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ASSEMBLY BILL NO. 103—ASSEMBLYWOMAN DICKMAN

PREFILED FEBRUARY 1, 2023

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JOINT SPONSOR: SENATOR TITUS

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Referred to Committee on Government Affairs

**SUMMARY**—Revises provisions relating to states of emergency or declarations of disaster proclaimed by the Governor. (BDR 36-92)

**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.

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AN ACT relating to emergency management; requiring a state of emergency or declaration of disaster proclaimed by the Governor to terminate after 60 days, unless the Legislature expressly approves a continuance of the emergency or disaster; prohibiting the Governor from proclaiming the existence of a state of emergency or declaration of disaster due to the same occurrence or threatened occurrence as that of an emergency or disaster which has terminated, unless the Legislature expressly approves the proclamation; prohibiting the exercise of certain powers by the Governor without the express approval of the Legislative Commission or the Legislature; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Existing law provides the Governor and Legislature with certain emergency
- 2 powers during the existence of a state of emergency or declaration of disaster.
- 3 Under existing law, the Governor and the Legislature are authorized to proclaim the
- 4 existence of a state of emergency or declaration of disaster if the Governor or
- 5 Legislature finds that: (1) an attack upon the United States has occurred or is about
- 6 to occur, or a natural, technological or man-made emergency or disaster has
- 7 actually occurred within this State; and (2) the safety and welfare of the inhabitants
- 8 of this State require an invocation of the provisions of existing law providing the



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Governor and Legislature with such 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 terminates automatically 60 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 60-day period if the Legislature, by resolution, expressly approves the continuance. If a state of emergency or declaration of disaster proclaimed by the Governor terminates, **section 2** prohibits the Governor from subsequently proclaiming the existence of a state of emergency or declaration of disaster due to the same occurrence or threatened occurrence as that of the terminated emergency or disaster, unless the Legislature, by resolution, expressly approves the proclamation. Additionally, if the exercise of any emergency power by the Governor would declare a business to be an essential or nonessential business and impose a requirement on or otherwise restrict the operation of a business in this State on such a basis, **sections 1 and 2** of this bill prohibit the Governor from exercising such a power without the express approval of the Legislative Commission or Legislature. Finally, **sections 1 and 2** require that any approved regulation imposing a requirement on or otherwise restricting the operation of a business in this State be uniformly applied to all businesses operating in this State without regard for the type of business or the product or service provided by the business.

**Section 3** of this bill applies the provisions of **section 2** to a state of emergency or declaration of disaster proclaimed by the Governor that is in effect on the effective date of this bill. However, under **section 3**, a state of emergency or declaration of disaster proclaimed by the Governor that is in effect on the effective date of this bill terminates 10 days after the effective date of this bill, rather than 60 days after the date upon which the emergency or disaster was proclaimed.

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

**Section 1.** NRS 414.060 is hereby amended to read as follows:  
414.060 1. The Governor is responsible for carrying out the provisions of this chapter, and in the event of an emergency or disaster beyond local control, may assume direct operational control over all or any part of the functions of emergency management within this State.

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

3. ~~He~~ *Except as otherwise provided in subsection 6 of NRS 414.070, in* performing his or her duties under this chapter and to effect its policy and purpose, the Governor may:

(a) Make, amend and rescind the necessary orders and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon the Governor in this chapter,



1 with due consideration of the plans provided by the Federal  
2 Government.

3 (b) Prepare a comprehensive state emergency management plan  
4 and develop a program for emergency management in this State to  
5 be integrated into and coordinated with the plans of the Federal  
6 Government and of other states for emergency management to the  
7 fullest possible extent, and coordinate the preparation of plans and  
8 programs for emergency management by the political subdivisions  
9 of this State to be integrated into and coordinated with the plan and  
10 program of this State to the fullest possible extent.

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

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

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

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

29 (g) Cooperate with the President of the United States and the  
30 heads of the Armed Forces, the agency of the United States for  
31 emergency management and other appropriate federal officers and  
32 agencies, and with the officers and agencies of other states in  
33 matters pertaining to emergency management in the State and  
34 nation, including the direction or control of:

35 (1) Mobilizing forces for emergency management and other  
36 tests and exercises.

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

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

41 (4) Coordinating the efforts of all public utilities in  
42 terminating and restoring service to the general public during an  
43 emergency or disaster.



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

(6) Public meetings or gatherings.

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

**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]~~ *Except as otherwise provided in subsection 4, 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, technological or man-made emergency or disaster of major proportions has actually occurred within this State, and that the safety and welfare of the inhabitants of this State require an invocation of the provisions of this section. ~~[Any such]~~

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

**3.** *A state of emergency or declaration of disaster proclaimed by the Governor pursuant to subsection 1 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) Unless expressly continued by resolution of the Legislature, 60 days after the date on which the emergency or disaster was proclaimed,*

*↳ whichever is earliest.*

**4.** *If a state of emergency or declaration of disaster proclaimed by the Governor pursuant to subsection 1 terminates, the Governor may not subsequently proclaim the existence of a state of emergency or declaration of disaster due to the same occurrence or threatened occurrence as that of the emergency or disaster which has terminated unless the Legislature, by resolution, expressly approves the proclamation.*

**5.** *Except as otherwise provided in subsection 6, during the period when a state of emergency or declaration of disaster exists or continues, the Governor may exercise the following additional powers:*



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

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

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

~~[(a)]~~ (1) If property is taken for temporary use, the Governor, within 90 days after the taking, shall fix the amount of compensation to be paid therefor. If the property is returned to the owner in a damaged condition, or is not returned to the owner, the Governor shall fix within 90 days the amount of compensation to be 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.

~~[7.]~~ (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.

*6. The exercise of any power by the Governor pursuant to subsection 5 or NRS 414.060 which would declare a business to be an essential or nonessential business and impose a requirement on or otherwise restrict the operation of a business in this State on such a basis does not become effective until the exercise of such power is:*

*(a) Submitted to the Legislative Commission as a regulation and approved by the Legislative Commission; or*

*(b) Expressly approved by the Legislature by resolution.*

*7. Any regulation submitted to the Legislative Commission pursuant to paragraph (a) of subsection 6 must uniformly apply to all businesses operating in this State without regard for the type of business or the product or service provided by the business.*

**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 resolution, expressly approves the continuance.

3. If 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, the Governor may not subsequently proclaim the existence of a state of emergency or declaration of disaster due to the same occurrence or threatened occurrence as that of the emergency or disaster which has terminated unless the Legislature, by resolution, expressly approves the proclamation.

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

