

ASSEMBLY BILL NO. 186—ASSEMBLYMEN CONKLIN, KIRKPATRICK, OCEGUERA, HORNE, PARKS, ANDERSON, ARBERRY, BOBZIEN, BUCKLEY, CLABORN, DENIS, GERHARDT, HOGAN, KIHUEN, KOIVISTO, LESLIE, MCCLAIN, OHRENSCHALL, PIERCE, SEGERBLOM, SMITH AND WOMACK

FEBRUARY 27, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises various provisions relating to energy. (BDR 58-784)

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 various provisions governing the portfolio standard; requiring new renewable energy projects to comply with certain requirements; authorizing certain administrative penalties; revising various provisions governing the Solar Energy Systems Demonstration Program Act; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

To encourage and accelerate the development of new renewable energy projects and to create successful markets for electricity generated by those projects, existing law requires the Public Utilities Commission of Nevada to establish portfolio standards for certain providers of electric service that require the providers to generate, acquire or save a certain amount of electricity each year from portfolio energy systems. (NRS 704.7801-704.7828)

**Section 6** of this bill requires a new renewable energy project to provide information to the Commission regarding the economic benefits that the project is expected to bring to this State. If the Commission authorizes a provider of electric service to enter into a renewable energy contract with the project, the project must, as part of the terms and conditions of the contract, agree to: (1) take all actions that are necessary and reasonable to bring about the expected economic benefits; and (2) pay an administrative penalty if the expected economic benefits do not occur.



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**Sections 1 and 6** of this bill require those administrative penalties to be deposited in the Trust Fund for Renewable Energy and Energy Conservation, establish two new uses for the money in that Fund and provide that the administrative penalties must be used for the two new uses. The two new uses are: (1) investment of the money to develop the renewable energy industry in Nevada; and (2) supporting the efforts of the State of Nevada AFL-CIO to identify potential gaps in the skills of the workforce required for renewable energy development and supporting training efforts to address the gaps.

**Section 7** of this bill requires a new renewable energy project to: (1) provide notice of any potential contracts or positions of employment to the Department of Business and Industry, the State of Nevada AFL-CIO and any other person who requests to receive such notice; and (2) provide, in writing, to any person who seeks but is denied such a contract or position of employment the reasons for the denial. If a project fails to comply with these requirements, a person aggrieved by that failure may bring a civil action against the project for appropriate relief, unless the person's claim is subject to a grievance procedure under the provisions of a collective bargaining agreement.

Under the Solar Energy Systems Demonstration Program Act, a certain number of schools which install solar energy systems are entitled to participate in the Demonstration Program and receive portfolio energy credits that may be sold to utilities seeking to comply with the portfolio standards. (Chapter 331, Statutes of Nevada 2003, pp. 1868-71) **Section 10** of this bill increases the number of schools that may participate in the Demonstration Program.

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

**Section 1.** NRS 701.380 is hereby amended to read as follows:

701.380 1. The Task Force shall:

(a) Advise the Office of Energy in:

(1) The development and periodic review of the comprehensive state energy plan with regard to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) The distribution of money to persons pursuant to NRS 701.240 to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems.

(b) Coordinate its activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(c) Spend the money in the Trust Fund for Renewable Energy and Energy Conservation to:



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(1) Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(3) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(4) Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing on-site generation systems, net metering systems and distributed generation systems that use renewable energy.

***(5) Invest money to develop the renewable energy industry in Nevada.***

***(6) Support efforts of the State of Nevada AFL-CIO to identify potential gaps in the skills of the workforce required for renewable energy development and support the development of training programs to address those gaps.***

(d) Take any other actions that the Task Force deems necessary to carry out its duties, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the Task Force in carrying out its duties.

2. The Task Force shall prepare an annual report concerning its activities and programs and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include, without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Fund for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

(d) An analysis of the coordination between the Task Force and other officers and agencies; and

(e) Any changes planned for each activity and program.

3. As used in this section, "distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed.



1     **Sec. 2.** Chapter 704 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 3 to 7, inclusive, of this  
3 act.

4     **Sec. 3.** *As used in sections 3 to 7, inclusive, of this act, unless*  
5 *the context otherwise requires, the words and terms defined in*  
6 *sections 4 and 5 of this act have the meanings ascribed to them in*  
7 *those sections.*

8     **Sec. 4.** *“New renewable energy project” means a project to*  
9 *construct or install a renewable energy system in this State if:*

10     1. *The project is associated with one or more renewable*  
11 *energy contracts that must be approved by the Commission*  
12 *pursuant to NRS 704.7821; and*

13     2. *Construction or installation of the project will commence*  
14 *on or after July 1, 2007.*

15     **Sec. 5.** *“Person” means:*

16     1. *A natural person;*

17     2. *Any form of business or social organization and any other*  
18 *nongovernmental legal entity, including, without limitation, a*  
19 *corporation, partnership, association, trust or unincorporated*  
20 *organization;*

21     3. *A government or an agency or instrumentality of a*  
22 *government, including, without limitation, this State or an agency*  
23 *or instrumentality of this State; and*

24     4. *A political subdivision of this State or of any other*  
25 *government or an agency or instrumentality of a political*  
26 *subdivision of this State or of any other government.*

27     **Sec. 6.** 1. *If a provider of electric service applies to the*  
28 *Commission for approval of one or more renewable energy*  
29 *contracts pursuant to NRS 704.7821 with a new renewable energy*  
30 *project, the application must include information which estimates*  
31 *the economic benefits that the new renewable energy project is*  
32 *expected to bring to this State, including, without limitation:*

33     (a) *The types of goods and services that the new renewable*  
34 *energy project is expected to contract for or purchase from*  
35 *persons located in this State as part of its construction or*  
36 *installation and as part of its operation and the estimated*  
37 *economic value of those goods and services; and*

38     (b) *The number and types of positions of employment that the*  
39 *new renewable energy project is expected to offer in this State as*  
40 *part of its construction or installation and as part of its operation*  
41 *and the estimated economic value of those positions of*  
42 *employment.*

43     2. *The Commission shall consider information regarding the*  
44 *economic benefits that the new renewable energy project is*



1 *expected to bring to this State in determining whether to approve*  
2 *each of the renewable energy contracts.*

3 *3. If the Commission approves one or more of the renewable*  
4 *energy contracts, the new renewable energy project must, as part*  
5 *of the terms and conditions of each such contract, agree to:*

6 *(a) Take all actions that are necessary and reasonable to*  
7 *effectuate the economic benefits that the new renewable energy*  
8 *project is expected to bring to this State; and*

9 *(b) Pay an administrative penalty in accordance with this*  
10 *section if one or more of the economic benefits that the new*  
11 *renewable energy project is expected to bring to this State do not*  
12 *occur.*

13 *4. After notice and a hearing as required by law, the*  
14 *Commission may order a new renewable energy project to pay an*  
15 *administrative penalty if one or more of the economic benefits that*  
16 *the new renewable energy project is expected to bring to this State*  
17 *do not occur. The amount of the administrative penalty must not*  
18 *exceed the estimated monetary value of the economic benefits, as*  
19 *set forth in the renewable energy contract.*

20 *5. All administrative penalties paid by a new renewable*  
21 *energy project pursuant to this section must be:*

22 *(a) Deposited in the Trust Fund for Renewable Energy and*  
23 *Energy Conservation created by NRS 701.370; and*

24 *(b) Accounted for separately and used as provided in*  
25 *subparagraphs (5) and (6) of paragraph (c) of subsection 1 of*  
26 *NRS 701.380.*

27 **Sec. 7. 1.** *If a new renewable energy project intends to*  
28 *contract for goods or services from other persons or offer any*  
29 *positions of employment to other persons as part of its*  
30 *construction or installation or as part of its operation, the new*  
31 *renewable energy project shall provide notice of the potential*  
32 *contracts or positions of employment to:*

33 *(a) The Department of Business and Industry;*

34 *(b) The State of Nevada AFL-CIO or, if the State of Nevada*  
35 *AFL-CIO ceases to exist, its successor organization; and*

36 *(c) Any other person who requests to receive such notice,*  
37 *whether or not the other person is located in this State.*

38 *2. A new renewable energy project shall not discriminate*  
39 *against a person who is seeking to be awarded a contract or*  
40 *position of employment because the person was referred to the*  
41 *project by:*

42 *(a) The Department of Business and Industry;*

43 *(b) The State of Nevada AFL-CIO or, if the State of Nevada*  
44 *AFL-CIO ceases to exist, its successor organization; or*



(c) Any other person who has requested to receive notice from the project pursuant to subsection 1.

3. If a new renewable energy project denies a contract or position of employment to a person who sought the contract or position of employment, the project shall provide to the person, in writing, the reasons for the denial.

4. If a new renewable energy project fails to comply with any provision of this section, any person who is aggrieved by that failure may bring a civil action against the project for appropriate relief, unless the person's claim is subject to a grievance procedure under the provisions of a collective bargaining agreement, in which case the claim must be adjudicated according to the terms of the collective bargaining agreement.

5. The provisions of this section do not prohibit a new renewable energy project from denying a contract or position of employment to a person based on the merits of the person or the proposed contract.

**Sec. 8.** NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, and sections 3 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

**Sec. 9.** NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 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 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.

(c) For calendar years 2009 and 2010, not less than 12 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 2011 and 2012, 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.

(e) For calendar years 2013 and 2014, not less than 18 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 2015 and for each calendar year thereafter, not less than 20 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, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

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

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission **[H]**, *and must comply with the provisions of section 6 of this act if that section is applicable to the contract.* If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. If, for the benefit of one or more of its retail customers in this State, the provider has directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar 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 energy system shall be deemed to be electricity that the provider



1 generated or acquired from a renewable energy system for the  
2 purposes of complying with its portfolio standard.

3 4. The Commission shall adopt regulations that establish a  
4 system of portfolio energy credits that may be used by a provider to  
5 comply with its portfolio standard.

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

8 6. If, for any calendar year, a provider is unable to comply with  
9 its portfolio standard through the generation of electricity from its  
10 own renewable energy systems or, if applicable, through the use of  
11 portfolio energy credits, the provider shall take actions to acquire or  
12 save electricity pursuant to one or more renewable energy contracts  
13 or energy efficiency contracts. If the Commission determines that,  
14 for a calendar year, there is not or will not be a sufficient supply of  
15 electricity or a sufficient amount of energy savings made available  
16 to the provider pursuant to renewable energy contracts and energy  
17 efficiency contracts with just and reasonable terms and conditions,  
18 the Commission shall exempt the provider, for that calendar year,  
19 from the remaining requirements of its portfolio standard or from  
20 any appropriate portion thereof, as determined by the Commission.

21 7. The Commission shall adopt regulations that establish:

22 (a) Standards for the determination of just and reasonable terms  
23 and conditions for the renewable energy contracts and energy  
24 efficiency contracts that a provider must enter into to comply with  
25 its portfolio standard.

26 (b) Methods to classify the financial impact of each long-term  
27 renewable energy contract and energy efficiency contract as an  
28 additional imputed debt of a utility provider. The regulations must  
29 allow the utility provider to propose an amount to be added to the  
30 cost of the contract, at the time the contract is approved by the  
31 Commission, equal to a compensating component in the capital  
32 structure of the utility provider. In evaluating any proposal made by  
33 a utility provider pursuant to this paragraph, the Commission shall  
34 consider the effect that the proposal will have on the rates paid by  
35 the retail customers of the utility provider.

36 8. As used in this section:

37 (a) "Energy efficiency contract" means a contract to attain  
38 energy savings from one or more energy efficiency measures  
39 owned, operated or controlled by other parties.

40 (b) "Renewable energy contract" means a contract to acquire  
41 electricity from one or more renewable energy systems owned,  
42 operated or controlled by other parties.

43 (c) "Terms and conditions" includes, without limitation, the  
44 price that a provider must pay to acquire electricity pursuant to a



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1 renewable energy contract or to attain energy savings pursuant to an  
2 energy efficiency contract.

3 **Sec. 10.** Section 18 of the Solar Energy Systems  
4 Demonstration Program Act, being chapter 331, Statutes of Nevada  
5 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd  
6 Special Session, at page 88, is hereby amended to read as follows:

7 Sec. 18. 1. On or before May 1 of each year, the  
8 Public Utilities Commission of Nevada shall:

9 (a) Review each application nominated by the Committee  
10 to ensure that the application meets the requirements of  
11 subsection 3 of section 14 of this act; and

12 (b) From those nominees, select participants for the  
13 Demonstration Program for the following program year.

14 2. ~~The~~ *Except as otherwise provided in subsection 4,*  
15 *the* Public Utilities Commission of Nevada may approve,  
16 from among the applications nominated by the Committee,  
17 solar energy systems totaling:

18 (a) For the program year beginning July 1, 2004:

19 (1) 100 kilowatts of capacity for schools;

20 (2) 200 kilowatts of capacity for other public  
21 buildings; and

22 (3) 200 kilowatts of capacity for private residences  
23 and small businesses.

24 (b) For the program year beginning July 1, 2005:

25 (1) An additional 570 kilowatts of capacity for  
26 schools;

27 (2) An additional 570 kilowatts of capacity for other  
28 public buildings; and

29 (3) An additional 760 kilowatts of capacity for private  
30 residences and small businesses.

31 (c) For the program year beginning July 1, 2006:

32 (1) An additional 570 kilowatts of capacity for  
33 schools;

34 (2) An additional 570 kilowatts of capacity for other  
35 public buildings; and

36 (3) An additional 760 kilowatts of capacity for private  
37 residences and small businesses.

38 (d) For the program year beginning July 1, 2007:

39 (1) An additional ~~570 kilowatts~~ *20 megawatts* of  
40 capacity for schools;

41 (2) An additional 570 kilowatts of capacity for other  
42 public buildings; and

43 (3) An additional 760 kilowatts of capacity for private  
44 residences and small businesses.

45 (e) For the program year beginning July 1, 2008:



(1) An additional ~~[570 kilowatts]~~ 20 megawatts of capacity for schools;

(2) An additional 570 kilowatts of capacity for other public buildings; and

(3) An additional 760 kilowatts of capacity for private residences and small businesses.

(f) For the program year beginning July 1, 2009:

(1) An additional ~~[570 kilowatts]~~ 20 megawatts of capacity for schools;

(2) An additional 570 kilowatts of capacity for other public buildings; and

(3) An additional 760 kilowatts of capacity for private residences and small businesses.

3. The Public Utilities Commission of Nevada shall notify each nominee of its selections no later than 10 days after the decision is made.

*4. To promote the installation of solar energy systems at as many schools as possible, the Public Utilities Commission of Nevada may not approve for use in the Demonstration Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed at a school on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school.*

**Sec. 11.** This act becomes effective on July 1, 2007.

