

Senate Bill No. 227—Committee on Government Affairs

CHAPTER.....

AN ACT relating to taxation; revising the requirements for certain property of recycling businesses to be exempt from taxation; revising, for a limited period, certain partial abatements from taxation for facilities for the generation of electricity from renewable energy; repealing the provisions that exempt from taxation certain property of businesses that use a facility for the production of electrical energy from solar energy; and providing other matters properly relating thereto.

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

Section 1. NRS 361.0685 is hereby amended to read as follows:

361.0685 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or

(b) Business that includes as a primary component a facility for the ~~{production of electrical energy}~~ *generation of electricity* from recycled material,

is found by the commission on economic development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the commission on economic development pursuant to NRS ~~{231.139, 75 percent of the personal and real property of the business is exempt from taxation.~~

~~—2. Before an exemption may be granted pursuant to subsection 1, the business must execute an agreement with the commission on economic development which states that the business will continue in operation in this state for 30 or more years after the date on which the exemption is granted. The agreement must bind the successors in interest of the business. The exemption pursuant to this section continues until the expiration of the period for which the exemption was granted or until the business discontinues in operation in this state, whichever occurs first.~~

~~—3. The exemption}~~ *360.750, the commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property by this chapter.*

2. If a partial abatement from the taxes imposed on real property by this chapter is approved by the commission on economic development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The executive director of the commission on economic development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including,

without limitation, the duration and percentage of the partial abatement that the commission granted. The executive director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. *The partial abatement* provided in this section applies only to the business for which certification was granted pursuant to NRS ~~231.139~~ 360.750 and the property used in connection with that business. The exemption does not apply to property in this state that is not related to the business for which the certification was granted pursuant to NRS ~~231.139~~ 360.750 or to property in existence and subject to taxation before the certification was granted.

4. ~~Personal property exempted pursuant to subsection 1 may not receive an exemption for more than 10 consecutive years. Real property exempted pursuant to subsection 1 may not receive an exemption for more than 20 consecutive years.~~

~~5.~~ As used in this section, a “facility for the ~~production of electrical energy~~ *generation of electricity* from recycled material” is a facility which uses recycled material as its primary fuel including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

Sec. 2. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this state may, pursuant to NRS 360.750, apply to the commission on economic development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the commission on economic development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county or city whose population is 50,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county or city whose population is less than 50,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

3. ~~HH~~ *Except as otherwise provided in NRS 361.0685 and subsection 4, if* a partial abatement from the taxes imposed by this chapter is approved by the commission on economic development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes *on personal property* payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The executive director of the commission on economic development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the commission granted. The executive director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

4. *If a partial abatement from the taxes imposed by this chapter is approved by the commission on economic development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy:*

(a) The partial abatement must be:

(1) For a duration of 10 years;

(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and

(3) Administered and carried out in the manner set forth in NRS 360.750.

(b) The executive director of the commission on economic development shall:

(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and

(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.

5. *As used in this section:*

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) *Municipal wastes; and*

(5) *Aquatic plants.*

(b) *“Facility for the generation of electricity from renewable energy” means a facility for the generation of electricity that:*

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 kilowatts.

The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.

(c) “Industrial or manufacturing business” does not include a facility for the generation of electricity from renewable energy.

(d) “Renewable energy” means:

(1) Biomass;

(2) Solar energy; or

(3) Wind.

The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 3. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this state may, pursuant to NRS 360.750, apply to the commission on economic development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the commission on economic development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county or city whose population is 50,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county or city whose population is less than 50,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

3. ~~HH~~ *Except as otherwise provided in NRS 361.0685, if* a partial abatement from the taxes imposed by this chapter is approved by the commission on economic development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes *on personal property* payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The executive director of the commission on economic development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the commission granted. The executive director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 4. NRS 361.079 is hereby amended to read as follows:

361.079 1. *Except as otherwise provided in subsection 2, for any assessment made on or after July 1, 1983, any value added by a qualified system must be excluded from the assessed value of the building regardless of the date the system was installed.*

2. *Value added by a qualified system must not be excluded from the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption from the taxes imposed by this chapter.*

3. As used in this section, “qualified system” means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

(a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) ~~Water power,~~ *Waterpower,*

which conforms to standards established by regulation of the department.

~~[2. For any assessment made on or after July 1, 1983, any value added by a qualified system must be excluded from the assessed value of the building regardless of the date the system was installed.]~~

Sec. 5. NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this state may, pursuant to NRS 360.750, apply to the commission on economic development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. ~~HH~~ *Except as otherwise provided in subsection 3, if* an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. *If an application for an abatement is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy:*

(a) *The taxpayer is eligible for an abatement from the tax imposed by this chapter for 2 years.*

(b) *The abatement must be administered and carried out in the manner set forth in NRS 360.750.*

4. As used in this section, unless the context otherwise requires ~~the~~ *“eligible”*:

(a) *“Biomass” means any organic matter that is available on a renewable basis, including, without limitation:*

(1) *Agricultural crops and agricultural wastes and residues;*

(2) *Wood and wood wastes and residues;*

(3) *Animal wastes;*

(4) *Municipal wastes; and*

(5) *Aquatic plants.*

(b) *“Eligible machinery or equipment” means :*

(1) *If the business that qualifies for the abatement is not a facility for the generation of electricity from renewable energy,* machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

~~(a)~~ (I) Buildings or the structural components of buildings;

~~(b)~~ (II) Equipment used by a public utility;

~~(c)~~ (III) Equipment used for medical treatment;

~~(d)~~ (IV) Machinery or equipment used in mining; or

~~(e)~~ (V) Machinery or equipment used in gaming.

(2) *If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.*

(c) *“Facility for the generation of electricity from renewable energy” means a facility for the generation of electricity that:*

(1) *Uses renewable energy as its primary source of energy; and*

(2) *Has a generating capacity of at least 10 kilowatts.*

The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.

(d) *“Fuel cell” means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.*

(e) *“Renewable energy” means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

(1) *Biomass;*

- (2) *Fuel cells;*
- (3) *Geothermal energy;*
- (4) *Solar energy;*
- (5) *Waterpower; and*
- (6) *Wind.*

The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 6. NRS 231.139 is hereby amended to read as follows:

231.139 1. The commission on economic development shall certify a business for the benefits provided pursuant to NRS 704.223 if the commission finds that:

(a) The business is consistent with the state plan for industrial development and diversification and any guidelines adopted pursuant to the plan;

(b) The business is engaged in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site;

(c) Establishing the business will require the business to make a capital investment of \$50,000,000 in Nevada; and

(d) The economic benefit to the state of approving the certification exceeds the cost to the state.

2. ~~{The commission on economic development shall certify a business for the benefits provided pursuant to NRS 361.0685 if the commission finds that:~~

~~—(a) The business is consistent with the state plan for industrial development and diversification and any guidelines adopted pursuant to the plan;~~

~~—(b) Establishing the business will require the business to make a capital investment of \$15,000,000 in Nevada; and~~

~~—(c) The economic benefit to the state of approving the certification exceeds the cost to the state.~~

~~—3.†~~ The commission on economic development may:

(a) Request an allocation from the contingency fund pursuant to NRS 353.266, 353.268 and 353.269 to cover the costs incurred by the commission pursuant to this section and NRS 704.032.

(b) Impose a reasonable fee for an application for certification pursuant to this section to cover the costs incurred by the commission in investigating and ruling on the application.

(c) Adopt such regulations as it deems necessary to carry out the provisions of this section.

Sec. 7. NRS 361.0785 is hereby repealed.

Sec. 8. 1. Except as otherwise provided in this section, notwithstanding subsection 2 of section 9 of this act, if the commission on economic development, during the period from July 1, 2001, through June 30, 2005, grants a partial abatement of tax pursuant to NRS 360.750 for a facility for the production of electricity from renewable energy and the partial abatement is for the tax imposed pursuant to:

(a) Chapter 361 of NRS, the duration of the partial abatement must be 10 years and the terms and conditions of the partial abatement must be as set forth in NRS 361.0687, as amended by section 2 of this act.

(b) Chapter 374 of NRS, the duration of the partial abatement must be 2 years and the terms and conditions of the partial abatement must be as set forth in NRS 374.357, as amended by section 5 of this act.

2. The provisions of subsection 1 do not prevent the commission on economic development, the department of taxation or the Nevada tax commission from exercising any enforcement authority provided by law to ensure that the facility for which the abatement was granted continues to be operated in a manner that is consistent with the terms and conditions pursuant to which the abatement was granted.

3. As used in this section, “facility for the generation of electricity from renewable energy”:

(a) For the purposes of the partial abatement described in NRS 361.0687, has the meaning ascribed to it in section 2 of this act.

(b) For the purposes of the partial abatement described in NRS 374.357, has the meaning ascribed to it in section 5 of this act.

Sec. 9. 1. This section and sections 1, 2 and 4 to 8, inclusive, of this act become effective on July 1, 2001.

2. Sections 2 and 5 of this act expire by limitation on June 30, 2005.

3. Section 3 of this act becomes effective on July 1, 2005.