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THIRD REPRINT

A.B. 186

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 32-784)

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 state financial administration; 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:

Existing law authorizes the Commission on Economic Development to approve partial abatements of certain taxes imposed on new or expanded businesses. (NRS 360.750) **Sections 10.3, 10.7 and 13.5** 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. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 10.3. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

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

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

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

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

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

(a) Is confidential proprietary information of the business;

(b) Is not a public record; and

(c) 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.

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

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

(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit



1 *report to the person who made the request, except for any*
2 *information in the audit report that is protected from disclosure*
3 *pursuant to subsection 5.*

4 *5. Before the Executive Director of the Commission on*
5 *Economic Development discloses the audit report to the public, the*
6 *business may submit a request to the Executive Director to protect*
7 *from disclosure any information in the audit report which, under*
8 *generally accepted business practices, would be considered a trade*
9 *secret or other confidential proprietary information of the*
10 *business. After consulting with the business, the Executive*
11 *Director shall determine whether to protect the information from*
12 *disclosure. The decision of the Executive Director is final and is*
13 *not subject to judicial review. If the Executive Director determines*
14 *to protect the information from disclosure, the protected*
15 *information:*

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

17 *(b) Is not a public record;*

18 *(c) Must be redacted by the Executive Director from any audit*
19 *report that is disclosed to the public; and*

20 *(d) Must not be disclosed to any person who is not an officer*
21 *or employee of the Commission on Economic Development unless*
22 *the business consents to the disclosure.*

23 **Sec. 10.7.** NRS 360.750 is hereby amended to read as follows:

24 360.750 1. A person who intends to locate or expand a
25 business in this State may apply to the Commission on Economic
26 Development for a partial abatement of one or more of the taxes
27 imposed on the new or expanded business pursuant to chapter 361,
28 363B or 374 of NRS.

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

32 (a) The business is consistent with:

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

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

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

39 *(1) Comply with the requirements of section 10.3 of this*
40 *act;*

41 *(2) State that the business will, after the date on which a*
42 *certificate of eligibility for the abatement is issued pursuant to*
43 *subsection 5, continue in operation in this State for a period*
44 *specified by the Commission, which must be at least 5 years, and*



1 will continue to meet the eligibility requirements set forth in this
2 subsection ~~[The agreement must bind]~~ ; and

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

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

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

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

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

18 (3) The average hourly wage that will be paid by the new
19 business to its employees in this State is at least 100 percent of the
20 average statewide hourly wage as established by the Employment
21 Security Division of the Department of Employment, Training and
22 Rehabilitation on July 1 of each fiscal year and:

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

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

30 (e) Except as otherwise provided in NRS 361.0687, if the
31 business is a new business in a county whose population is less than
32 100,000 or a city whose population is less than 60,000, the business
33 meets at least two of the following requirements:

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

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

39 (3) The average hourly wage that will be paid by the new
40 business to its employees in this State is at least 100 percent of the
41 average statewide hourly wage or the average countywide hourly
42 wage, whichever is less, as established by the Employment Security
43 Division of the Department of Employment, Training and
44 Rehabilitation on July 1 of each fiscal year and:



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

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

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

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

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

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

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

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

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

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

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

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

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

44 (3) The average hourly wage that will be paid by the new
45 business to its employees in this State is at least the amount of the



1 average hourly wage required to be paid by businesses pursuant to
2 subparagraph (2) of either paragraph (a) or (b) of subsection 2 of
3 NRS 361.0687, whichever is applicable, and:

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

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

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

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

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

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

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

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

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

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

37 (a) The Department;

38 (b) The Nevada Tax Commission; and

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

41 6. An applicant for a partial abatement pursuant to this section
42 or an existing business whose partial abatement is in effect shall,
43 upon the request of the Executive Director of the Commission on
44 Economic Development, furnish the Executive Director with copies



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1 of all records necessary to verify that the applicant meets the
2 requirements of subsection 2.

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

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

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

8 ➔ the business shall repay to the Department or, if the partial
9 abatement was from the property tax imposed pursuant to chapter
10 361 of NRS, to the county treasurer, the amount of the exemption
11 that was allowed pursuant to this section before the failure of the
12 business to comply unless the Nevada Tax Commission determines
13 that the business has substantially complied with the requirements of
14 this section. Except as otherwise provided in NRS 360.232 and
15 360.320, the business shall, in addition to the amount of the
16 exemption required to be paid pursuant to this subsection, pay
17 interest on the amount due at the rate most recently established
18 pursuant to NRS 99.040 for each month, or portion thereof, from the
19 last day of the month following the period for which the payment
20 would have been made had the partial abatement not been approved
21 until the date of payment of the tax.

22 8. A county treasurer:

23 (a) Shall deposit any money that he receives pursuant to
24 subsection 7 in one or more of the funds established by a local
25 government of the county pursuant to NRS 354.6113 or 354.6115;
26 and


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

29 9. The Commission on Economic Development:

30 (a) Shall adopt regulations relating to:

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

34 (2) The notice that must be provided pursuant to
35 subsection 4.

36 (b) May adopt such other regulations as the Commission on
37 Economic Development determines to be necessary to carry out the
38 provisions of this section  *and section 10.3 of this act.*

39 10. The Nevada Tax Commission:

40 (a) Shall adopt regulations regarding:

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

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



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(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section ~~[]~~ *and section 10.3 of this act.*

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

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

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

(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. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 13.5. The provisions of section 10.3 of this act do not apply to any abatement for which an agreement was executed before July 1, 2007, between the commission on Economic Development and the business to which the abatement was granted.

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

