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Senate Bill No. 372—Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to energy; revising and clarifying provisions requiring certain providers of electric service to comply with a portfolio standard for renewable energy; authorizing the public utilities commission of Nevada to impose administrative fines against noncomplying providers under certain circumstances and to take other administrative actions to ensure compliance with the portfolio standard; requiring the governing bodies of certain counties and cities to adopt certain codes concerning energy efficiency; 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 703.147 is hereby amended to read as follows:

703.147 1. The public utilities commission regulatory fund is hereby created as a special revenue fund. ~~†A††~~ *Except as otherwise provided in section 12 of this act, all* money collected by the commission pursuant to law must be deposited in the state treasury for credit to the fund. Money collected for the use of the consumer's advocate *of the bureau of consumer protection in the office of the attorney general* must be transferred pursuant to the provisions of subsection 8 of NRS 704.035.

2. Money in the fund which belongs to the commission may be used only to defray the costs of:

(a) Maintaining staff and equipment to regulate adequately public utilities and other persons subject to the jurisdiction of the commission.

(b) Participating in all rate cases involving those persons.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that regulation and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the commission.

3. All claims against the fund must be paid as other claims against the state are paid.

4. The commission must furnish upon request a statement showing the balance remaining in the fund as of the close of the preceding fiscal year.

Sec. 2. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 12, inclusive, of this act.

Sec. 3. *As used in sections 3 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“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.*

Sec. 5. *“Portfolio standard” means a portfolio standard for renewable energy established by the commission pursuant to section 10 of this act.*

Sec. 6. 1. *“Provider of electric service” and “provider” mean any person or entity that is in the business of selling electricity to retail customers in this state, regardless of whether the person or entity is otherwise subject to regulation by the commission.*

2. *The term does not include:*

(a) *This state or an agency or instrumentality of this state.*

(b) *A rural electric cooperative established pursuant to chapter 81 of NRS.*

(c) *A general improvement district established pursuant to chapter 318 of NRS.*

(d) *A utility established pursuant to chapter 709 or 710 of NRS.*

(e) *A cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.*

(f) *A landlord of a mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.*

Sec. 7. 1. *“Renewable energy” means:*

(a) *Biomass;*

(b) *Geothermal energy;*

(c) *Solar energy; and*

(d) *Wind.*

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

Sec. 8. *“Renewable energy system” means:*

1. *A facility or energy system that:*

(a) *Uses renewable energy to generate electricity; and*

(b) *Transmits or distributes the electricity that it generates from renewable energy via:*

(1) *A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service; or*

(2) *A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service.*

2. *A solar thermal energy system that reduces the consumption of electricity.*

Sec. 9. 1. *“Retail customer” means a customer who purchases electricity at retail.*

2. *The term includes, without limitation:*

(a) *This state, a political subdivision of this state or an agency or instrumentality of this state or political subdivision of this state when it purchases electricity at retail; and*

(b) *A landlord of a mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.*

Sec. 10. *1. For each provider of electric service, the commission shall establish a portfolio standard for renewable energy. The portfolio standard must require each provider to generate or acquire electricity from renewable energy systems in an amount that is:*

(a) For calendar years 2003 and 2004, not less than 5 percent of the total amount of electricity sold by the provider to its retail customers in this state during that calendar year.

(b) For calendar years 2005 and 2006, not less than 7 percent of the total amount of electricity sold by the provider to its retail customers in this state during that calendar year.

(c) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this state during that calendar year.

(d) For calendar years 2009 and 2010, not less than 11 percent of the total amount of electricity sold by the provider to its retail customers in this state during that calendar year.

(e) For calendar years 2011 and 2012, not less than 13 percent of the total amount of electricity sold by the provider to its retail customers in this state during that calendar year.

(f) For calendar year 2013 and for each calendar year thereafter, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this state during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate or acquire from renewable energy systems during each calendar year, not less than 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) If the provider acquires electricity from a renewable energy system pursuant to a renewable energy contract with another party:

(1) The term of the renewable energy contract must be not less than 10 years, unless the other party agrees to a renewable energy contract with a shorter term; and

(2) The terms and conditions of the renewable energy contract must be just and reasonable, as determined by the commission. If the provider is a public utility and the commission approves the terms and conditions of the renewable energy contract between the provider and the other party, the renewable energy contract and its terms and conditions shall be deemed to be a prudent investment and the provider may recover all just and reasonable costs associated with the renewable energy contract.

3. If, for the benefit of one or more of its retail customers in this state, the provider has subsidized, in whole or in part, the acquisition or installation of a solar thermal energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar thermal energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. *The commission may adopt regulations that establish a system of renewable energy credits that may be used by a provider to comply with its portfolio standard.*

5. *Except as otherwise provided in subsection 6, each provider shall comply with its portfolio standard during each calendar year.*

6. *If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of renewable energy credits, the provider shall take actions to acquire electricity pursuant to one or more renewable energy contracts. If the commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity made available to the provider pursuant to renewable energy contracts with just and reasonable terms and conditions, the commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the commission.*

7. *The commission shall adopt regulations for the determination of just and reasonable terms and conditions for the renewable energy contracts that a provider of electric service must enter into to comply with its portfolio standard.*

8. *As used in this section:*

(a) *“Renewable energy contract” means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.*

(b) *“Terms and conditions” includes, without limitation, the price that a provider of electric service must pay to acquire electricity pursuant to a renewable energy contract.*

Sec. 11. 1. *Each provider of electric service shall submit to the commission an annual report that provides information relating to the actions taken by the provider to comply with its portfolio standard.*

2. *Each provider shall submit the annual report to the commission after the end of each calendar year and within the time prescribed by the commission. The report must be submitted in a format approved by the commission.*

3. *The commission may adopt regulations that require providers to submit to the commission additional reports during each calendar year.*

4. *Each annual report and each additional report must include clear and concise information that sets forth:*

(a) *The amount of electricity which the provider generated or acquired from renewable energy systems during the reporting period and, if applicable, the amount of renewable energy credits that the provider acquired, sold or traded during the reporting period to comply with its portfolio standard;*

(b) *The capacity of each renewable energy system owned, operated or controlled by the provider, the total amount of electricity generated by each such system during the reporting period and the percentage of that total amount which was generated directly from renewable energy;*

(c) *Whether, during the reporting period, the provider began construction on, acquired or placed into operation any renewable energy system and, if so, the date of any such event; and*

(d) Any other information that the commission by regulation may deem relevant.

Sec. 12. 1. The commission shall adopt regulations to carry out and enforce the provisions of sections 3 to 12, inclusive, of this act. The regulations adopted by the commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. If a provider does not comply with its portfolio standard for any calendar year and the commission has not exempted the provider from the requirements of its portfolio standard pursuant to section 10 of this act, the commission may impose an administrative fine against the provider or take other administrative action against the provider, or do both.

3. The commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate or acquire from a renewable energy system or a solar renewable energy system during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the commission.

4. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the commission.

5. If the commission imposes an administrative fine against a provider that is a public utility:

(a) The administrative fine is not a cost of service of the provider;

(b) The provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The commission shall not allow the provider to recover any portion of the administrative fine from its retail customers.

6. All administrative fines imposed and collected pursuant to this section must be deposited in the state general fund.

Sec. 13. NRS 704.743 is hereby amended to read as follows:

704.743 1. A utility which supplies electricity in this state may apply to the commission for authority to charge, as part of a program of optional pricing, a higher rate for electricity that is ~~derived~~ generated from renewable energy. ~~resources.~~

2. The program ~~must~~ may provide the customers of the utility with the option of paying a higher rate for electricity to support the increased use by the utility of renewable energy ~~resources~~ in the ~~production~~ generation of electricity.

3. As used in this section ~~the “renewable energy resources” means resources from which electricity is produced, but which are not consumed or combusted and are~~ :

(a) “Biomass” has the meaning ascribed to it in section 4 of this act.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated ~~+~~ naturally, including, without limitation:

- ~~+(a)+~~ (1) Wind;
- ~~+(b)+~~ (2) Solar energy; ~~and~~
- ~~+(c)+~~ (3) Geothermal energy ~~+~~; and
- (4) Biomass.

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

Sec. 14. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

In each county whose population is 100,000 or more:

1. If the governing body of the county or any city in the county has adopted a building code, each such governing body shall, as part of its building code, adopt construction codes and energy codes that regulate:

(a) The design of energy efficient residential, commercial and industrial structures; and

(b) The installation of energy efficient mechanical, lighting and power systems in such structures.

2. If the governing body of the county or any city in the county has not adopted a building code, each such governing body shall:

(a) By ordinance, adopt the codes described in subsection 1; and

(b) Provide for the enforcement of such codes by the officers or employees of the county or city or by the officers or employees of another local government pursuant to an interlocal agreement.

3. The codes described in subsection 1 must:

(a) Be adopted and become effective not later than January 1, 2002; and

(b) Be applied to each new residential, commercial and industrial structure on which construction begins on or after the date on which the codes become effective.

Sec. 15. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 14 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 16. NRS 704.989 is hereby repealed.

Sec. 17. Not later than 180 days after the effective date of this act, the public utilities commission of Nevada shall adopt the regulations required by section 10 of this act.

Sec. 18. This act becomes effective upon passage and approval.