

ASSEMBLY BILL NO. 373—ASSEMBLYMAN NEIGHBORS

MARCH 15, 2001

Referred to Select Committee on Energy

SUMMARY—Authorizes cities, counties and groups thereof to aggregate electrical load of interested residents. (BDR 58-704)

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 utilities; providing in skeleton form for cities, counties and groups thereof to aggregate the electrical load of interested residents; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 704 is hereby amended by adding thereto the
- 2 provisions set forth as sections 2 to 7, inclusive, of this act.
- 3 **Sec. 2.** *“Opt-in program” means a program of municipal*
- 4 *aggregation pursuant to which the customers who will be served by the*
- 5 *program are enrolled in the program only at their request.*
- 6 **Sec. 3.** *“Opt-out program” means a program of municipal*
- 7 *aggregation pursuant to which the customers who will be served by the*
- 8 *program are enrolled in the program automatically but may elect not to*
- 9 *participate in the program.*
- 10 **Sec. 4.** *“Program of municipal aggregation” means a program of*
- 11 *aggregation established pursuant to section 5 of this act.*
- 12 **Sec. 5.** *1. Except as otherwise provided in this section and section*
- 13 *7 of this act, the board of county commissioners of a county and the*
- 14 *governing body of each city in the county may, acting jointly in*
- 15 *accordance with the provisions of this section, establish a program of*
- 16 *municipal aggregation to aggregate the electrical load of customers in*
- 17 *the unincorporated areas of the county and within the boundaries of*
- 18 *each city in the county.*
- 19 *2. A program of municipal aggregation must not provide for the*
- 20 *aggregation of the electrical load of customers who are served by:*
- 21 *(a) A cooperative association or nonprofit corporation or association*
- 22 *which is declared to be a public utility pursuant to NRS 704.673; or*



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1     (b) *An electric utility that is owned by a local government pursuant to*  
2     *NRS 710.160 to 710.280, inclusive,*  
3     *unless the governing body of the cooperative association, nonprofit*  
4     *corporation, association or local government, as applicable, by the*  
5     *affirmative vote of a majority of its members, elects to participate in the*  
6     *program of municipal aggregation.*

7     3. *Before commencing a program of municipal aggregation, the*  
8     *board of county commissioners and the governing body of each city*  
9     *must:*

10    (a) *Each adopt a resolution declaring the intent of those local*  
11    *governments to aggregate the electrical load of customers in the*  
12    *unincorporated areas of the county and within the boundaries of each*  
13    *city in the county; and*

14    (b) *Form a municipal aggregation coalition by cooperative agreement*  
15    *pursuant to chapter 277 of NRS.*

16    4. *The cooperative agreement entered into pursuant to paragraph (b)*  
17    *of subsection 3 must specify:*

18    (a) *The organizational structure and governance of the municipal*  
19    *aggregation coalition; and*

20    (b) *The share of the administrative expenses associated with the*  
21    *operations and activities of the municipal aggregation coalition to be*  
22    *paid by each local government.*

23    5. *The board of county commissioners of a county and the governing*  
24    *body of each city in the county may, acting jointly, terminate a program*  
25    *of municipal aggregation created pursuant to this section by:*

26    (a) *Each adopting a resolution declaring their intent to terminate the*  
27    *program; and*

28    (b) *Disbanding the municipal aggregation coalition formed to carry*  
29    *out that program of municipal aggregation.*

30    **Sec. 6. 1. A municipal aggregation coalition formed pursuant to**  
31    **section 5 of this act shall develop and adopt an aggregation plan to carry**  
32    **out the program of municipal aggregation. The plan must specify:**

33    (a) *Whether the program will be operated as an opt-in program or an*  
34    *opt-out program; and*

35    (b) *The procedures pursuant to which customers who are enrolled in*  
36    *the program will obtain electric power and energy services in the event*  
37    *that the program is terminated pursuant to subsection 5 of section 5 of*  
38    *this act.*

39    2. *If the program of municipal aggregation will be operated as an*  
40    *opt-out program, the plan developed and adopted pursuant to subsection*  
41    *1 must specify:*

42    (a) *The conditions and procedures, including, without limitation, any*  
43    *applicable fees, pursuant to which a customer may:*

44    (1) *Elect not to participate in the program; and*

45    (2) *Reenroll in the program after electing not to participate; and*

46    (b) *The manner in which the municipal aggregation coalition will*  
47    *inform customers and prospective customers of the conditions and*  
48    *procedures described in paragraph (a).*



1     3. *Before adopting the aggregation plan, the municipal aggregation*  
2 *coalition shall conduct at least two hearings to solicit public comment on*  
3 *the aggregation plan, giving at least 30 days' notice of each hearing.*

4     **Sec. 7.** 1. *In carrying out a program of municipal aggregation, a*  
5 *municipal aggregation coalition may:*

6     (a) *Solicit bids, broker and contract for electric power and energy*  
7 *services from alternative sellers;*

8     (b) *Enter into agreements for services to facilitate the sale and*  
9 *purchase of electric energy and other related services; and*

10    (c) *Enter into a cooperative agreement with another municipal*  
11 *aggregation coalition pursuant to chapter 277 of NRS to jointly carry out*  
12 *a program of municipal aggregation. Such a joint program is subject to*  
13 *the requirements for the establishment and carrying out of a program of*  
14 *municipal aggregation set forth in this section and sections 5 and 6 of*  
15 *this act.*

16    2. *A municipal aggregation coalition shall not commence a program*  
17 *of municipal aggregation unless:*

18    (a) *The municipal aggregation coalition is able to obtain electric*  
19 *power and energy services at a price that is at least 5 percent lower than*  
20 *the price at which such energy and services may be obtained from the*  
21 *provider of electric service designated pursuant to subsection 1 of NRS*  
22 *704.982; and*

23    (b) *If the aggregation plan developed and adopted pursuant to section*  
24 *6 of this act specifies that the program will be operated as an opt-out*  
25 *program:*

26    (1) *The board of county commissioners, pursuant to NRS 293.481,*  
27 *submits to the registered voters of the county for consideration at the*  
28 *next general election the question of whether the electrical load of*  
29 *customers in the unincorporated areas of the county and within the*  
30 *boundaries of each city in the county should be aggregated pursuant to*  
31 *an opt-out program; and*

32    (2) *A majority of the registered voters voting on the question*  
33 *approves the operation of the program of municipal aggregation as an*  
34 *opt-out program.*

35 *If a majority of the registered voters voting on the question does not*  
36 *approve the operation of the program of municipal aggregation as an*  
37 *opt-out program, the municipal aggregation coalition may amend the*  
38 *aggregation plan developed and adopted pursuant to section 6 of this act*  
39 *to specify that the program of municipal aggregation will operate as an*  
40 *opt-in program.*

41    3. *As used in this section, "energy services" includes, without*  
42 *limitation, generation, metering, billing and any other potentially*  
43 *competitive services.*

44    **Sec. 8.** NRS 704.965 is hereby amended to read as follows:

45    704.965 As used in NRS 704.965 to 704.990, inclusive, *and sections 2*  
46 *to 7, inclusive, of this act*, unless the context otherwise requires, the words  
47 and terms defined in NRS 704.966 to 704.975, inclusive, *and sections 2, 3*  
48 *and 4 of this act* have the meanings ascribed to them in those sections.



1     **Sec. 9.** NRS 704.967 is hereby amended to read as follows:  
2     704.967 "Alternative seller" means a seller of any component of  
3     electric service other than a noncompetitive service, unless the alternative  
4     seller has been designated to provide the noncompetitive service pursuant  
5     to NRS 704.982. The term ~~includes~~ :

6     1. *Includes* an affiliate of a vertically integrated electric utility. ~~but~~  
7     ~~does~~

8     2. *Does* not include ~~it~~ :

9     (a) A vertically integrated electric utility ~~it~~ ; or

10    (b) *A municipal aggregation coalition.*

11    **Sec. 10.** NRS 704.977 is hereby amended to read as follows:

12    704.977 1. It is unlawful for an alternative seller to sell any electric  
13    service to a customer for consumption within this state without having first  
14    obtained a license from the commission to do so.

15    2. The commission shall by regulation set forth the procedures and  
16    conditions that alternative sellers must satisfy to obtain a license to sell any  
17    electric services to a customer in this state, including, but not limited to,  
18    procedures and conditions relating to:

19    (a) Safety and reliability of service;

20    (b) Financial and operational fitness; and

21    (c) Billing practices and customer service, including the initiation and  
22    termination of service.

23    3. If, after reviewing the application of an alternative seller for a  
24    license, the commission finds that the applicant is qualified to be an  
25    alternative seller, the commission shall issue a license to the applicant.

26    4. The commission may deny the application of an applicant for a  
27    license to operate as an alternative seller and may limit, suspend or revoke  
28    a license issued to an alternative seller if the action is necessary to protect  
29    the interests of the public or to enforce the provisions of NRS 704.965 to  
30    704.990, inclusive, or a regulation of the commission.

31    5. In determining whether an applicant is qualified for a license,  
32    whether to deny an application for a license to operate as an alternative  
33    seller or whether to limit, suspend or revoke a license issued to an  
34    alternative seller, the commission may consider whether the applicant for  
35    or holder of the license, or any affiliate thereof, has engaged in any  
36    activities which are inconsistent with effective competition.

37    6. A city, county or other local governmental entity or a public utility,  
38    or any affiliate thereof, which is authorized to provide electric service  
39    within the State of Nevada and which has an annual operating revenue of  
40    less than \$250,000,000, becomes subject to the provisions of NRS 704.965  
41    to 704.990, inclusive, and any regulations adopted pursuant thereto, on the  
42    date on which the city, county or other local governmental entity or a  
43    public utility, or an affiliate thereof:

44    (a) Applies to obtain a license as an alternative seller; or

45    (b) Directly or indirectly attempts to provide, or act on behalf of an  
46    alternative seller in the provision of, electric service in the territory served  
47    by another city, county or other local governmental entity or public utility,  
48    or an affiliate thereof, unless the city, county or other local governmental



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1 entity or public utility, or an affiliate thereof, is otherwise required or  
2 permitted by specific statute to provide such service.

3 7. Notwithstanding the provisions of subsection 6, a city, county or  
4 other local governmental entity or a public utility, or any affiliate thereof,  
5 does not become subject to the provisions of NRS 704.965 to 704.990,  
6 inclusive, or any regulations adopted pursuant thereto, solely because the  
7 city, county or other local governmental entity or a public utility, or any  
8 affiliate thereof, provides transmission or distribution services to an  
9 alternative seller pursuant to a contract, tariff or requirement of any state or  
10 federal law, except that the city, county or other local governmental entity  
11 or public utility, or an affiliate thereof, shall provide such transmission and  
12 distribution services on an open and nondiscriminatory basis to alternative  
13 sellers in accordance with such standards as the commission may establish  
14 by regulation for the provision of transmission and distribution services in  
15 accordance with this subsection.

16 8. Regulations adopted pursuant to subsection 2:

17 (a) Must not be unduly burdensome;  
18 (b) Must not unnecessarily delay or inhibit the initiation and  
19 development of competition for any service in any market; and  
20 (c) May establish different requirements for licensing alternative sellers  
21 of:

22 (1) Different services; or  
23 (2) Similar services to different classes of customers,  
24 whenever such different requirements are appropriate to carry out the  
25 provisions of NRS 704.965 to 704.990, inclusive.

26 9. An alternative seller may combine two or more customers or any  
27 group of customers to provide aggregation service. The commission may  
28 not limit the ability of:

29 (a) An alternative seller to combine customers to provide aggregation  
30 service; ~~for~~

31 (b) Customers to form groups to obtain aggregation service from  
32 alternative sellers ~~for~~; or

33 *(c) A municipal aggregation coalition to carry out a program of*  
34 *municipal aggregation pursuant to sections 2 to 7, inclusive, of this act.*

35 **Sec. 11.** This act becomes effective upon passage and approval.

