

SENATE BILL NO. 109—SENATOR SETTELMAYER

PREFILED FEBRUARY 1, 2015

JOINT SPONSOR: ASSEMBLYWOMAN TITUS

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the sale or lease of a county-owned telephone system. (BDR 58-603)

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 county-owned telephone systems; authorizing a board of county commissioners to sell or lease such a system without acceptance or rejection by the registered voters of the county under certain circumstances; revising the manner in which the sale or lease of such a system is conducted; requiring the board to consider certain factors in accepting or rejecting an offer to purchase or lease such a system; exempting from open meeting requirements certain meetings of the board regarding the sale or lease of such a system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county which owns a telephone system to initiate proceedings to sell or lease the system by adopting a resolution proposing the sale or lease of the system. If the board adopts the resolution, the board is required to place the issue on a ballot for approval by the registered voters of the county. (NRS 710.151) Existing law also provides that, if approved by the voters, the telephone system must be advertised for sale or lease in a newspaper with countywide distribution. (NRS 710.159) **Section 1** of this bill authorizes a board of county commissioners to initiate proceedings to sell or lease a county-owned telephone system by adopting a resolution to evaluate the propriety of receiving offers for the sale or lease of the system and without the requirement of holding a primary or general election or obtaining approval of the registered voters of the county. **Section 4** of this bill requires a board of county commissioners that adopts a resolution to receive offers to sell a county-owned telephone system to



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contract with an expert to market and sell or lease the telephone system in a commercially reasonable manner, removing the requirement for newspaper advertisements. **Section 4** also provides that the board is not required to accept the highest bid, but must consider other factors, including the preservation of jobs, future revenue and local control of the telephone system. Finally, **section 4** requires that, at least 3 days before the board votes to accept or reject a proposed sale or lease, a notice must be published at least once in a local newspaper. **Section 5** of this bill repeals certain provisions concerning the holding of a special election for the sale or lease of the telephone system and the consolidation of voting precincts.

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

Section 1. NRS 710.151 is hereby amended to read as follows:
710.151 1. Proceedings to sell or lease a county-owned telephone system may be instituted by:

(a) Twenty-five percent or more of the freeholders of the county filing a petition with the board of county commissioners requesting the sale or lease of the system; or

(b) The adoption of a resolution by the board of county commissioners proposing to ~~sell~~ *evaluate the propriety of receiving offers for the sale* or lease *of* the system ~~and to receive offers.~~

2. After receipt of a petition provided for in paragraph (a) of subsection 1, ~~for pursuant to a resolution adopted pursuant to the provisions of paragraph (b) of subsection 1,~~ the board of county commissioners shall cause the proposal contained in the petition to be placed upon the ballot of the next primary or general election for acceptance or rejection by the registered voters of the county.

3. The *adoption of a* resolution ~~adopted~~ pursuant to the provisions of paragraph (b) of subsection 1 ~~must:~~

~~—(a) Call an election for submission of the question of the sale or lease of the system;~~

~~—(b) Designate whether the election will be consolidated with the next primary or general election, or will be a special election which the board of county commissioners is authorized to call; and~~

~~—(c) Fix the date of the election.~~

~~4. A special election may be held only if the board of county commissioners determines, by a unanimous vote, that an emergency exists. The determination made by the board is conclusive unless it is shown that the board acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the board must be commenced within 15 days after the board's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the board of county~~



~~commissioners to prevent or mitigate a substantial financial loss to the county or to enable the board to provide an essential service to the residents of the county.]~~ **does not require a sale or lease to be completed by the board of county commissioners.**

Sec. 2. NRS 710.152 is hereby amended to read as follows:

710.152 When proceedings are instituted to sell or lease a county-owned telephone system ~~it~~ **pursuant to paragraph (a) of subsection 1 of NRS 710.151,** the district attorney shall draft the measure and an explanation thereof for submission to the registered voters.

Sec. 3. NRS 710.153 is hereby amended to read as follows:

710.153 ~~It~~ If the question of the sale or lease of the county-owned telephone system is submitted at a general election, no notice of registration of electors is required other than that required by the general election laws for such election. ~~If the question is submitted at a special election, the county clerk shall cause to be published at least once a week for 5 consecutive weeks by five weekly insertions a week apart, the first publication to be not more than 60 days nor less than 45 days next preceding the election, in a newspaper published within the county and having a general circulation therein, a notice signed by the county clerk to the effect that registration for the special election will be closed on a date and time designated therein, as provided in this section.~~

~~— 2. — Except as otherwise provided in this subsection, the office of the county clerk must be open for such a special election from 9 a.m. to 12 m. and from 1 p.m. to 5 p.m. on Mondays through Fridays, with Saturdays, Sundays and legal holidays excepted, for the registration of any qualified elector. The office of the county clerk must be open during the last days of registration as provided in subsection 2 of NRS 293.560.~~

~~— 3. — The office of the county clerk must be opened for registration of voters for the special election from and including the 20th day next preceding the election and up to but excluding the 10th day next preceding the election and during regular office hours.]~~

Sec. 4. NRS 710.159 is hereby amended to read as follows:

710.159 1. If, at the primary ~~it~~ **or** general ~~for special~~ election, it is shown that a majority of the ballots cast favors the sale or lease of the telephone system, **or** the board of county commissioners **has adopted a resolution pursuant to paragraph (b) of subsection 1 of NRS 710.151,** the board of county commissioners shall contract with a reputable and qualified expert in rural telecommunications to appraise the value of the telephone system. Except as otherwise provided in NRS 239.0115, the



appraisal is confidential and must not be disclosed before the completion of the sale or lease of the telephone system.

2. Upon the return of the appraisal, the board of county commissioners shall ~~advertise the sale or lease, for a term of years agreed upon by the board, of the telephone system by notice published at least once a week for 5 consecutive weeks by five weekly insertions a week apart in a newspaper published within the county and having a general circulation therein. After publication of the first such notice,~~ *contract with a reputable and qualified expert in rural telecommunications, other than the expert who provided the appraisal pursuant to subsection 1, to market and sell or lease the telephone system in a commercially reasonable manner. After entering into the contract,* the board or its authorized representatives may enter into negotiations for the sale or lease of the telephone system. If the notice is for the sale of the telephone system, the board shall not accept a sum less than the amount of the appraisal of the telephone system. ~~If the notice is for the lease of the telephone system, the board shall not accept a sum less than an amount to realize not less than 7 percent per annum upon the value of the telephone system as so appraised.~~ If the telephone system is leased, the board shall safeguard the county's interest by demanding a bond for the faithful performance of the covenants contained in the lease. The board may reject any and all offers made for such a sale or lease.

3. *The board of county commissioners is not obligated to accept the highest bid for the purchase or lease of the telephone system and shall consider, without limitation:*

(a) The return on investment to the county;

(b) The preservation of existing jobs and future employment opportunities within the county;

(c) The preservation of future revenue generated by the telephone system within the county; and

(d) The likelihood of local control and management of the telephone system.

4. *Not less than 3 days before the board of county commissioners votes to accept or reject a sale or lease of the telephone system, the board shall cause a notice of the proposed sale or lease to be published at least once in a newspaper published in the county, or if no such newspaper is published, then a newspaper published in this State that has a general circulation in the county.*

5. *A meeting of the board of county commissioners held to consider the general objectives for a sale or lease, including, without limitation, terms and conditions acceptable to the board, is not subject to the provisions of chapter 241 of NRS. The*



1 *provisions of this subsection do not apply to any vote by the board*
2 *to seek offers or to accept an offer.*

3 **Sec. 5.** NRS 710.155 and 710.157 are hereby repealed.

4 **Sec. 6.** This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTIONS

710.155 Sale or lease of system: Publication of notice of special election; contents.

1. If the resolution adopted pursuant to paragraph (b) of subsection 1 of NRS 710.151 calls a special election, the county clerk shall cause a notice of the election to be published in some newspaper printed in and having a general circulation in the county at least once a week for 2 consecutive weeks by two weekly insertions a week apart, the first publication to be not more than 14 days nor less than 8 days next preceding the election.

2. The notice of the special election shall contain:

(a) The time and places of holding the election.

(b) The hours during the day in which the polls will be open, which shall be the same as provided for general elections.

(c) A statement of the question in substantially the same form as it will appear on the ballots.

710.157 Sale or lease of system: Powers and duties of county clerk for special election; qualifications to vote.

1. The county clerk may consolidate or otherwise modify voting precincts, shall designate the polling places, appoint officers of the election for each precinct in such number as the county clerk may determine and fix their duties and compensation.

2. Any qualified elector who is properly registered is qualified to vote at the special election.

