

**Proposed Amendment to AB 509**  
**Proposed by Craig Stevens – Cox Communications**

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

**Section 1.** Chapter 704 of NRS is hereby amended by adding  
thereto a new section to read as follows:

*The Commission shall:*

~~1. Not less than once per calendar year,~~ *Within 120 days of final regulations being adopted,*  
*and then thereafter every three calendar years review each person*  
*that has been issued a certificate of public convenience and*  
*necessity pursuant to this chapter to provide telecommunication*  
*service to the public to determine whether the person continues to*  
*operate as a public utility as that term is defined in NRS 704.020(b) and (c)*  
*and 704.021(3). In making such a determination, the Commission*  
*may use any report submitted to the Commission by the person,*  
*including, without limitation, a report submitted pursuant to*  
~~NRS 703.191.~~ *NAC 704.7483 or NAC 707.030.*

*2. Revoke a certificate of public convenience and necessity*  
*issued to a person pursuant to this chapter to provide*  
*telecommunication service to the public if the Commission provides notice of its*  
*determination made pursuant to subsection 1, and such person does not submit a petition*  
*pursuant to NAC 704.540 within ninety days of the date of such notice.*

~~determines, after a reasonable investigation and a hearing, subject~~  
~~to the requirements of NRS 704.360, that:~~

~~(a) The person does not own, control, maintain or operate as a~~  
~~public utility as that term is defined in NRS 704.020 and 704.021;~~

~~(b) The person does not plan to start, continue or resume~~  
~~operating as a public utility in this State by a definite date; and~~

~~(c) The person does not have any definite plan to own, control~~  
~~or operate a public utility that is otherwise required to hold a~~  
~~certificate of public convenience and necessity pursuant to~~  
~~NRS 704.330.~~

*3. Adopt such regulations as are necessary to carry out the*  
*provisions of this section.*

**Sec. 2.** NRS 704.021 is hereby amended to read as follows:

704.021 “Public utility” or “utility” does not include:

1. Persons engaged in the production and sale of natural gas,  
other than sales to the public, or engaged in the transmission of  
natural gas other than as a common carrier transmission or  
distribution line or system.
2. Persons engaged in the business of furnishing, for  
compensation, water or services for the disposal of sewage, or both,  
to persons within this State if:

- (a) They serve 25 persons or less; and
- (b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. *Persons engaged in the business of furnishing, for compensation, a telecommunication service to persons within this State if:*

*(a) They serve 25 persons or less; and*

*(b) Their gross sales for intrastate telecommunications services for which the Commission has jurisdiction amounted to \$50,000 or less during the immediately preceding 12 months.*

*(c) the commission may grant an exception to this provision, if after finding pursuant to the petition requested in subsection 1, that a person is providing telecommunications to less than 25 customers and has a franchise with the local governing authority in which they pay a franchise fee for access to the use of the rights of way.*

4. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

[4.] 5. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

[5.] 6. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

[6.] 7. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

[7.] 8. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

[8.] 9. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

[9.] 10. Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.

[10.] 11. Persons who own or operate a net metering system or systems described in paragraph (a) of subsection 1 of NRS 704.771 and deliver electricity to multiple persons, units or spaces on the

premises if:

- (a) The electricity is delivered only to persons, units or spaces located on the premises on which the net metering system or systems are located;
- (b) The residential or commercial units or spaces do not have individual meters measuring electricity use by an individual unit or space; and
- (c) Persons occupying the individual units or spaces are not charged for electricity based upon volumetric usage at the person's individual unit or space.

**[11.] 12.** Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:

- (a) Located on the premises of another person;
- (b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and
- (c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

⊇ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7715.

**[12.] 13.** Persons who own, control, operate or manage a facility that supplies electricity only for use to charge electric vehicles.

**[13.] 14.** Any plant or equipment that is used by a data center to produce, deliver or furnish electricity at agreed-upon prices for or to persons on the premises of the data center for the sole purpose of those persons storing, processing or distributing data, but only with regard to those operations which consist of providing electric service. As used in this subsection, "data center" has the meaning ascribed to it in NRS 360.754.

**Sec. 3.** NRS 704.3296 is hereby amended to read as follows:  
704.3296 As used in NRS 704.3296 to 704.410, inclusive, **and section 1 of this act**, unless the context otherwise requires, "electric utility" has the meaning ascribed to it in NRS 704.7571.

**Sec. 4.** NRS 704.360 is hereby amended to read as follows:  
704.360 All hearings and investigations under NRS 704.3296 to 704.410, inclusive, **and section 1 of this act** shall be conducted substantially as is provided for hearings and investigations of tolls, charges and service.

**Sec. 5.** NRS 704.635 is hereby amended to read as follows:  
704.635 When a complaint has been filed with the Commission alleging that a person is providing a service which requires a

certificate of public convenience and necessity, or when the Commission has reason to believe that any provision of NRS 704.005 to 704.754, inclusive, [section 1 of this act](#) or 704.9901 is being violated, the Commission shall investigate the operation and may, after a hearing, issue an order requiring that the person cease and desist from any operation in violation of NRS 704.005 to 704.754, inclusive, [section 1 of this act](#) or 704.9901. The Commission shall enforce the order under the powers vested in the Commission by NRS 704.005 to 704.754, inclusive, [section 1 of this act](#) or 704.9901 or other law.

**Sec. 6.** NRS 704.669 is hereby amended to read as follows:

704.669 1. Except as otherwise provided in subsection 2, every corporation or other person who sells geothermal energy to the public is affected with a public interest, is a public utility and is subject to the jurisdiction and control of the Commission. The authority of the Commission to regulate such persons is limited to the authority granted by this section and NRS 704.033 and 704.035.

2. This section does not apply to any corporation or other person described in subsection [\[4\] 5](#) of NRS 704.021 or to any political subdivision of the State authorized to sell energy to the public.

3. The Commission shall adopt just and reasonable regulations governing the sale of energy from geothermal resources to the public. The regulations must provide for a system of operating permits which:

(a) May not be denied because the area which the applicant proposes to serve is already being served by a gas or electric utility.

(b) May not convey an exclusive right to supply geothermal energy in the area which the applicant proposes to serve.

(c) Specify in each case the geographic area in which the applicant reasonably can provide the services authorized in the permit.

(d) Require the applicant to enter into a contract with each customer served by the utility. The form and scope of the contract must be subject to review and approval of the Commission. The contract must specify at least:

(1) The period of time during which service will be provided.

The contract must provide for a period of at least 3 years unless such a provision is expressly waived by the customer.

(2) The rates or the formula for determining rates to be charged during the term of the contract.

(3) That the utility will submit to binding arbitration, pursuant to chapter 38 of NRS, matters relating to damages suffered by the customer as a result of a disruption in service and that in any such arbitration, the utility is liable for damages unless it establishes that the disruption was caused by circumstances beyond its control,

or another affirmative defense, or establishes that it was not negligent.

4. Before issuing an operating permit the Commission must find that:

(a) The applicant is fit, willing and able to provide the services authorized in the permit.

(b) The applicant has tested the geothermal reservoir to determine whether it appears to be capable of providing sufficient energy to supply the intended uses.

(c) The system which the applicant intends to use to produce and distribute the heat meets appropriate standards.

5. The Commission has continuing authority to regulate the utilities described in this section to ensure that each utility adheres to the conditions set forth in its operating permit and that the utility provides adequate services.

**Sec. 7.** Chapter 709 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 17, inclusive, of this act.

**Sec. 8.** *As used in sections 8 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 9 to 13, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 9.** *“Local government” means any city or county and includes, without limitation:*

*1. Any entity or agency that is directly or indirectly controlled by any city or county; and*

*2. Any entity or agency that is created by joint action or any interlocal or cooperative agreement of two or more cities or counties, or any combination thereof.*

**Sec. 10.** *“Broadband infrastructure provider” means any person that:*

*1. Provides or offers to provide open access network wholesale signal transmission service for broadband service providers;*

*2. Does not hold a certificate of authority to provide video service and construct and operate a video service network pursuant to chapter 711 of NRS; and*

*3. Is not a public utility as that term is defined in NRS 704.020 and 704.021.*

**Sec. 11.** *“Broadband service” means a service that, by wire, radio or any other technology, provides a person with the capability to transmit data to and receive data from all or substantially all Internet endpoints at a rate that is generally not less than 200 kilobits per second in at least one direction.*

**Sec. 12.** *“Broadband service provider” means a person or entity that:*

1. Provides broadband service to end users in this State for compensation; and
2. Does not hold a certificate of authority to provide video service and construct and operate a video service network pursuant to chapter 711 of NRS; and
3. Is not a public utility as that term is defined in NRS 704.020 and 704.021.

**Sec. 13.** *“End user” means a person that purchases or receives broadband service from a broadband service provider.*

**Sec. 14. 1.** *A local government may adopt an ordinance that conforms with the requirements of section 15 of this act to grant a broadband service provider or broadband infrastructure provider the franchise, right and privilege to construct, install, operate and maintain broadband equipment and broadband service lines in the public right-of-way and along the highways within the jurisdiction of the local government.*

*2. Before constructing or installing broadband equipment or broadband service lines in the public right-of-way and along the highways of a local government that has adopted a franchising ordinance pursuant to subsection 1, a broadband service provider or broadband infrastructure provider shall apply for a franchise. If the local government has no such ordinance, the broadband service provider or broadband infrastructure provider shall enter into an agreement with the local government that complies with the requirements of section 15 of this act.*

**Sec. 15.** *An ordinance, franchise or agreement authorized pursuant to section 14 of this act:*

1. *May not impose any terms or conditions on the provision of broadband service within the jurisdiction of the local government other than:*
  - (a) *Terms and conditions concerning the placement and location of the broadband equipment and broadband service lines; and*
  - (b) *Fees imposed for a business license or, subject to the provisions of section 16 of this act, fees for the franchise, right or privilege to construct, install, operate or maintain such broadband equipment and broadband service lines in the public right-of-way and along the public highways within the jurisdiction of the local government.*
2. *Must not require a broadband service provider or broadband infrastructure provider to place its broadband equipment or broadband service lines in ducts or conduits or on poles owned or leased by the local government.*
3. *Must be consistent with federal and state law and the lawful police powers of the local government.*
4. *Must be carried out in a competitively neutral manner and*

may not:

(a) Discriminate among broadband service providers or broadband infrastructure providers; or

(b) Discriminate among broadband service providers or broadband infrastructure providers and any other users of the public right-of-way or highway.

5. May include a fee imposed against the broadband service provider or broadband infrastructure provider, as applicable, for the privilege of using or occupying the public right-of-way or highway located within the jurisdiction of the local government, if the fee imposed conforms with the requirements of section 16 of this act.

**Sec. 16. 1. For the privilege of constructing, installing, operating and maintaining broadband equipment or broadband service lines that occupy or use, in whole or in part, any public right-of-way or highway within the jurisdiction of a local government, the local government may require a broadband service provider or broadband infrastructure provider to pay a fee to the local government. ~~The fee must:~~**

~~(a) Be assessed equally and uniformly for all broadband service providers and broadband infrastructure providers operating within the jurisdiction of the local government; and~~  
~~(b) Reflect a reasonable charge for the use and occupation of the public right-of-way or highway, which in any event may not exceed 5 percent of the gross revenue of~~ by a broadband service provider or broadband infrastructure provider attributable to the services provided during that year by the broadband service provider or broadband infrastructure provider, as applicable, within the jurisdiction of the local government.

2. The entire amount of any fee must be paid by a broadband service provider or broadband infrastructure provider directly to the local government in legal tender of the United States or in a check, draft or note that is payable in legal tender of the United States.

~~3. Except as otherwise provided in subsection 4, the fee authorized by this section:~~

~~(a) Is the only fee, tax, assessment or other charge that a local government may impose on a broadband service provider or broadband infrastructure provider for the privilege of constructing, installing, operating and maintaining broadband equipment or broadband service lines that occupy or use a public right-of-way or highway within the jurisdiction of the local government; and~~  
~~(b) Is in lieu of any other fee, tax, assessment or charge that may be imposed by a local government on a broadband service provider or broadband infrastructure provider for its occupation~~

~~or use of any public right-of-way or highway.~~

*4. This section does not restrict the right of a local government to impose on a broadband service provider or broadband infrastructure provider:*

*(a) The fees authorized by subsection 3 of section 17 of this act; and*

*(b) Any generally applicable and nondiscriminatory fees, ad valorem taxes, sales taxes or other taxes that are lawfully imposed on other businesses within the jurisdiction of the local government.*

**Sec. 17. 1.** *In managing any public right-of-way or highway, a local government may:*

*(a) Require a broadband service provider or broadband infrastructure provider that is constructing, installing, working within, maintaining or repairing broadband equipment or broadband service lines in, on, under or over any public right-of-way or highway to obtain a construction, encroachment or occupancy permit or license for such work; and*

*(b) Inspect the construction, installation, maintenance or repair work performed on such broadband equipment or broadband service lines.*

~~*2. If a broadband service provider or broadband infrastructure provider makes a request for such a permit or license, the local government shall act upon the request not later than 10 business days after the date on which the request is made.*~~

*3. A local government may charge a broadband service provider or broadband infrastructure provider a fee to issue such a permit or license or to perform any inspection authorized by this section. The amount of any fee charged by a local government pursuant to this subsection may not exceed the actual costs incurred by the local government in administering the process of issuing such permits or licenses and performing such inspections.*

*4. If there is a situation necessitating emergency response work or repair in, on, under or over any public right-of-way or highway, a broadband service provider or broadband infrastructure provider may begin such work or repair without prior approval from a local government if the applicable provider notifies the local government as promptly as reasonably possible after learning of the need for that work or repair.*

**Sec. 18.** NRS 354.5989 is hereby amended to read as follows:

354.5989 1. A local government shall not increase any fee for a business license or adopt a fee for a business license issued for revenue or regulation, or both, except as permitted by this section. This prohibition does not apply to fees:

(a) Imposed by hospitals, county airports, airport authorities, convention authorities, the Las Vegas Valley Water District or the

Clark County Sanitation District;

(b) Imposed on public utilities for the privilege of doing business pursuant to a franchise;

(c) *Imposed on broadband service providers and broadband infrastructure providers pursuant to section 16 of this act;*

(d) Imposed in compliance with the provisions of NRS 711.670 on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

~~[(d)]~~ (e) For business licenses which are calculated as a fraction or percentage of the gross revenue of the business;

~~[(e)]~~ (f) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; or

~~[(f)]~~ (g) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

2. The amount of revenue the local government derives or is allowed to derive, whichever is greater, from all fees for business licenses except:

(a) The fees excluded by subsection 1, for the fiscal year ended on June 30, 1991; and

(b) The fees collected for a particular type of business during the immediately preceding fiscal year ending on June 30 that a local government will not collect in the next subsequent fiscal year,        is the base from which the maximum allowable revenue from such fees must be calculated for the next subsequent fiscal year. To the base must be added the sum of the amounts respectively equal to the product of the base multiplied by the percentage increase in the population of the local government added to the percentage increase in the Consumer Price Index for the year ending on December 31 next preceding the year for which the limit is being calculated. The amount so determined becomes the base for computing the allowed increase for each subsequent year.

3. A local government may not increase any fee for a business license which is calculated as a fraction or percentage of the gross revenue of the business if its total revenues from such fees have increased during the preceding fiscal year by more than the increase in the Consumer Price Index during that preceding calendar year.

The provisions of this subsection do not apply to a fee:

(a) Imposed in compliance with the provisions of NRS 711.670 on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; or

(c) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

4. A local government may submit an application to increase its revenue from fees for business licenses beyond the amount

allowable pursuant to this section to the Nevada Tax Commission, which may grant the application only if it finds that the rate of a business license of the local government is substantially below that of other local governments in the State.

5. The provisions of this section apply to a business license regardless of the fund to which the revenue from it is assigned. An ordinance or resolution enacted by a local government in violation of the provisions of this section is void.

6. As used in this section, “fee for a business license” does not include a tax imposed on the revenues from the rental of transient lodging.

**Sec. 19.** NRS 459A.010 is hereby amended to read as follows:  
459A.010 As used in this chapter, “public utility” means any person who furnishes electricity to other persons. The term includes municipal utilities but does not include persons who furnish electricity only in emergencies or persons described in subsection **[4] 5** of NRS 704.021.

**Sec. 20.** 1. This section becomes effective upon passage and approval.

2. Sections 1 to 19, inclusive, of this act become effective:

- (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
- (b) On January 1, 2026, for all other purposes.