alternative technology by the competitive supplier is functionally comparable with circuit-switched wireline telephony.~~

~~4. If, after notice and hearing, the Commission finds any material deficiency in the competitive supplier's use of the alternative technology to satisfy the obligation to provide basic network service or business line service, the Commission may order the competitive supplier to implement corrective action, within a technically reasonable period, to cure the material deficiency in the use of the alternative technology.~~

~~5. As used in this section, "alternative technology" means any technology, facility or equipment, other than circuit-switched wireline telephony, that has the capability to provide customers with service functionally comparable to basic network service or business line service. The term includes, without limitation, wireless or Internet technology, facilities or equipment.] The use of an alternative voice service provided by a competitive supplier or an affiliate of the competitive supplier to satisfy the competitive supplier's obligation as a provider of last resort does not affect the competitive supplier's obligations as an incumbent local exchange carrier pursuant to federal law.~~

4. As used in this section, "alternative voice service" has the meaning ascribed to it in section 2 of this act.

Sec. 18. NRS 707.230 is hereby amended to read as follows:

707.230 Any person or persons, company, association or corporation, desiring to do so, may construct and maintain, or, if already constructed, may maintain, or, if partially constructed, may complete and maintain, within this state, a ~~[telegraph]~~ *telephone* line or lines by complying with NRS 707.240.

Sec. 19. NRS 707.250 is hereby amended to read as follows:

707.250 The person or persons, company, association or corporation named in the certificate (provided for in NRS 707.240), and their assigns ~~;~~

~~1. May~~ *may* construct, or if constructed, maintain, or if partially constructed, complete and maintain, their *telephone* line ~~[of telegraph.]~~ described in their certificate, filed as provided in NRS 707.240, over and through any public or private lands, and



1 along or across any streets, alleys, roads, highways or streams
2 within this state, provided they do not obstruct the same. ‡;

3 ~~—2. May operate the telegraph line between the termini of the~~
4 ~~same, and have and maintain offices and stations at any city, town,~~
5 ~~place or point along the line; and~~

6 ~~—3. Shall be entitled to demand, receive and collect for~~
7 ~~dispatches and messages transmitted over such line such sum or~~
8 ~~sums as such person or persons or the officers of the company,~~
9 ~~association or corporation (as the case may be) may deem proper.‡~~

10 **Sec. 20.** NRS 707.300 is hereby amended to read as follows:

11 707.300 All persons or corporations owning and operating
12 telephone lines in this state are entitled to all the rights and
13 privileges and are subject to all the restrictions and responsibilities
14 provided in NRS 707.230 ~~to 707.290, inclusive, so far as those~~
15 ~~rights, privileges, restrictions and responsibilities are applicable to~~
16 ~~telephone companies.‡~~, **707.240 and 707.250.**

17 **Sec. 21.** NRS 707.910 is hereby amended to read as follows:

18 707.910 Any person who:

19 1. By the attachment of a ground wire, or by any other
20 contrivance, willfully destroys the insulation of a ~~telegraph or‡~~
21 telephone line, or interrupts the transmission of the electric current
22 through the line;

23 2. Willfully interferes with the use of any ~~telegraph or‡~~
24 telephone line, or obstructs or postpones the transmission of any
25 message over the line; or

26 3. Procures or advises any such injury, interference or
27 obstruction,

28 ➔ is guilty of a public offense, as prescribed in NRS 193.155,
29 proportionate to the value of any property damaged, altered,
30 removed or destroyed and in no event less than a misdemeanor.

31 **Sec. 22.** NRS 709.050 is hereby amended to read as follows:

32 709.050 1. The board of county commissioners may grant to
33 any person, company, corporation or association the franchise, right
34 and privilege to construct, install, operate and maintain street
35 railways, electric light, heat and power lines, gas and water mains,
36 telephone ~~and telegraph‡~~ lines, and all necessary or proper
37 appliances used in connection therewith or appurtenant thereto, in
38 the streets, alleys, avenues and other places in any unincorporated
39 town in the county, and along the public roads and highways of the
40 county, when the applicant complies with the terms and provisions
41 of NRS 709.050 to 709.170, inclusive.

42 2. The board of county commissioners shall not:

43 (a) Impose any terms or conditions on a franchise granted
44 pursuant to subsection 1 for the provision of telecommunication
45 service or interactive computer service other than terms or



1 conditions concerning the placement and location of the telephone
2 ~~for telegraph~~ lines and fees imposed for a business license or the
3 franchise, right or privilege to construct, install or operate such
4 lines.

5 (b) Require a company that provides telecommunication service
6 or interactive computer service to obtain a franchise if it provides
7 telecommunication service over the telephone ~~for telegraph~~ lines
8 owned by another company.

9 3. As used in NRS 709.050 to 709.170, inclusive:

10 (a) "Interactive computer service" has the meaning ascribed to it
11 in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.

12 (b) "Street railway" means:

13 (1) A system of public transportation operating over fixed
14 rails on the surface of the ground; or

15 (2) An overhead or underground system, other than a
16 monorail, used for public transportation.

17 ➤ The term does not include a super speed ground transportation
18 system as defined in NRS 705.4292.

19 (c) "Telecommunication service" has the meaning ascribed to it
20 in NRS 704.028.

21 4. As used in this section, "monorail" has the meaning ascribed
22 to it in NRS 705.650.

23 **Sec. 23.** NRS 709.060 is hereby amended to read as follows:

24 709.060 Any person, company, corporation or association
25 desiring a franchise, right or privilege for any purpose specified in
26 NRS 709.050 must file with the board of county commissioners of
27 the county wherein the franchise, right or privilege is to be exercised
28 an application in writing, which contains:

29 1. The name of the applicant and the time for which the
30 franchise, right or privilege is desired, not exceeding 25 years.

31 2. The places where the franchise, right or privilege is to be
32 exercised and, if in any unincorporated town, the streets, avenues,
33 alleys and other places through, over, under or along which the
34 franchise, right or privilege is sought.

35 3. If the application is for a street railway, it must designate the
36 route of the proposed line in the county, and specify the width of
37 ground desired to be included in its right-of-way.

38 4. A map or plat correctly showing and delineating, so far as
39 practicable, the proposed route or right-of-way of any street railway,
40 light, heat, ~~for~~ power ~~for telegraph~~ or telephone lines, and the
41 places where gas or water mains are to be laid or installed.

42 **Sec. 24.** NRS 709.100 is hereby amended to read as follows:

43 709.100 The board of the county commissioners, at the time of
44 granting any such authority, franchise and right-of-way, shall
45 require the applicant to enter into an undertaking to the county in a



1 sum to be determined by the board of county commissioners, with
2 surety or sureties approved by the board, conditioned that the
3 applicant shall commence active construction of such telephone,
4 ~~telegraph,~~ light, heat or power lines, the laying of gas or water
5 mains, or such streetcar system, for which such franchise, right or
6 privilege is granted, within 60 days from the date of the granting of
7 the franchise, right or privilege, and prosecute the construction
8 thereof to completion with due diligence; and, failing to comply
9 with the conditions of such undertaking, shall pay into the treasury
10 of the county to which such undertaking is given the sum of money
11 mentioned therein and forfeit all rights to such franchise, right or
12 privilege.

13 **Sec. 25.** NRS 709.130 is hereby amended to read as follows:

14 709.130 1. Every person, company, corporation or
15 association receiving a franchise pursuant to the provisions of NRS
16 709.050 to 709.170, inclusive, shall:

17 (a) Provide a plant with all necessary appurtenances of approved
18 construction for the full performance of the franchise duties, rights
19 and obligations, and for the needs, comfort and convenience of the
20 inhabitants of the various unincorporated towns and cities, county or
21 place to which the franchise relates.

22 (b) Keep the plants and appurtenances, including all tracks, cars,
23 poles, wires, pipes, mains and other attachments, in good repair, so
24 as not to interfere with the passage of persons or vehicles, or the
25 safety of persons or property.

26 2. Except as otherwise provided in this subsection, the board of
27 county commissioners may when granting such franchise, fix and
28 direct the location of all tracks, poles, wires, mains, pipes and other
29 appurtenances upon the public streets, alleys, avenues and highways
30 as best to serve the convenience of the public. The board may
31 change the location of any appurtenances and permit, upon proper
32 showing, all necessary extensions thereof when the interest or
33 convenience of the public requires. The board shall not require a
34 company that provides telecommunication service or interactive
35 computer service to place its facilities in ducts or conduits or on
36 poles owned or leased by the county.

37 3. All poles, except poles from which trolley wires are
38 suspended for streetcar lines, from which wires are suspended for
39 electric railroads, power, light or heating purposes within the
40 boundaries of unincorporated towns and over public highways must
41 not be less than 30 feet in height, and the wires strung thereon must
42 not be less than 25 feet above the ground.

43 4. Every person, company, association or corporation operating
44 a telephone, ~~telegraph or~~ electric light, heat or power line, or any
45 electric railway line, shall, with due diligence, provide itself, at its



own expense, a competent electrician to cut, repair and replace wires in all cases where cutting or repairing or replacing is made necessary by the removal of buildings or other property through the public streets or highways.

5. No person, company, corporation or association may receive an exclusive franchise nor may any board of county commissioners grant a franchise in such manner or under such terms or conditions as to hinder or obstruct the granting of franchises to other grantees, or in such manner as to obstruct or impede reasonable competition in any business or public service to which NRS 709.050 to 709.170, inclusive, apply.

Sec. 26. NRS 709.150 is hereby amended to read as follows:

709.150 1. All persons, companies, associations or corporations in the business of conducting street railways, telephone, ~~telegraph,~~ electric light and power lines, gas or water mains in any of the cities, towns or places mentioned in NRS 709.050 to 709.170, inclusive, under the provisions of any other law providing for the granting of such franchises, and who or which has not fully complied with the provisions of the law under which the franchise was obtained, may, nevertheless, have and enjoy all the privileges and benefits of NRS 709.050 to 709.170, inclusive, if such person, company, association or corporation shall, within 6 months after March 23, 1909, file in the Office of the Secretary of State, and in the office of the county recorder of the county in which such person, company, corporation or association maintains its principal office or place of business, a duly executed and acknowledged acceptance of the terms, conditions and provisions of NRS 709.050 to 709.170, inclusive, which acceptance, in case of a corporation, shall be evidenced by a duly attested or certified copy of a resolution of its board of directors.

2. Nothing contained in this section shall be construed to relieve any such person, company, association or corporation of any duty or obligation provided in any law or contained in any franchise under which any person, company, association or corporation is operating on March 23, 1909.

Sec. 27. NRS 710.035 is hereby amended to read as follows:

710.035 Notwithstanding the provisions of NRS 710.030, the board of county commissioners of any county controlling and managing a telephone system, for the extension, betterment, alteration, reconstruction or other major improvement, or any combination thereof, of the system, including without limitation the purchase, construction, condemnation and other acquisition of plants, stations, other buildings, structures, ~~telegraphic equipment,~~ other equipment, furnishings, transmission and distribution lines, other facilities, lands in fee simple, easements, rights-of-way, other



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interests in land, other real and personal property, and appurtenances, may, at any time or from time to time, in the name and on the behalf of the county, issue:

1. General obligation bonds, payable from taxes;
2. General obligation bonds, payable from taxes, which payment is additionally secured by a pledge of the net revenues derived from the operation of the system; and
3. Revenue bonds constituting special obligations and payable from such net revenues.

Sec. 28. NRS 710.310 is hereby amended to read as follows:

710.310 Subject to the provisions of NRS 710.310 to 710.390, inclusive, the governing body of the county or city, for the lease, purchase, construction, other acquisition, extension, betterment, alteration, reconstruction or other major improvement, financial assistance for operation, or any combination thereof, of a railroad system, including without limitation the lease, purchase, construction, condemnation and other acquisition of plants, stations, other buildings, structures, engines, cars, tracks, ~~telegraphic equipment,~~ signal equipment, traffic control equipment, maintenance equipment, other equipment, furnishings, electric transmission lines, other facilities, lands in fee simple, easements, rights-of-way, other interests in land, other real and personal property and appurtenances, may at any time, in the name and on the behalf of the county or the city, issue:

1. In the manner provided in NRS 350.011 to 350.070, inclusive:

- (a) General obligation bonds, payable from taxes; and
- (b) General obligation bonds, payable from taxes, which payment is additionally secured by a pledge of the net revenues derived from the operation of the system.
2. Revenue bonds constituting special obligations and payable from net revenues, without the necessity of the revenue bonds being authorized at any election.

Sec. 29. NRS 37.010 is hereby amended to read as follows:

37.010 1. Subject to the provisions of this chapter and the limitations in subsections 2 and 3, the right of eminent domain may be exercised in behalf of the following public uses:

- (a) Federal activities. All public purposes authorized by the Government of the United States.
- (b) State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.
- (c) County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts,



1 flumes, ditches or pipes for conducting water for the use of the
2 inhabitants of any county, incorporated city or town, for draining
3 any county, incorporated city or town, for raising the banks of
4 streams, removing obstructions therefrom, and widening, deepening
5 or straightening their channels, for roads, streets and alleys, and all
6 other public purposes for the benefit of any county, incorporated
7 city or town, or the inhabitants thereof.

8 (d) Bridges, toll roads, railroads, street railways and similar
9 uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll
10 roads, byroads, plank and turnpike roads, roads for transportation by
11 traction engines or locomotives, roads for logging or lumbering
12 purposes, and railroads and street railways for public transportation.

13 (e) Ditches, canals, aqueducts for smelting, domestic uses,
14 irrigation and reclamation. Reservoirs, dams, water gates, canals,
15 ditches, flumes, tunnels, aqueducts and pipes for supplying persons,
16 mines, mills, smelters or other works for the reduction of ores, with
17 water for domestic and other uses, for irrigating purposes, for
18 draining and reclaiming lands, or for floating logs and lumber on
19 streams not navigable.

20 (f) Byroads. Byroads leading from highways to residences and
21 farms.

22 (g) Public utilities. Lines for ~~telegraph,~~ telephone, electric light
23 and electric power and sites for plants for electric light and power.

24 (h) Sewerage. Sewerage of any city, town, settlement of not less
25 than 10 families or any public building belonging to the State or
26 college or university.

27 (i) Water for generation and transmission of electricity. Canals,
28 reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying
29 and storing water for the operation of machinery to generate and
30 transmit electricity for power, light or heat.

31 (j) Cemeteries, public parks. Cemeteries or public parks.

32 (k) Pipelines for petroleum products, natural gas. Pipelines for
33 the transportation of crude petroleum, petroleum products or natural
34 gas, whether interstate or intrastate.

35 (l) Aviation. Airports, facilities for air navigation and aerial
36 rights-of-way.

37 (m) Monorails. Monorails and any other overhead or
38 underground system used for public transportation.

39 (n) Video service providers. Video service providers that are
40 authorized pursuant to chapter 711 of NRS to operate a video
41 service network. The exercise of the power of eminent domain may
42 include the right to use the wires, conduits, cables or poles of any
43 public utility if:

44 (1) It creates no substantial detriment to the service provided
45 by the utility;



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(2) It causes no irreparable injury to the utility; and

(3) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

(o) Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

2. Notwithstanding any other provision of law and except as otherwise provided in this subsection, the public uses for which private property may be taken by the exercise of eminent domain do not include the direct or indirect transfer of any interest in the property to another private person or entity. Property taken by the exercise of eminent domain may be transferred to another private person or entity in the following circumstances:

(a) The entity that took the property transfers the property to a private person or entity and the private person or entity uses the property primarily to benefit a public service, including, without limitation, a utility, railroad, public transportation project, pipeline, road, bridge, airport or facility that is owned by a governmental entity.

(b) The entity that took the property leases the property to a private person or entity that occupies an incidental part of an airport or a facility that is owned by a governmental entity and, before leasing the property:

(1) Uses its best efforts to notify the person from whom the property was taken that the property will be leased to a private person or entity that will occupy an incidental part of an airport or facility that is owned by a governmental entity; and

(2) Provides the person from whom the property was taken with an opportunity to bid or propose on any such lease.

(c) The entity that took the property:

(1) Took the property in order to acquire property that was abandoned by the owner, abate an immediate threat to the safety of the public or remediate hazardous waste; and

(2) Grants a right of first refusal to the person from whom the property was taken that allows that person to reacquire the property on the same terms and conditions that are offered to the other private person or entity.

(d) The entity that took the property exchanges it for other property acquired or being acquired by eminent domain or under the threat of eminent domain for roadway or highway purposes, to relocate public or private structures or to avoid payment of excessive compensation or damages.

(e) The person from whom the property is taken consents to the taking.



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3. The entity that is taking property by the exercise of eminent domain has the burden of proving that the taking is for a public use.

4. For the purposes of this section, an airport authority or any public airport is not a private person or entity.

Sec. 30. NRS 179.425 is hereby amended to read as follows:

179.425 "Electronic, mechanical or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than:

1. Any telephone ~~for telegraph~~ instrument, equipment or facility, or any component thereof:

(a) Furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or

(b) Being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his or her duties.

2. A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

Sec. 31. NRS 202.582 is hereby amended to read as follows:

202.582 1. A person who willfully and maliciously removes, damages or destroys any utility property, agricultural infrastructure or other agricultural property, lights maintained by the State or a local government, construction site or existing structure to obtain scrap metal shall be punished pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the value of the property removed, damaged or destroyed as described in subsection 1 is:

(a) Less than \$500, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(b) Five hundred dollars or more, a person who violates the provisions of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. If the removal, damage or destruction described in subsection 1 causes an interruption in the service provided by any utility property, a person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. In addition to any other penalty, the court may order a person who violates the provisions of subsection 1 to pay restitution.

5. In determining the value of the property removed, damaged or destroyed as described in subsection 1, the cost of replacing or repairing the property or repairing the utility property, agricultural infrastructure, agricultural property, lights, construction site or



existing structure, if necessary, must be added to the value of the property.

6. As used in this section:

(a) "Scrap metal" has the meaning ascribed to it in NRS 647.017.

(b) "Utility property" means any facility, equipment or other property owned, maintained or used by a company or a city, county or other political subdivision of this State to furnish cable television or other video service, broadband service, telecommunication service, telephone service, ~~telegraph service,~~ natural gas service, water service or electric service, regardless of whether the facility, property or equipment is currently used to furnish such service.

Sec. 32. NRS 408.407 is hereby amended to read as follows:

408.407 1. For the purposes of this section:

(a) "Cost of relocation" means the entire amount paid by a utility properly attributable to the relocation of its facilities, including removal, reconstruction and replacement after deducting therefrom any increase in value of the new facility and any salvage value derived from the old facility, and includes the costs of all rights and interests necessary in land and the costs of any other rights required to accomplish such relocation.

(b) "Utility" means any privately, publicly or cooperatively owned systems for supplying ~~telegraph,~~ telephone, electric power and light, gas, water, sewer and like service to the public or a segment of the public.

2. Whenever the Director, after consulting with the utility concerned, determines that any utility facility which now is, or hereafter may be, located in, over, along or under any highway in the federal-aid primary or secondary systems or in the interstate system, including extensions thereof within urban areas, as such systems are defined in the Federal-Aid Highway Acts and are accepted by and assented to by the State of Nevada, should be relocated, the utility owning or operating such utility facility shall relocate the same in accordance with the order of the Director. The cost of any such relocation shall be ascertained and paid by the State as part of the cost of such federally aided project, provided the proportionate part of such cost is reimbursable from federal funds under a Federal-Aid Highway Act or any other Act of Congress under which the State is entitled to reimbursement for all or part of such cost.

3. This section does not apply where a payment of relocation or removal costs by the State would be inconsistent with the terms of a permit issued by the Director pursuant to NRS 408.423.



Sec. 33. NRS 496.020 is hereby amended to read as follows:

496.020 As used in this chapter, unless the context otherwise requires:

1. "Air navigation facility" means any facility, other than one owned and operated by the United States, used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

2. "Airport" means any area of land or water which is used for the landing and takeoff of aircraft, and any appurtenant areas which are used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

3. "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

4. "Municipal" means pertaining to a municipality as defined in this section.

5. "Municipality" means any county, city or town of this state.

6. "Person" includes a government, a governmental agency and a political subdivision of a government.

7. "Public utility" means a person who operates any airline, broadcasting, electric, gas, pipeline, radio, railroad, rural electric, sanitary sewer, slurry, telephone ~~[-telegraph]~~ or water business in this state and who conducts such a business for a public use.

Sec. 34. NRS 497.020 is hereby amended to read as follows:

497.020 As used in this chapter, unless the context otherwise requires:

1. "Airport" means any area of land or water designed and set aside for the landing and taking off of aircraft and utilized in the interest of the public for such purposes.

2. "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at any airport, or is otherwise hazardous to the landing or taking off of aircraft.

3. "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this chapter.

4. "Person" includes a government, a governmental agency and a political subdivision of a government.



1 5. "Political subdivision" means any county, incorporated city,
2 unincorporated town or airport authority created by special
3 legislative act as a quasi-municipal corporation.

4 6. "Public utility" means a person who operates any airline,
5 broadcasting, electric, gas, pipeline, radio, railroad, rural electric,
6 sanitary sewer, slurry, telephone ~~+, telegraph~~ or water business in
7 this State and who conducts such a business for a public use.

8 7. "Structure" means any object constructed or installed by a
9 person, including, but without limitation, buildings, towers,
10 smokestacks and overhead wires and other lines.

11 8. "Tree" means any object of natural growth.

12 **Sec. 35.** NRS 707.270, 707.280 and 707.290 are hereby
13 repealed.

TEXT OF REPEALED SECTIONS

707.270 Lines governed by general laws; transmission of certain messages in order; penalty and civil liability; State may send messages free of charge.

1. Such line or lines of telegraph as may avail themselves of the provisions of NRS 707.230 to 707.290, inclusive, shall also be governed, in all respects, by the general laws of the State regulating telegraph lines, and shall do the business of side lines, and transmit all dispatches in the order in which they are received, under the penalty of \$100. All damages sustained thereby shall be recovered, with costs of suit, by the person or persons whose dispatch is postponed out of its order; provided:

(a) That arrangements may be made with publishers of newspapers for the transmission of intelligence of general and public interest out of its order; and

(b) That preference may be given to official dispatches for the detection and capture of criminals.

2. Messages on public business may be sent by the State of Nevada over such lines free of charge.

707.280 Right-of-way for line: Procedure for appraisal and compensation for private land; appeal.

1. Any person or the person's assigns, who are constructing, or who have already constructed, or who may propose to construct, a line of telegraph, as provided in NRS 707.230 to 707.290, inclusive, has the right-of-way for the line and so much land as may be necessary to construct and maintain the line, and for this purpose



may enter upon private lands along the line described in the certificate for the purpose of examining and surveying them.

2. Where the lands cannot be obtained by the consent of the owner or possessor thereof, so much of the land as may be necessary for the construction of the line may be appropriated by the person or the person's assigns (as the case may be), after making compensation therefor, as follows. The person or the person's agent shall select one appraiser, and the owner or possessor shall select one, and the two so selected shall select a third. The three shall appraise the lands sought to be appropriated, after having been first sworn, before a person authorized by law to administer oaths, to make a true appraisement thereof, according to the best of their knowledge and belief.

3. If the person or the person's agent tenders to the owner or possessor the appraised value of the lands, appraised as provided in subsection 2, the person or agent may proceed in the construction, or, if constructed, in the use of the line over the land so appraised, and may maintain the line over and upon the land, and at all times enter upon the land and pass over all adjoining lands for the purpose of constructing, maintaining and repairing the telegraph line, notwithstanding the tender may be refused. The tender must always be kept good by the person or the person's agent.

4. An appeal may be taken by either party, from the finding of the appraisers, to the district court of the county within which the land so appraised is situated at any time within 3 months after the appraisement.

707.290 Forfeiture of rights, privileges and franchise for failure to maintain line; quo warranto. The owner or owners of any line or lines constructed and maintained pursuant to the provisions of NRS 707.230 to 707.290, inclusive, shall at all times keep the same in as good condition and repair as may be practicable. If such owner or owners shall fail to keep the same in such condition and repair, such failure shall work a forfeiture of all rights, privileges and franchise belonging to such owner or owners, or any person having any interest therein. Such franchise may be also declared forfeited on information in the nature of a quo warranto, in the manner provided by law.

