

ASSEMBLY BILL NO. 184—ASSEMBLYMEN HARDY, GANSERT, BEERS, MABEY, LESLIE, ALLEN, BOBZIEN, BUCKLEY, CHRISTENSEN, DENIS, GOEDHART, GOICOECHEA, GRADY, MANENDO, MARVEL, OHRENSCHALL, PARKS, SEGERBLOM, SETTELMAYER, STEWART, WEBER AND WOMACK

FEBRUARY 27, 2007

JOINT SPONSORS: SENATORS CEGAVSKE,  
HARDY, HECK AND SCHNEIDER

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to renewable energy.  
(BDR 58-1065)

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 energy; revising provisions governing net metering systems; requiring the governing body of a city or county to adopt certain amendments to its building codes; revising provisions governing the term of a performance contract; revising provisions governing the analysis of certain public buildings before construction or renovation; repealing the prohibition against the use of a system using electrical resistance for heating in certain larger counties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Existing law establishes the provisions governing a net metering system. (NRS
- 2 704.766-704.775) A net metering system that is not a “utility facility” is limited to
- 3 a facility or energy system which has a generating capacity of not more than 150
- 4 kilowatts and which is located on the premises of the customer-generator. (NRS
- 5 704.771, 704.860) **Sections 1-4** of this bill increase the capacity of a net metering



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6 system to 1,000 kilowatts and remove the requirement that the system be located on  
7 the premises of the customer-generator.

8 Existing law establishes that a performance contract may not extend for a  
9 period of more than 15 years. (NRS 332.380, 333A.0902, 333A.100) **Sections 5-7**  
10 of this bill extend the period for a performance contract to not more than 20 years.

11 Existing law requires a public body to conduct an analysis of the costs of  
12 operating and maintaining certain public buildings before constructing or  
13 renovating such buildings. (NRS 338.190) **Section 8** of this bill requires the  
14 analysis to consider the use of ground source heat pumps.

15 Existing law prohibits the use in certain newer buildings of a system that uses  
16 electrical resistance for heating in any county whose population is 100,000 or more  
17 (currently Washoe and Clark Counties). (NRS 701.230) **Section 9** of this bill  
18 repeals this prohibition.

19 Existing law requires the governing body of a city or county to amend its  
20 building codes, zoning ordinances and regulations to permit the use of certain  
21 materials, technologies, resources and systems that reduce the amount of energy  
22 used by and for a structure. (NRS 278.015, 278.580) **Section 10** of this bill requires  
23 the governing body of a city or county to adopt the amendments required on or  
24 before January 1, 2008, or else have its relevant codes, ordinances and regulations  
25 conformed by operation of law to allow the use of such materials, technologies,  
26 resources and systems.

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

1 **Section 1.** NRS 704.771 is hereby amended to read as follows:

2 704.771 "Net metering system" means a facility or energy  
3 system for the generation of electricity that:

4 1. Uses renewable energy as its primary source of energy to  
5 generate electricity;

6 2. Has a generating capacity of not more than ~~{150}~~ 1,000  
7 kilowatts;

8 3. ~~Is located on the customer-generator's premises;~~

9 ~~—4.~~ Operates in parallel with the utility's transmission and  
10 distribution facilities; and

11 ~~{5.}~~ 4. Is intended primarily to offset part or all of the  
12 customer-generator's requirements for electricity.

13 **Sec. 2.** NRS 704.773 is hereby amended to read as follows:

14 704.773 1. A utility shall offer net metering, as set forth in  
15 NRS 704.775, to the customer-generators operating within its  
16 service area until the cumulative capacity of all such net metering  
17 systems is equal to 1 percent of the utility's peak capacity.

18 2. If the net metering system of a customer-generator who  
19 accepts the offer of a utility for net metering has a capacity of not  
20 more than ~~{30}~~ 250 kilowatts, the utility:

21 (a) Shall offer to make available to the customer-generator an  
22 energy meter that is capable of registering the flow of electricity in  
23 two directions.



(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~301~~ 250 kilowatts, the utility may:

(a) Require the customer-generator to install at its own cost an energy meter that is capable of measuring generation output and customer load.

(b) Charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

**Sec. 3.** NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. If a customer-generator's net metering system has a capacity of not more than ~~301~~ 250 kilowatts, the net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period.



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1 In that case, the excess electricity carried forward must be  
2 apportioned evenly among the available time-of-use periods.

3 (3) Excess electricity may be carried forward to subsequent  
4 billing periods indefinitely, but a customer-generator is not entitled  
5 to receive compensation for any excess electricity that remains if:

6 (I) The net metering system ceases to operate or is  
7 disconnected from the utility's transmission and distribution  
8 facilities;

9 (II) The customer-generator ceases to be a customer of  
10 the utility at the premises served by the net metering system; or

11 (III) The customer-generator transfers the net metering  
12 system to another person.

13 (4) The excess electricity which is fed back to the utility shall  
14 be deemed to be electricity that the utility generated or acquired  
15 from a renewable energy system for the purposes of complying with  
16 its portfolio standard pursuant to NRS 704.7801 to 704.7828,  
17 inclusive.

18 3. If a customer-generator's net metering system has a capacity  
19 of more than ~~300~~ 250 kilowatts, the net energy measurement must  
20 be calculated in the following manner:

21 (a) The utility shall:

22 (1) Measure, in kilowatt hours, the amount of electricity  
23 supplied by the utility to the customer-generator during the billing  
24 period and calculate its value using the tariff that would be  
25 applicable if the customer-generator did not use a net metering  
26 system; and

27 (2) Measure, in kilowatt hours, the amount of electricity  
28 generated by the customer-generator which is fed back to the utility  
29 during the billing period and calculate its value at a rate that is  
30 consistent with the rate used to calculate the value of the electricity  
31 supplied by the utility.

32 (b) If the value of electricity supplied by the utility exceeds the  
33 value of the electricity generated by the customer-generator which is  
34 fed back to the utility during the billing period, the customer-  
35 generator must be billed for the net value of the electricity supplied  
36 by the utility.

37 (c) If the value of the electricity generated by the customer-  
38 generator which is fed back to the utility exceeds the value of the  
39 electricity supplied by the utility during the billing period:

40 (1) Neither the utility nor the customer-generator is entitled  
41 to compensation for the value of the electricity provided to the other  
42 during the billing period.

43 (2) The value of the excess electricity:

44 (I) Must not be shown as a credit on the customer-  
45 generator's bill for that billing period but must be reflected as a



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1 credit that is carried forward to offset the value of the electricity  
2 supplied by the utility during a subsequent billing period. At the  
3 discretion of the utility, the credit may be in a dollar amount or in  
4 kilowatt hours. If the credit is reflected as excess electricity and the  
5 customer-generator is billed for electricity pursuant to a time-of-use  
6 rate schedule, the excess electricity carried forward must be added  
7 to the same time-of-use period as the time-of-use period in which it  
8 was generated unless the subsequent billing period lacks a  
9 corresponding time-of-use period. In that case, the excess electricity  
10 carried forward must be apportioned evenly among the available  
11 time-of-use periods. Excess electricity may be carried forward to  
12 subsequent billing periods indefinitely, but a customer-generator is  
13 not entitled to receive compensation for any excess electricity that  
14 remains if the net metering system ceases to operate or is  
15 disconnected from the utility's transmission and distribution  
16 facilities, the customer-generator ceases to be a customer of the  
17 utility at the premises served by the net metering system or the  
18 customer-generator transfers the net metering system to another  
19 person.

20 (II) Does not reduce any other fee or charge imposed by  
21 the utility.

22 (3) The excess electricity which is fed back to the utility shall  
23 be deemed to be electricity that the utility generated or acquired  
24 from a renewable energy system for the purposes of complying with  
25 its portfolio standard pursuant to NRS 704.7801 to 704.7828,  
26 inclusive.

27 4. A bill for electrical service is due at the time established  
28 pursuant to the terms of the contract between the utility and the  
29 customer-generator.

30 **Sec. 4.** NRS 704.860 is hereby amended to read as follows:

31 704.860 "Utility facility" means:

32 1. Electric generating plants and their associated facilities,  
33 except:

34 (a) Electric generating plants and their associated facilities that  
35 are or will be located entirely within the boundaries of a county  
36 whose population is 100,000 or more; or

37 (b) Electric generating plants and their associated facilities  
38 which use or will use renewable energy, as defined in NRS  
39 704.7811, as their primary source of energy to generate electricity  
40 and which have or will have a generating capacity of not more than  
41 ~~150~~ 1,000 kilowatts, including, without limitation, a net metering  
42 system, as defined in NRS 704.771.

43 ➤ As used in this subsection, "associated facilities" includes,  
44 without limitation, any facilities for the storage, transmission or  
45 treatment of water, including, without limitation, facilities to supply



1 water or for the treatment or disposal of wastewater, which support  
2 or service an electric generating plant.

3 2. Electric transmission lines and transmission substations that:

4 (a) Are designed to operate at 200 kilovolts or more;

5 (b) Are not required by local ordinance to be placed  
6 underground; and

7 (c) Are constructed outside any incorporated city.

8 3. Gas transmission lines, storage plants, compressor stations  
9 and their associated facilities when constructed outside:

10 (a) Any incorporated city; and

11 (b) Any county whose population is 100,000 or more.

12 4. Water storage, transmission and treatment facilities, other  
13 than facilities for the storage, transmission or treatment of water  
14 from mining operations.

15 5. Sewer transmission and treatment facilities.

16 **Sec. 5.** NRS 332.380 is hereby amended to read as follows:

17 332.380 1. A performance contract must provide that all  
18 payments, other than any obligations that become due if the contract  
19 is terminated before the contract expires, must be made over time.

20 2. Except as otherwise provided in this subsection, a  
21 performance contract, and the payments provided thereunder, may  
22 extend beyond the fiscal year in which the performance contract  
23 becomes effective for costs incurred in future fiscal years. The  
24 performance contract may extend for a term not to exceed ~~15~~ 20  
25 years. The length of a performance contract may reflect the useful  
26 life of the operating cost-savings measure being installed or  
27 purchased under the performance contract.

28 3. The period over which payments are made on a performance  
29 contract must equal the period over which the operating cost savings  
30 are amortized. Payments on a performance contract must not  
31 commence until the operating cost-savings measures have been  
32 installed by the qualified service company.

33 **Sec. 6.** NRS 333A.0902 is hereby amended to read as follows:

34 333A.0902 In connection with any installment-purchase  
35 contract or lease-purchase contract entered into to finance a  
36 performance contract, the Board may:

37 1. Grant a security interest in any property that is the subject of  
38 the installment-purchase contract or lease-purchase contract and  
39 execute an instrument to evidence such a security interest, including,  
40 without limitation, a deed of trust, a leasehold interest deed of trust,  
41 a mortgage or a financing agreement.

42 2. Offer certificates of participation.

43 3. If the installment-purchase contract or lease-purchase  
44 contract involves an improvement to property owned by the State of  
45 Nevada or the using agency, enter into a lease of the property to



1 which the improvement will be made and any property that is  
2 adjacent to that property if the installment-purchase contract or  
3 lease-purchase contract:

4 (a) Except as otherwise provided in NRS 333A.0916, has a term  
5 of not more than ~~15~~ 20 years beyond the date on which  
6 construction of the work required by the installment-purchase  
7 contract or lease-purchase contract is completed; and

8 (b) Provides for rental payments that approximate the fair  
9 market rental of the property before the improvement is made, as  
10 determined by the Board at the time the parties enter into the lease,  
11 which must be paid if the installment-purchase contract or lease-  
12 purchase contract terminates before the expiration of the lease  
13 because the Legislature fails to appropriate money for payments due  
14 pursuant to the installment-purchase contract or lease-purchase  
15 contract.

16 ➔ A lease entered into pursuant to this subsection may provide for  
17 nominal rental payments to be paid pursuant to the lease before the  
18 installment-purchase contract or lease-purchase contract terminates.

19 4. Enter into any other agreement, contract or arrangement that  
20 the Board determines would be beneficial to the purpose of the  
21 installment-purchase contract or lease-purchase contract, including,  
22 without limitation, contracts for professional services, trust  
23 indentures, paying agent agreements and contracts of insurance.

24 **Sec. 7.** NRS 333A.100 is hereby amended to read as follows:

25 333A.100 1. Notwithstanding any provision of this chapter to  
26 the contrary, a performance contract entered into pursuant to this  
27 chapter does not create a debt for the purposes of Section 3 of  
28 Article 9 of the Nevada Constitution.

29 2. Except as otherwise provided in this section, the term of a  
30 performance contract may extend beyond the biennium in which the  
31 contract is executed, provided that the performance contract  
32 contains a provision which states that all obligations of the State  
33 under the performance contract are extinguished at the end of any  
34 fiscal year if the Legislature fails to provide an appropriation to the  
35 using agency for the ensuing fiscal year for payments to be made  
36 under the performance contract. If the Legislature fails to  
37 appropriate money to a using agency for a performance contract,  
38 there is no remedy against the State, except that if a security interest  
39 in any property was created pursuant to the performance contract,  
40 the holder of such a security interest may enforce the security  
41 interest against that property. Except as otherwise provided in NRS  
42 333A.0916, the term of a performance contract must not exceed ~~15~~  
43 20 years after the date on which the work required by the  
44 performance contract is completed.



3. The length of a performance contract may reflect the useful life of the operating cost-savings measure being installed or purchased under the performance contract.

**Sec. 8.** NRS 338.190 is hereby amended to read as follows:

338.190 1. Before it begins to construct or renovate any occupied public building which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

2. The analysis must:

(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the building; and

(b) Identify measures, including, without limitation, for the:

(1) Conservation of water;

(2) Conservation of energy and energy efficiency that will generate cost savings within ~~10~~ 20 years that are equal to or greater than the cost of implementation; ~~and~~

(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy ~~;~~ *and*

*(4) Use of ground source heat pumps,*

↪ which can be included in the building in its construction or renovation.

3. The agency of government which proposes to construct or renovate the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the building. The agency of government shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation measures identified in the analysis into the design of the building if it is determined to be in the best interest of the State.

4. The agency of government may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost-saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.

5. As used in this section ~~["occupied"]~~ :

*(a) "Ground source heat pump" means a system that uses the stored energy and relatively constant temperature of the earth to provide heating, cooling and hot water for a building.*





1       **(b) “Occupied** public building” means a public building used  
2 primarily as an office space or work area for persons employed by  
3 an agency of the State or a political subdivision, district, authority,  
4 board or public corporation of the State. The term does not include a  
5 public building used primarily as a storage facility or warehouse or  
6 for similar purposes.

7       **Sec. 9.** NRS 701.230 is hereby repealed.

8       **Sec. 10.** 1. If a governing body fails to amend its building  
9 codes, zoning ordinances and regulations in the manner described in  
10 subsection 4 of NRS 278.580 on or before January 1, 2008, those  
11 codes, ordinances and regulations shall be deemed to conform with  
12 the requirements of that subsection by operation of law.

13       2. As used in this section, “governing body” has the meaning  
14 ascribed to it in NRS 278.015.

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### TEXT OF REPEALED SECTION

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#### **701.230 Prohibition against inclusion in buildings of system using electric resistance for heating spaces; applicability; exceptions.**

1. In a county whose population is 100,000 or more, a building  
whose construction began on or after October 1, 1983, must not  
contain a system using electric resistance for heating spaces unless:

(a) The system is merely supplementary to another means of  
heating;

(b) Under the particular circumstances no other primary means  
of heating the spaces is a feasible or economical alternative to  
heating by electric resistance; or

(c) The Office of Energy determines that the present or future  
availability of other sources of energy is so limited as to justify the  
use of such a system.

2. This section does not prohibit the use of incandescent or  
fluorescent lighting.

