

Calendar No. 227

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-142

EMERGENCY INFORMATION IMPROVEMENT
ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1090

TO AMEND THE ROBERT T. STAFFORD DISASTER RELIEF AND
EMERGENCY ASSISTANCE ACT TO PROVIDE ELIGIBILITY FOR
BROADCASTING FACILITIES TO RECEIVE CERTAIN DISASTER
ASSISTANCE, AND FOR OTHER PURPOSES



SEPTEMBER 15, 2015.—Ordered to be printed

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SEPTEMBER 15, 2015.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1090]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1090) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide eligibility for broadcasting facilities to receive certain disaster assistance, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 1090, the Emergency Information Improvement Act of 2015, is to clarify that current law, which authorizes assistance to nonprofits that provide critical services to their communities, may include private nonprofit broadcasting facilities. While nonprofit broadcast facilities currently may meet the statutory criteria for eligibility for this assistance, the law does not specifically identify them as eligible and some such facilities have faced significant delays in receiving assistance in the past. This bill would eliminate any potential ambiguity by explicitly listing broadcast facilities as an eligible provider of critical services.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Stafford Act”), which was signed into law on November 23, 1988, amended a previous federal statute governing the federal response to disasters, the Disaster Relief Act of 1974.¹ Under the Stafford Act, the Federal Emergency Management Agency (FEMA) provides disaster assistance to eligible state, tribal, and local governments as well as to certain types of private nonprofit organizations through the Public Assistance Grant Program.²

Upon a disaster, the Public Assistance Grant Program helps eligible governments and organizations cover the cost of debris removal; emergency protective measures; and the repair, replacement, or restoration of publicly owned facilities, including facilities owned by eligible private nonprofit organizations that provide critical services, such as power, water, communications, and education.³

In recent years, several private nonprofit broadcast stations have sought financial assistance through this FEMA program, including in the aftermath of Hurricanes Sandy, Katrina, and Isaac. However, some of these entities have encountered difficulties in receiving timely assistance, despite the critical emergency services that those broadcasters provided to their communities.

For example, when Hurricane Sandy made landfall in 2012, New York Public Radio (NYPR), an independent non-profit organization that owns and operates seven radio facilities in New York and New Jersey, sustained significant damage.⁴ The organization applied for funding under the Public Assistance program to repair the damage, but was initially denied on the grounds that the facility did not meet the definition of an eligible non-profit “communications utility/facility.”⁵ Ultimately, after receiving additional information from the facility, FEMA found the facility to be eligible given the critical nature of the services provided by the facility and the impact to the health and safety of the general public.⁶ Until the facility was fixed, NYPR was forced to operate on low power, significantly reducing its audience reach.⁷

Similarly, FEMA initially denied a request from the Hancock County Amateur Radio Association for funding to repair its Kiln, Mississippi radio station after Hurricane Isaac in 2012.⁸

¹ Pub. L. No. 100–707 and Pub. L. No. 93–288, respectively.

² 42 U.S.C. §§ 5172–73.

³ 42 U.S.C. § 5172; 44 C.F.R. § 206.221 (defining “public facility” as “the following facilities owned by a State or local government: any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; any non-Federal aid, street, road, or highway; and any other public building, structure, or system, including those used for educational, recreational, or cultural purposes; or any park.”; and defining “private nonprofit facility” as “any private nonprofit educational, utility, emergency, medical, or custodial care facility, including a facility for the aged or disabled, and other facility providing essential governmental type services to the general public, and such facilities on Indian reservations.”).

⁴ Letter from Laura R. Walker, President and CEO, New York Public Radio to Sergeant Christopher Hartnett, Public Assistance Coordinator, Recovery Bureau—EMS (Apr. 11, 2013) (on file with Committee staff).

⁵ Letter from MaryAnn Tierney, Acting Regional Administrator to Marc-Philip Ferzan, Governor’s Authorized Representative (June 25, 2013) (on file with Committee staff).

⁶ Letter from Laura R. Walker, *supra* note 5.

⁷ *Id.*

⁸ Data provided to the Committee on August 18, 2015 by the Federal Emergency Management Agency; *see also* Federal Emergency Management Agency, *Request for Public Assistance*, <https://www.fema.gov/tl/node/284643>.

Public radio stations can be an essential component in local communications and information dissemination during a disaster. Locally licensed stations can provide critically important public emergency communication services before and after disasters. According to a media report, during Hurricane Sandy, some radio stations in coastal areas experienced audience number increases of up to 367 percent, as the loss of power in many areas forced listeners to turn to radio to receive key information about the storm.⁹ At the same time, broadcast facilities can suffer extensive damage during major disasters. Hurricane Katrina, for example, severely damaged broadcasting infrastructure in the Gulf Coast region, including 50 percent of area radio stations and 44 percent of area television stations.¹⁰ Given the important role these facilities can play in a disaster, it is important that these facilities are repaired as quickly as possible after a disaster.

While nonprofit broadcasters currently meet the statutory criteria for eligibility for the Public Assistance Grant Program, the law does not specifically identify them as eligible. To eliminate any ambiguity and the potential for delayed assistance, S. 1090 amends the Stafford Act to specifically list nonprofit broadcasters as among the entities that are eligible for this assistance.

III. LEGISLATIVE HISTORY

Senator Cory Booker and Senator Ted Cruz introduced S. 1090 on April 27, 2015, which was referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 1090 at a business meeting on June 24, 2015. The Committee ordered the bill reported favorably, without amendment, by voice vote. Senator Ben Sasse was recorded for the record as voting “no.” Senators present were: Johnson, McCain, Lankford, Ayotte, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp and Peters.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section provides the bill’s short title, the “Emergency Information Improvement Act of 2015.”

Section 2. Eligibility of broadcasting facilities for certain disaster assistance

This section amends the definition of “private nonprofit facility” to include “broadcasting facilities” and amends the definition of critical services to expand “communications” to include “broadcast and telecommunications”.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The

⁹Ben Sisario, *After Hurricane Sandy, People Flock to Radio for Information*, NY TIMES (Nov. 18, 2012), http://mediadecoder.blogs.nytimes.com/2012/11/18/after-hurricane-sandy-people-flock-to-radio-for-information/?_r=0.

¹⁰The White House, *The Federal Response to Hurricane Katrina: Lessons Learned* (Feb. 2006) at 5.

Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JULY 7, 2015.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1090, the Emergency Information Improvement Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Martin von Gnechten.

Sincerely,

KEITH HALL.

Enclosure.

S. 1090—Emergency Information Improvement Act of 2015

S. 1090 would codify an existing policy allowing broadcasting facilities to be eligible for certain government assistance following a disaster. Under current law, private nonprofit facilities are eligible to receive grants from the Federal Emergency Management Agency (FEMA) for damages resulting from a disaster if the facility provides critical public services or is ineligible for a Small Business Administration loan. According to information provided by FEMA, nonprofit broadcasting facilities are eligible for such assistance under current agency policy. S. 1090 would explicitly list in statute that those facilities are eligible providers.

Because the bill would not affect eligibility for FEMA grants, CBO estimates that implementing S. 1090 would have no federal cost. Enacting S. 1090 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1090 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1090 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 42—THE PUBLIC HEALTH AND WELFARE

* * * * *

CHAPTER 68—DISASTER RELIEF

* * * * *

SEC. 5122. DEFINITIONS.

(1) * * *

* * * * *

(11) PRIVATE NONPROFIT FACILITY.—

(A) * * *

(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitations facilities, shelter workshops, *broadcasting facilities*, and facilities that provide health and safety services of a governmental nature), as defined by the President.

* * * * *

SEC. 5172. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

(a) CONTRIBUTIONS.—

(1) * * *

(2) * * *

(3) CONDITIONS FOR ASSISTANCE TO PRIVATE NONPROFIT FACILITIES.—

(A) * * *

(B) DEFINITION OF CRITICAL SERVICES.—In this paragraph, the term “critical services” includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, **communications,** *communications (including broadcast and telecommunications)*, education, and emergency medical care.