

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 economic and energy development. (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 economic and energy development; creating the Advisory Board for the Development of the Solar Energy Industry; revising various provisions governing partial abatements of certain taxes by the Commission on Economic Development; revising various provisions governing the Solar Energy Systems Demonstration Program Act; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, one of the components of the State's energy policy is to encourage, support and accelerate the development of Nevada's renewable energy resources, such as solar energy. (Chapter 701 of NRS) **Sections 2-8** of this bill create the Advisory Board for the Development of the Solar Energy Industry and establish its organizational structure and procedures. **Sections 2-8** also prescribe the duties of the Advisory Board, which include: (1) working with economic development agencies and officials to develop incentives which may be offered to businesses in the solar energy industry that intend to locate or expand their operations in Nevada; (2) identifying and studying photovoltaic technologies and other emerging solar energy technologies which have the potential to reduce the cost of electricity generated by solar energy systems; and (3) developing and carrying out a program of Solar Energy Challenge Zones.

Existing law authorizes the Commission on Economic Development to approve partial abatements of certain taxes imposed on new or expanded businesses. (NRS



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360.750) **Sections 9, 10** and 13 of this bill require a business that receives such a partial abatement to: (1) allow the Department of Taxation to conduct audits of the business to determine whether it is in compliance with the requirements for the partial abatement; and (2) consent to the disclosure of the audit reports to the Commission on Economic Development and to the public with certain limited exceptions.

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 11** of this bill increases the number of schools that may participate in the Demonstration Program and increases the kilowatts of capacity for solar energy systems in schools from 570 kilowatts to 2 megawatts for the years 2007, 2008 and 2009.

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

**Section 1.** Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Advisory Board” means the Advisory Board for the Development of the Solar Energy Industry that is created by section 5 of this act.*

**Sec. 4.** *“Portfolio standard” has the meaning ascribed to it in NRS 704.7805.*

**Sec. 5. 1.** *The Advisory Board for the Development of the Solar Energy Industry is hereby created.*

**2.** *The Advisory Board consists of the Lieutenant Governor and six additional members appointed as follows:*

*(a) Two members appointed by the Lieutenant Governor.*

*(b) Two members appointed by the Majority Leader of the Senate.*

*(c) Two members appointed by the Speaker of the Assembly.*

**3.** *An appointed member of the Advisory Board must be a citizen of the United States and a resident of this State.*

**4.** *After the initial terms, the term of each appointed member of the Advisory Board is 3 years. A vacancy on the Advisory Board must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may be reappointed to the Advisory Board.*

**5.** *Except as otherwise provided in this subsection, the appointed members of the Advisory Board serve without*



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1 *compensation and are not entitled to the per diem and travel*  
2 *expenses provided for state officers and employees generally. For*  
3 *each day of attendance at a meeting of the Advisory Board and*  
4 *while engaged in the business of the Advisory Board, a member of*  
5 *the Advisory Board who is an officer or employee of this State or a*  
6 *political subdivision of this State is entitled to receive the per diem*  
7 *and travel expenses provided for state officers and employees*  
8 *generally, paid by his governmental employer.*

9 6. A member of the Advisory Board who is an officer or  
10 employee of this State or a political subdivision of this State must  
11 be relieved from his duties without loss of his regular  
12 compensation so that he may prepare for and attend meetings of  
13 the Advisory Board and perform any work that is necessary to  
14 carry out the duties of the Advisory Board in the most timely  
15 manner practicable. A state agency or political subdivision of this  
16 State shall not require an officer or employee who is a member of  
17 the Advisory Board to:

18 (a) Make up the time he is absent from work to carry out his  
19 duties as a member of the Advisory Board; or

20 (b) Take annual leave or compensatory time for the absence.

21 7. Notwithstanding any other provision of law, a member of  
22 the Advisory Board:

23 (a) Is not disqualified from public employment or holding a  
24 public office because of his membership on the Advisory Board;  
25 and

26 (b) Does not forfeit his public office or public employment  
27 because of his membership on the Advisory Board.

28 **Sec. 6. 1. The Lieutenant Governor serves as the Chairman**  
29 **of the Advisory Board.**

30 2. The members of the Advisory Board shall select a Vice  
31 Chairman from among the appointed members. The Vice  
32 Chairman shall perform the duties of the Chairman during any  
33 absence of the Chairman. The Vice Chairman serves in that  
34 position for a term of 1 year. If a vacancy occurs in the Vice  
35 Chairmanship, the vacancy must be filled for the remainder of the  
36 unexpired term in the same manner as the original selection.

37 3. A majority of the members of the Advisory Board  
38 constitutes a quorum. A majority of the members present during a  
39 quorum may exercise all the power and authority conferred on the  
40 Advisory Board.

41 4. The Advisory Board shall meet at least four times annually  
42 and may meet more frequently at the discretion of the Chairman.

43 5. All meetings of the Advisory Board must be conducted in  
44 accordance with the provisions of chapter 241 of NRS.



6. *The Office of Energy shall provide the Advisory Board with administrative and clerical support and with such other assistance as may be necessary for the Advisory Board to carry out its duties. Such support and assistance must include, without limitation, making arrangements for facilities, equipment and other services in preparation for and during meetings.*

**Sec. 7. The Advisory Board shall:**

1. *Formulate policies and plans to encourage, support and accelerate the development of the solar energy industry in this State.*

2. *Work with state, regional and local economic development agencies and officials to develop incentives which may be offered to businesses in the solar energy industry that intend to locate or expand their operations in this State.*

3. *Identify and study photovoltaic technologies and other emerging solar energy technologies which have the potential to reduce the cost of electricity generated by solar energy systems.*

4. *Take any other actions the Advisory Board deems necessary to promote the development of the solar energy industry in this State.*

**Sec. 8. 1. The Advisory Board shall develop and carry out a program of Solar Energy Challenge Zones.**

2. *In developing and carrying out the program, the Advisory Board shall:*

(a) *Designate at least one Solar Energy Challenge Zone covering, in whole or in part, the Las Vegas Strip and any areas adjacent to the Las Vegas Strip that are appropriate for inclusion in the Solar Energy Challenge Zone; and*

(b) *Work with local governments, utilities, businesses, environmental advocates and other interested persons to identify and designate other Solar Energy Challenge Zones in this State.*

3. *For each Solar Energy Challenge Zone, the Advisory Board shall:*

(a) *Develop, in cooperation with local governments, utilities, businesses, environmental advocates and other interested persons, a target price per kilowatt-hour for electricity generated from solar energy systems that is significantly less than the prevailing price per kilowatt-hour for electricity generated from such systems; and*

(b) *Offer that target price in a standard offer contract to any business which is willing to accept the challenge of manufacturing or installing solar energy systems that are able to generate electricity at that target price.*

4. *The Advisory Board may submit such a standard offer contract to the Public Utilities Commission of Nevada for approval*



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1 *as a renewable energy contract for the purposes of the portfolio*  
2 *standard.*

3 **Sec. 9.** Chapter 360 of NRS is hereby amended by adding  
4 thereto a new section to read as follows:

5 *1. If the Commission on Economic Development approves an*  
6 *application by a business for a partial abatement pursuant to NRS*  
7 *360.750, the agreement with the Commission must provide that the*  
8 *business:*

9 *(a) Agrees to allow the Department to conduct audits of the*  
10 *business to determine whether the business is in compliance with*  
11 *the requirements for the partial abatement; and*

12 *(b) Consents to the disclosure of the audit reports in the*  
13 *manner set forth in this section.*

14 *2. If the Department conducts an audit of the business to*  
15 *determine whether the business is in compliance with the*  
16 *requirements for the partial abatement, the Department shall,*  
17 *upon request, provide the audit report to the Commission on*  
18 *Economic Development.*

19 *3. Until the business has exhausted all appeals to the*  
20 *Department and the Nevada Tax Commission relating to the audit,*  
21 *the information contained in the audit report provided to the*  
22 *Commission on Economic Development:*

23 *(a) Is confidential proprietary information of the business;*

24 *(b) Is not a public record; and*

25 *(c) Must not be disclosed to any person who is not an officer or*  
26 *employee of the Commission on Economic Development unless*  
27 *the business consents to the disclosure.*

28 *4. After the business has exhausted all appeals to the*  
29 *Department and the Nevada Tax Commission relating to the*  
30 *audit:*

31 *(a) The audit report provided to the Commission on Economic*  
32 *Development is a public record; and*

33 *(b) Upon request by any person, the Executive Director of the*  
34 *Commission on Economic Development shall disclose the audit*  
35 *report to the person who made the request, except for any*  
36 *information in the audit report that is protected from disclosure*  
37 *pursuant to subsection 5.*

38 *5. Before the Executive Director of the Commission on*  
39 *Economic Development discloses the audit report to the public, the*  
40 *business may submit a request to the Executive Director to protect*  
41 *from disclosure any information in the audit report which, under*  
42 *generally accepted business practices, would be considered a trade*  
43 *secret or other confidential proprietary information of the*  
44 *business. After consulting with the business, the Executive*  
45 *Director shall determine whether to protect the information from*



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*disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:*

- (a) Is confidential proprietary information of the business;*
- (b) Is not a public record;*
- (c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and*
- (d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.*

**Sec. 10.** NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which ~~[states]~~ **must:**

**(1) Comply with the requirements of section 9 of this act;**

**(2) State** that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection ~~[The agreement must bind]~~ ; **and**

**(3) Bind** the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:



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(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) 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 and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

(3) 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 or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.



(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:



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(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of



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1 this section. Except as otherwise provided in NRS 360.232 and  
2 360.320, the business shall, in addition to the amount of the  
3 exemption required to be paid pursuant to this subsection, pay  
4 interest on the amount due at the rate most recently established  
5 pursuant to NRS 99.040 for each month, or portion thereof, from the  
6 last day of the month following the period for which the payment  
7 would have been made had the partial abatement not been approved  
8 until the date of payment of the tax.

9 8. A county treasurer:

10 (a) Shall deposit any money that he receives pursuant to  
11 subsection 7 in one or more of the funds established by a local  
12 government of the county pursuant to NRS 354.6113 or 354.6115;  
13 and

14 (b) May use the money deposited pursuant to paragraph (a) only  
15 for the purposes authorized by NRS 354.6113 and 354.6115.

16 9. The Commission on Economic Development:

17 (a) Shall adopt regulations relating to:

18 (1) The minimum level of benefits that a business must  
19 provide to its employees if the business is going to use benefits paid  
20 to employees as a basis to qualify for a partial abatement; and

21 (2) The notice that must be provided pursuant to  
22 subsection 4.

23 (b) May adopt such other regulations as the Commission on  
24 Economic Development determines to be necessary to carry out the  
25 provisions of this section **[H]** *and section 9 of this act.*

26 10. The Nevada Tax Commission:

27 (a) Shall adopt regulations regarding:

28 (1) The capital investment that a new business must make to  
29 meet the requirement set forth in paragraph (d), (e) or (g) of  
30 subsection 2; and

31 (2) Any security that a business is required to post to qualify  
32 for a partial abatement pursuant to this section.

33 (b) May adopt such other regulations as the Nevada Tax  
34 Commission determines to be necessary to carry out the provisions  
35 of this section **[H]** *and section 9 of this act.*

36 11. An applicant for an abatement who is aggrieved by a final  
37 decision of the Commission on Economic Development may  
38 petition for judicial review in the manner provided in chapter 233B  
39 of NRS.

40 **Sec. 11.** Section 18 of the Solar Energy Systems  
41 Demonstration Program Act, being chapter 331, Statutes of Nevada  
42 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd  
43 Special Session, at page 88, is hereby amended to read as follows:

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



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

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

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

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

(1) 100 kilowatts of capacity for schools;

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

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

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

(1) An additional 570 kilowatts 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.

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

(1) An additional 570 kilowatts 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.

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

(1) An additional ~~570 kilowatts~~ *2 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.

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

(1) An additional ~~570 kilowatts~~ *2 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]~~ 2 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. 12.** As soon as practicable on or after July 1, 2007:

1. The Lieutenant Governor shall appoint to the Advisory Board for the Development of the Solar Energy Industry two members whose terms expire on June 30, 2008.

2. The Majority Leader of the Senate shall appoint to the Advisory Board for the Development of the Solar Energy Industry:

(a) One member whose term expires on June 30, 2009; and

(b) One member whose term expires on June 30, 2010.

3. The Speaker of the Assembly shall appoint to the Advisory Board for the Development of the Solar Energy Industry:

(a) One member whose term expires on June 30, 2009; and

(b) One member whose term expires on June 30, 2010.

**Sec. 13.** If, on July 1, 2007, the Commission on Economic Development and a business have in effect an agreement for a partial abatement of one or more taxes pursuant to NRS 360.750:

1. The agreement shall be deemed to include by operation of law the provisions required by section 9 of this act; and

2. The provisions of section 9 of this act shall be deemed to apply to the business notwithstanding any contrary provision in the agreement.

**Sec. 14.** This act becomes effective on July 1, 2007.

