

ASSEMBLY BILL NO. 341—ASSEMBLYMEN GANSERT, MABEY, HARDY, PARKS, BOBZIEN, COBB, GOEDHART, GOICOECHEA, GRADY, MANENDO, MARVEL, MCCLAIN, MUNFORD, SEGERBLOM AND STEWART

MARCH 15, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to energy conservation. (BDR 27-389)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Contains Appropriation not included in Executive Budget.

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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 conservation; revising various provisions governing performance contracts for operating cost-savings measures; revising various provisions governing energy conservation in certain public buildings; creating the Nevada Integrated Design Laboratories Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill makes various changes relating to energy conservation. **Sections 1-3**
2 of this bill increase the maximum period of performance contracts for operating
3 cost-savings measures and contracts for their financing entered into by certain state
4 agencies and local governments. (NRS 332.300-332.440, chapter 333A of NRS)
5 **Section 4** of this bill extends the payback period for energy savings measures
6 incorporated into public buildings, and requires identification of measures for the
7 use of ground-source geothermal heat pumps in such buildings. (NRS 338.190)
8 **Section 5** of this bill creates the Nevada Integrated Design Laboratories Fund and
9 authorizes the Nevada System of Higher Education to apply for and accept grants,
10 gifts, donations, bequests or devises to the Fund. The money in the Fund must be
11 used to support the establishment and operations of two Nevada Integrated Design
12 Laboratories, one located in northern Nevada and one located in southern Nevada.



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

Section 1. NRS 332.380 is hereby amended to read as follows:

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

2. Except as otherwise provided in this subsection, a performance contract, and the payments provided thereunder, may extend beyond the fiscal year in which the performance contract becomes effective for costs incurred in future fiscal years. The performance contract may extend for a term not to exceed ~~15~~ 20 years. 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.

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

Sec. 2. NRS 333A.0902 is hereby amended to read as follows:

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

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

2. Offer certificates of participation.

3. If the installment-purchase contract or lease-purchase contract involves an improvement to property owned by the State of Nevada or the using agency, enter into a lease of the property to which the improvement will be made and any property that is adjacent to that property if the installment-purchase contract or lease-purchase contract:

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

(b) Provides for rental payments that approximate the fair market rental of the property before the improvement is made, as determined by the Board at the time the parties enter into the lease, which must be paid if the installment-purchase contract or lease-purchase contract terminates before the expiration of the lease



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1 because the Legislature fails to appropriate money for payments due
2 pursuant to the installment-purchase contract or lease-purchase
3 contract.

4 ➡ A lease entered into pursuant to this subsection may provide for
5 nominal rental payments to be paid pursuant to the lease before the
6 installment-purchase contract or lease-purchase contract terminates.

7 4. Enter into any other agreement, contract or arrangement that
8 the Board determines would be beneficial to the purpose of the
9 installment-purchase contract or lease-purchase contract, including,
10 without limitation, contracts for professional services, trust
11 indentures, paying agent agreements and contracts of insurance.

12 **Sec. 3.** NRS 333A.100 is hereby amended to read as follows:

13 333A.100 1. Notwithstanding any provision of this chapter to
14 the contrary, a performance contract entered into pursuant to this
15 chapter does not create a debt for the purposes of Section 3 of
16 Article 9 of the Nevada Constitution.

17 2. Except as otherwise provided in this section, the term of a
18 performance contract may extend beyond the biennium in which the
19 contract is executed, provided that the performance contract
20 contains a provision which states that all obligations of the State
21 under the performance contract are extinguished at the end of any
22 fiscal year if the Legislature fails to provide an appropriation to the
23 using agency for the ensuing fiscal year for payments to be made
24 under the performance contract. If the Legislature fails to
25 appropriate money to a using agency for a performance contract,
26 there is no remedy against the State, except that if a security interest
27 in any property was created pursuant to the performance contract,
28 the holder of such a security interest may enforce the security
29 interest against that property. Except as otherwise provided in NRS
30 333A.0916, the term of a performance contract must not exceed ~~15~~
31 20 years after the date on which the work required by the
32 performance contract is completed.

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

36 **Sec. 4.** NRS 338.190 is hereby amended to read as follows:

37 338.190 1. Before it begins to construct or renovate any
38 occupied public building which is larger than 20,000 square feet,
39 each agency of the State or a political subdivision, district, authority,
40 board or public corporation of the State shall obtain a detailed
41 analysis of the cost of operating and maintaining the building for its
42 expected useful life.

43 2. The analysis must:



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(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~~ and

(4) Use of ground-source geothermal 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 public building" means a public building used primarily as an office space or work area for persons employed by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.

Sec. 5. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Nevada Integrated Design Laboratories Fund is hereby created.

2. The money in the Fund must be used by the Nevada Small Business Development Center to support the establishment and operations of two Nevada Integrated Design Laboratories, one located in northern Nevada and one located in southern Nevada.

3. The Board of Regents:



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1 (a) Shall administer the Fund.

2 (b) May apply for and accept on behalf of the Nevada Small
3 Business Development Center any grants, gifts, donations,
4 bequests or devises to support the establishment and operations of
5 the Nevada Integrated Design Laboratories. The money received
6 from any such grants, gifts, donations, bequests or devises must be
7 deposited in the Fund.

8 4. The interest and income earned on the money in the Fund
9 must, after deducting any applicable charges, be credited to the
10 Fund.

11 5. The money in the Fund remains in the Fund and does not
12 revert to the State General Fund at the end of any fiscal year.

13 6. As used in this section, "Nevada Small Business
14 Development Center" means the Nevada Small Business
15 Development Center established by the System in cooperation with
16 the United States Small Business Administration or any entity
17 established as a successor to the Nevada Small Business
18 Development Center.

19 **Sec. 6.** This act becomes effective on July 1, 2007.

