

ASSEMBLY BILL NO. 373—ASSEMBLYWOMAN TITUS

MARCH 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the emergency powers of the Governor. (BDR 36-916)

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 emergency management; authorizing a board of county commissioners to issue certain emergency orders relating to public health that impose requirements and restrictions which are less stringent than those imposed by certain emergency orders or regulations made by the Governor; requiring a state of emergency or declaration of disaster proclaimed by the Governor to terminate after 15 days if the Governor exercises his or her emergency powers in a manner that imposes a requirement on or otherwise restricts the operation of a business in this State unless the Legislature expressly approves a continuance of the emergency or disaster; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides the Governor with certain emergency powers during the existence of a state of emergency or declaration of disaster. Under existing law, the Governor and the Legislature are authorized to proclaim the existence of a state of emergency or declaration of disaster if the Governor or the Legislature finds that: (1) an attack upon the United States has occurred or is about to occur, or a natural, technological or man-made emergency or disaster has actually occurred within this State; and (2) the safety and welfare of the inhabitants of this State require an invocation of the provisions of existing law providing the Governor with certain emergency powers. Under existing law, a state of emergency or declaration of disaster proclaimed by the Governor or the Legislature terminates when the Governor issues a proclamation terminating the emergency or disaster or the Legislature passes a resolution terminating the emergency or disaster. (NRS 414.070)



**Section 3** of this bill provides that a state of emergency or declaration of disaster proclaimed by the Governor terminates 15 days after the emergency or disaster is proclaimed if the exercise of any emergency power by the Governor imposes a requirement on or otherwise restricts the operation of a business in this State unless the Legislature, by resolution, expressly approves a continuance of the emergency or disaster.

Existing law authorizes the Governor, in exercising his or her emergency powers, to make, amend and rescind necessary orders and regulations. (NRS 414.060) **Section 1** of this bill authorizes a board of county commissioners to evaluate certain emergency orders or regulations made by the Governor which are related to public health to determine whether the implementation of the full scope of the order or regulation is necessary to protect the public health of the residents of the county. If the board determines that implementation of the full scope of the order or regulation is not necessary to protect the public health of residents of the county, **section 1** authorizes the board to issue an order which imposes requirements or restrictions which are less stringent than those imposed by the order or regulation made by the Governor. Under **section 1**, an order issued by a board of county commissioners pursuant to **section 1** prevails in that county to the extent of any conflict with the emergency order or regulation made by the Governor. **Section 2** of this bill makes a conforming change to account for the authority to issue emergency orders related to public health provided to a board of county commissioners by **section 1**.

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

**Section 1.** Chapter 414 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. During the existence of a state of emergency or declaration of disaster proclaimed pursuant to NRS 414.070, a board of county commissioners may conduct an evaluation of any order or regulation made by the Governor under the authority of this chapter which:*

*(a) Is related to the public health of the residents of this State;*

*(b) Is applicable statewide; and*

*(c) Imposes any requirement or restriction on a person or business in this State.*

*2. In conducting an evaluation pursuant to subsection 1, the board of county commissioners shall consult with the county health officer for the county or other appropriate health officials in the county to determine whether the implementation of the full scope of the provisions of the order or regulation made by the Governor is necessary to protect the public health of the residents of the county.*

*3. If, after conducting the evaluation pursuant to subsection 1, the board of county commissioners determines that the implementation of the full scope of the provisions of the order or regulation made by the Governor is not necessary to protect the*



1 *public health of the residents of the county, the board of county*  
2 *commissioners may issue an order concerning the same subject*  
3 *matter as that of the order or regulation made by the Governor*  
4 *which imposes requirements or restrictions that are less stringent*  
5 *than those imposed by the order or regulation made by the*  
6 *Governor.*

7 4. *An order issued pursuant to subsection 3 must set forth:*

8 (a) *A statement that the board of county commissioners has*  
9 *conducted an evaluation of the order or regulation of the*  
10 *Governor in accordance with this section;*

11 (b) *A statement that the board of county commissioners has*  
12 *determined, based on the evaluation, that the implementation of*  
13 *the full scope of the provisions of the order or regulation of the*  
14 *Governor is not necessary to protect the public health and safety*  
15 *of the county; and*

16 (c) *Any other relevant findings which support the decision of*  
17 *the board of county commissioners to issue the order.*

18 5. *If a board of county commissioners issues an order in*  
19 *response to an order or regulation made by the Governor as*  
20 *provided in this section, the order or regulation of the Governor*  
21 *shall not apply in the county to the extent that it conflicts with the*  
22 *order issued by the board of county commissioners.*

23 **Sec. 2.** NRS 414.060 is hereby amended to read as follows:

24 414.060 1. The Governor is responsible for carrying out the  
25 provisions of this chapter, and in the event of an emergency or  
26 disaster beyond local control, may assume direct operational control  
27 over all or any part of the functions of emergency management  
28 within this State.

29 2. In performing his or her duties under this chapter, the  
30 Governor may cooperate with the Federal Government, with other  
31 states and with private agencies in all matters pertaining to  
32 emergency management in this State and the nation.

33 3. ~~He~~ **Except as otherwise provided in section 1 of this act, in**  
34 performing his or her duties under this chapter and to effect its  
35 policy and purpose, the Governor may:

36 (a) Make, amend and rescind the necessary orders and  
37 regulations to carry out the provisions of this chapter within the  
38 limits of the authority conferred upon the Governor in this chapter,  
39 with due consideration of the plans provided by the Federal  
40 Government.

41 (b) Prepare a comprehensive state emergency management plan  
42 and develop a program for emergency management in this State to  
43 be integrated into and coordinated with the plans of the Federal  
44 Government and of other states for emergency management to the  
45 fullest possible extent, and coordinate the preparation of plans and



1 programs for emergency management by the political subdivisions  
2 of this State to be integrated into and coordinated with the plan and  
3 program of this State to the fullest possible extent.

4 (c) In accordance with the plan and program for the emergency  
5 management in this State, procure supplies and equipment, institute  
6 planning, training and exercise programs, carry out public  
7 information programs, and take all other preparatory steps,  
8 including the partial or full mobilization of organizations for  
9 emergency management in advance of an actual emergency or  
10 disaster, to ensure the availability of adequately trained and  
11 equipped forces in time of need.

12 (d) Make such studies and surveys of industries, resources and  
13 facilities in this State as may be necessary to ascertain the  
14 capabilities of the State for emergency management and plan for the  
15 most efficient use thereof.

16 (e) On behalf of this State, enter into mutual aid agreements  
17 with other states and coordinate mutual aid plans between political  
18 subdivisions of this State.

19 (f) Delegate any administrative authority vested in him or her  
20 under this chapter, and provide for the subdelegation of any such  
21 authority.

22 (g) Cooperate with the President of the United States and the  
23 heads of the Armed Forces, the agency of the United States for  
24 emergency management and other appropriate federal officers and  
25 agencies, and with the officers and agencies of other states in  
26 matters pertaining to emergency management in the State and  
27 nation, including the direction or control of:

28 (1) Mobilizing forces for emergency management and other  
29 tests and exercises.

30 (2) Mechanical devices to be used in connection with  
31 warnings and signals for emergencies or disasters.

32 (3) The effective screening or extinguishing of all lights and  
33 lighting devices and appliances.

34 (4) Coordinating the efforts of all public utilities in  
35 terminating and restoring service to the general public during an  
36 emergency or disaster.

37 (5) The conduct of the general public and the movement and  
38 cessation of movement of pedestrians and vehicular traffic during,  
39 before and after exercises or an emergency or disaster.

40 (6) Public meetings or gatherings.

41 (7) The evacuation and reception of the general public during  
42 an attack or an emergency or disaster.

43 **Sec. 3.** NRS 414.070 is hereby amended to read as follows:

44 414.070 **1.** The provisions of this section are operative only  
45 during the existence of a state of emergency or declaration of



1 disaster. The existence of such an emergency or disaster may be  
2 proclaimed by the Governor or by resolution of the Legislature if the  
3 Governor in his or her proclamation, or the Legislature in its  
4 resolution, finds that an attack upon the United States has occurred  
5 or is anticipated in the immediate future, or that a natural,  
6 technological or man-made emergency or disaster of major  
7 proportions has actually occurred within this State, and that the  
8 safety and welfare of the inhabitants of this State require an  
9 invocation of the provisions of this section. ~~[Any such]~~

10 **2. A state of emergency or declaration of disaster ~~[whether]~~**  
11 **proclaimed by the ~~[Governor or by the]~~ Legislature ~~[pursuant to~~**  
12 ***subsection 1* terminates upon the proclamation of the termination**  
13 **thereof by the Governor, or the passage by the Legislature of a**  
14 **resolution terminating the emergency or disaster. ~~[During]~~**

15 **3. A state of emergency or declaration of disaster proclaimed**  
16 **by the Governor pursuant to subsection 1 terminates:**

17 **(a) Upon the proclamation of the termination thereof by the**  
18 **Governor;**

19 **(b) Upon the passage by the Legislature of a resolution**  
20 **terminating the emergency or disaster; or**

21 **(c) If the exercise of any power by the Governor pursuant to**  
22 **subsection 4 or NRS 414.060 imposes a requirement on or**  
23 **otherwise restricts the operation of a business in this State, 15 days**  
24 **after the date on which the emergency or disaster was proclaimed**  
25 **unless the Legislature, by resolution, expressly approves of a**  
26 **continuance of the emergency or disaster,**  
27 **↪ whichever is earliest.**

28 **4. Except as otherwise provided in section 1 of this act,**  
29 **during the period when a state of emergency or declaration of**  
30 **disaster exists or continues, the Governor may exercise the**  
31 **following additional powers:**

32 **~~[1-]~~ (a) To enforce all laws and regulations relating to**  
33 **emergency management and to assume direct operational control of**  
34 **any or all forces, including, without limitation, volunteers and**  
35 **auxiliary staff for emergency management in the State.**

36 **~~[2-]~~ (b) To sell, lend, lease, give, transfer or deliver materials or**  
37 **perform services for the purpose of emergency management on such**  
38 **terms and conditions as the Governor prescribes and without regard**  
39 **to the limitations of any existing law, and to account to the State**  
40 **Treasurer for any money received for such property.**

41 **~~[3-]~~ (c) Except as otherwise provided in NRS 414.155 and**  
42 **414.340, to procure, by purchase, condemnation, seizure or other**  
43 **means, construct, lease, transport, store, maintain, renovate or**  
44 **distribute materials and facilities for emergency management**  
45 **without regard to the limitations of any existing law. The Governor**



1 shall make compensation for the property so seized, taken or  
2 condemned on the following basis:

3 ~~[(a)]~~ (1) If property is taken for temporary use, the Governor,  
4 within 90 days after the taking, shall fix the amount of  
5 compensation to be paid therefor. If the property is returned to the  
6 owner in a damaged condition, or is not returned to the owner, the  
7 Governor shall fix within 90 days the amount of compensation to be  
8 paid for the damage or failure to return the property. If the Governor  
9 deems it advisable for the State to take title to property taken under  
10 this section, the Governor shall forthwith cause the owner of the  
11 property to be notified thereof in writing by registered or certified  
12 mail, postage prepaid, or by the best means available, and forthwith  
13 cause to be filed a copy of the notice with the Secretary of State.

14 ~~[(b)]~~ (2) Within the 90-day period prescribed in ~~[paragraph (a)]~~  
15 ~~subparagraph (1)~~, the Governor shall make an offer in writing to  
16 the person or persons entitled to receive it of the amount of money  
17 proposed to be paid as full compensation. If the offer is accepted,  
18 the money must be paid out of such fund, funds or other sources as  
19 are available and no further action in law or in equity may ever be  
20 maintained in connection therewith. If the offer of payment is  
21 refused, the person or persons entitled thereto have the same rights  
22 as plaintiffs in actions of eminent domain insofar as the fixing of  
23 damages and compensation is concerned, NRS 37.060, 37.070,  
24 37.080 and 37.090, so far as applicable, apply, and proceedings  
25 must be had in conformity therewith so far as possible. The action  
26 must be commenced within 1 year after the receipt of the offer of  
27 settlement from the Governor.

28 ~~[(4)]~~ (d) To provide for and compel the evacuation of all or part  
29 of the population from any stricken or threatened area or areas  
30 within the State and to take such steps as are necessary for the  
31 receipt and care of those persons.

32 ~~[(5)]~~ (e) Subject to the provisions of the State Constitution, to  
33 remove from office any public officer having administrative  
34 responsibilities under this chapter for willful failure to obey an order  
35 or regulation adopted pursuant to this chapter. The removal must be  
36 upon charges after service upon the officer of a copy of the charges  
37 and after giving him or her an opportunity to be heard in his or her  
38 defense. Pending the preparation and disposition of charges, the  
39 Governor may suspend the officer for a period not exceeding 30  
40 days. A vacancy resulting from removal or suspension pursuant to  
41 this section must be filled as provided by law.

42 ~~[(6)]~~ (f) To authorize providers of emergency medical services  
43 and providers of mental health services who are not licensed,  
44 certified or registered, as applicable, in this State but hold a license,  
45 certificate, registration or similar credential in good standing in



1 another state of the United States, the District of Columbia, the  
2 Commonwealth of Puerto Rico or any territory or insular possession  
3 subject to the jurisdiction of the United States to practice their  
4 profession within their scope of practice as if they were licensed,  
5 certified or registered, as applicable, in this State for the amount of  
6 time necessary to assist in responding to the emergency or disaster.

7 ~~[7]~~ (g) To perform and exercise such other functions, powers  
8 and duties as are necessary to promote and secure the safety and  
9 protection of the civilian population.

10 **Sec. 4.** This act becomes effective upon passage and approval.

