

SENATE BILL NO. 88—SENATOR PICKARD

FEBRUARY 3, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to emergency management. (BDR 36-51)

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; clarifying the termination date of and certain limitations on actions taken by a state agency pursuant to an order or regulation made by the Governor under certain emergency powers of the Governor; requiring a state of emergency or declaration of disaster proclaimed by the Governor to terminate after 30 days 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 establishes various provisions relating to emergency management and confers upon the Governor broad emergency powers to respond to an emergency or disaster. (Chapter 414 of NRS) 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 2** of this bill provides that a state of emergency or declaration of disaster proclaimed by the Governor, in addition to the previously described methods of termination, terminates automatically 30 days after it is proclaimed by the Governor. However, **section 2** provides that a state of emergency or declaration of disaster may continue beyond that 30-day period if the Legislature approves a



continuanance through the adoption of a concurrent resolution which is approved by at least a two-thirds vote of each House of the Legislature.

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 clarifies that any action taken by a state agency pursuant to such an order or regulation terminates when the order or regulation terminates. **Section 1** further clarifies that state agencies are prohibited from taking any action pursuant to such an order or regulation which imposes restrictions upon a person in excess of those restrictions authorized or required by the Governor in the order or regulation.

**Section 3** of this bill applies the provisions of **section 2** to any state of emergency or declaration of disaster proclaimed by the Governor which is in effect on the effective date of this bill. However, rather than providing for the termination of such an emergency or disaster 30 days after the date upon which it was proclaimed as set forth in **section 2**, **section 3** provides that an emergency or disaster which is in effect on the effective date of this bill terminates 10 days after the effective date of this bill unless the Legislature expressly approves a continuance in the manner set forth in **section 2**.

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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. Any action taken by a state agency pursuant to an order or regulation made by the Governor under the emergency powers provided in this chapter terminates upon the termination of the order or regulation.*

*2. Any action described in subsection 1 must not impose upon a person restrictions in excess of those authorized or required by the Governor in the order or regulation. Any such action is void to the extent that it violates the provisions of this subsection.*

*3. The provisions of this section apply only to actions described in subsection 1. Nothing in the provisions of this section limits the power of a state agency to carry out its statutory duties and responsibilities.*

*4. As used in this section, "state agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive Department of State Government.*

**Sec. 2.** NRS 414.070 is hereby amended to read as follows:

414.070 **1.** The provisions of this section are operative only during the existence of a state of emergency or declaration of disaster. The existence of such an emergency or disaster may be proclaimed by the Governor or by resolution of the Legislature if the Governor in his or her proclamation, or the Legislature in its resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural,



1 technological or man-made emergency or disaster of major  
2 proportions has actually occurred within this State, and that the  
3 safety and welfare of the inhabitants of this State require an  
4 invocation of the provisions of this section. ~~Any such~~

5 **2. A state of emergency or declaration of disaster ~~whether~~**  
6 **proclaimed by the ~~Governor or by the~~ Legislature ~~is~~ pursuant to**  
7 **subsection 1 terminates upon the proclamation of the termination**  
8 **thereof by the Governor, or the passage by the Legislature of a**  
9 **resolution terminating the emergency or disaster.**

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

12 **(a) Upon the proclamation of the termination thereof by the**  
13 **Governor;**

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

16 **(c) Unless expressly continued by the Legislature, by**  
17 **concurrent resolution adopted by an affirmative vote of not fewer**  
18 **than two-thirds of the members of each House of the Legislature,**  
19 **30 days after the date on which the emergency or disaster was**  
20 **proclaimed, whichever is earliest.**

21 **4. During the period when a state of emergency or declaration**  
22 **of disaster exists or continues, the Governor may exercise the**  
23 **following additional powers:**

24 ~~1-1~~ **(a)** To enforce all laws and regulations relating to  
25 emergency management and to assume direct operational control of  
26 any or all forces, including, without limitation, volunteers and  
27 auxiliary staff for emergency management in the State.

28 ~~1-2~~ **(b)** To sell, lend, lease, give, transfer or deliver materials or  
29 perform services for the purpose of emergency management on such  
30 terms and conditions as the Governor prescribes and without regard  
31 to the limitations of any existing law, and to account to the State  
32 Treasurer for any money received for such property.

33 ~~1-3~~ **(c)** Except as otherwise provided in NRS 414.155 and  
34 414.340, to procure, by purchase, condemnation, seizure or other  
35 means, construct, lease, transport, store, maintain, renovate or  
36 distribute materials and facilities for emergency management  
37 without regard to the limitations of any existing law. The Governor  
38 shall make compensation for the property so seized, taken or  
39 condemned on the following basis:

40 ~~1-a~~ **(1)** If property is taken for temporary use, the Governor,  
41 within 90 days after the taking, shall fix the amount of  
42 compensation to be paid therefor. If the property is returned to the  
43 owner in a damaged condition, or is not returned to the owner, the  
44 Governor shall fix within 90 days the amount of compensation to be  
45 paid for the damage or failure to return the property. If the Governor



deems it advisable for the State to take title to property taken under this section, the Governor shall forthwith cause the owner of the property to be notified thereof in writing by registered or certified mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of the notice with the Secretary of State.

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

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

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

~~[(6)]~~ (f) To authorize providers of emergency medical services and providers of mental health services who are not licensed, certified or registered, as applicable, in this State but hold a license, certificate, registration or similar credential in good standing in another state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States to practice their profession within their scope of practice as if they were licensed, certified or registered, as applicable, in this State for the amount of time necessary to assist in responding to the emergency or disaster.



~~17.1~~ (g) To perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.

**Sec. 3.** Notwithstanding the provisions of NRS 414.070, as amended by section 2 of this act:

1. A state of emergency or declaration of disaster proclaimed by the Governor pursuant to NRS 414.070, as that section existed before the effective date of this act, which is in effect on the effective date of this act terminates:

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

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

(c) Except as otherwise provided in subsection 2, 10 days after the effective date of this act.

2. A state of emergency or declaration of disaster proclaimed by the Governor pursuant to NRS 414.070, as that section existed before the effective date of this act, which is in effect on the effective date of this act may continue beyond the 10-day period set forth in subsection 1 if the Legislature, by concurrent resolution adopted by an affirmative vote of not fewer than two-thirds of the members of each House of the Legislature, expressly approves the continuance.

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

