

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:

1 Existing law establishes various provisions relating to emergency management
2 and confers upon the Governor broad emergency powers to respond to an
3 emergency or disaster. (Chapter 414 of NRS) Under existing law, the Governor and
4 the Legislature are authorized to proclaim the existence of a state of emergency or
5 declaration of disaster if the Governor or the Legislature finds that: (1) an attack
6 upon the United States has occurred or is about to occur, or a natural, technological
7 or man-made emergency or disaster has actually occurred within this State; and (2)
8 the safety and welfare of the inhabitants of this State require an invocation of the
9 provisions of existing law providing the Governor with certain emergency powers.
10 Under existing law, a state of emergency or declaration of disaster proclaimed by
11 the Governor or the Legislature terminates when the Governor issues a
12 proclamation terminating the emergency or disaster or the Legislature passes a
13 resolution terminating the emergency or disaster. (NRS 414.070)

14 **Section 2** of this bill provides that a state of emergency or declaration of
15 disaster proclaimed by the Governor, in addition to the previously described
16 methods of termination, terminates automatically 30 days after it is proclaimed by
17 the Governor. However, **section 2** provides that a state of emergency or declaration
18 of disaster may continue beyond that 30-day period if the Legislature approves a



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

21 Existing law authorizes the Governor, in exercising his or her emergency
22 powers, to make, amend and rescind necessary orders and regulations. (NRS
23 414.060) **Section 1** of this bill clarifies that any action taken by a state agency
24 pursuant to such an order or regulation terminates when the order or regulation
25 terminates. **Section 1** further clarifies that state agencies are prohibited from taking
26 any action pursuant to such an order or regulation which imposes restrictions upon
27 a person in excess of those restrictions authorized or required by the Governor in
28 the order or regulation.

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

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

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

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

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

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

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

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

19 414.070 *1.* The provisions of this section are operative only
20 during the existence of a state of emergency or declaration of
21 disaster. The existence of such an emergency or disaster may be
22 proclaimed by the Governor or by resolution of the Legislature if the
23 Governor in his or her proclamation, or the Legislature in its
24 resolution, finds that an attack upon the United States has occurred
25 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 ~~;~~ **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 ~~2-1~~ **(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 ~~3-1~~ **(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 ~~4-1~~ **(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**



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

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

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

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

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



1 ~~7.1~~ (g) To perform and exercise such other functions, powers
2 and duties as are necessary to promote and secure the safety and
3 protection of the civilian population.

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

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

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

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

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

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

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



