

ASSEMBLY BILL NO. 448—ASSEMBLYMEN  
BOBZIEN, CONKLIN AND LESLIE

MARCH 16, 2009

JOINT SPONSOR: SENATOR PARKS

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing incentive programs for renewable energy. (BDR 58-511)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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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; providing for the participation in the Solar Energy Systems Incentive Program of a utility that operates a solar energy system pursuant to a solar power purchase agreement; requiring the Public Utilities Commission of Nevada to establish and maintain an Internet website to provide certain information to applicants for participation in the Solar Program; requiring a participant in the Solar Program to complete installation of a solar energy system within a specified time; providing for the withdrawal of a participant from the Solar Program or the Wind Energy Systems Demonstration Program under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law establishes the Solar Energy Systems Incentive Program to  
2 provide incentives to persons to install solar energy systems on: (1) private  
3 residential and small business property; (2) public and other property; and (3)  
4 school property. (NRS 701B.010-701B.290) Participation in the Solar Program is  
5 limited, and the total amount of capacity allocated to each category of participation  
6 in the Solar Program is capped. **Section 13** of this bill removes the limitations on  
7 the total amount of capacity allocated to the categories of participation in the Solar  
8 Program and instead provides for limitations on the capacity allocated to individual  
9 systems in the Solar Program. **Section 13** also authorizes the Public Utilities



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Commission of Nevada to waive the limitations on capacity for individual systems under certain circumstances. (NRS 701B.260)

**Section 12** of this bill requires an applicant to submit with his application to participate in the Solar Program an estimate of the cost of the installation of the solar energy system. (NRS 701B.250) In addition, **section 3** of this bill requires an applicant for participation in the category of private residential property to: (1) obtain an evaluation of the energy consumption of the residential property; and (2) include a copy of the evaluation with his application. **Section 6** of this bill requires the Commission to establish and maintain an Internet website to provide an applicant for participation in the Solar Program with access to information concerning the status of his application.

**Section 11** of this bill requires the Commission to adopt regulations establishing the qualifications and requirements which a utility that is a party to a solar power purchase agreement must meet to participate in the Solar Program and to be eligible to receive incentives offered through the Solar Program. (NRS 701B.210)

**Section 4** of this bill provides that the installation of a solar energy system on public property is deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.

**Section 14** of this bill requires the Commission to withdraw a participant from the Solar Program if he does not finalize the contract for installation of the solar energy system or complete installation of the solar energy system within a specified time. (NRS 701B.270) **Section 5** of this bill authorizes the Commission to grant a waiver from withdrawal to a participant who fails to finalize such a contract or complete the installation of a solar energy system within the prescribed period. **Sections 7 and 17** of this bill establish similar provisions governing the withdrawal of participants from the Wind Energy Systems Demonstration Program. (NRS 701B.580, 701B.630)

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

**Section 1.** Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

**Sec. 2.** *“Solar power purchase agreement” means an agreement between a utility and another person pursuant to which:*

*1. The utility agrees to finance, install, operate and maintain a solar energy system on the property of the person; and*

*2. The person agrees to purchase the power generated by the solar energy system from the utility for a specified number of years.*

**Sec. 3.** *1. In addition to any other requirement for eligibility to participate in the Solar Program, an applicant in the category of private residential property must:*



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1 (a) *Not more than 1 year before the applicant applies to*  
2 *participate in the Solar Program, obtain an evaluation of the*  
3 *energy consumption of the private residential property; and*

4 (b) *Include a copy of the evaluation with his application.*

5 2. *An evaluation of the energy consumption of private*  
6 *residential property conducted pursuant to this section must*  
7 *comply with the regulations adopted by the Director of the Office*  
8 *of Energy within the Office of the Governor pursuant to*  
9 *NRS 701.250.*

10 **Sec. 4.** *The installation of a solar energy system on public*  
11 *property pursuant to NRS 701B.010 to 701B.290, inclusive, and*  
12 *sections 2 to 6, inclusive, of this act shall be deemed to be a public*  
13 *work for the purposes of chapters 338 and 341 of NRS, regardless*  
14 *of whether the installation of the solar energy system is financed*  
15 *in whole or in part by public money.*

16 **Sec. 5.** 1. *The Commission may grant a waiver from*  
17 *withdrawal to a participant who, not later than 30 days after he*  
18 *receives notice pursuant to subsection 2 of NRS 701B.270, applies*  
19 *for a waiver and provides proof satisfactory to the Commission*  
20 *that his failure to finalize a contract for or complete the*  
21 *installation of a solar energy system within the prescribed period*  
22 *was not unreasonable.*

23 2. *In granting a waiver pursuant to this section, the*  
24 *Commission may place such restrictions and requirements on the*  
25 *participant as the Commission determines necessary.*

26 3. *The Commission shall, without notice or an opportunity*  
27 *for a hearing, withdraw from the Solar Program any participant*  
28 *who fails to comply with the provisions of a waiver granted*  
29 *pursuant to this section.*

30 **Sec. 6.** *The Commission shall establish and maintain an*  
31 *Internet website to provide an applicant with the ability to access*  
32 *information concerning the status of his application.*

33 **Sec. 7.** 1. *The Task Force may grant a waiver from*  
34 *withdrawal to a participant who, not later than 30 days after he*  
35 *receives notice pursuant to subsection 2 of NRS 701B.630,*  
36 *provides proof satisfactory to the Task Force that his failure to*  
37 *finalize a contract for or complete the installation of a wind*  
38 *energy system within the prescribed period was not unreasonable.*

39 2. *In granting a waiver pursuant to this section, the Task*  
40 *Force may place such restrictions and requirements on the*  
41 *participant as it determines necessary.*

42 3. *The Task Force shall, without notice or an opportunity for*  
43 *a hearing, withdraw from the Wind Demonstration Program any*  
44 *participant who fails to comply with the provisions of a waiver*  
45 *granted pursuant to this section.*



1     **Sec. 8.** NRS 701B.010 is hereby amended to read as follows:  
2     701B.010 The provisions of NRS 701B.010 to 701B.290,  
3 inclusive, *and sections 2 to 6, inclusive, of this act* apply to the  
4 Solar Energy Systems Incentive Program.

5     **Sec. 9.** NRS 701B.020 is hereby amended to read as follows:  
6     701B.020 As used in NRS 701B.010 to 701B.290, inclusive,  
7 *and sections 2 to 6, inclusive, of this act*, unless the context  
8 otherwise requires, the words and terms defined in NRS 701B.030  
9 to 701B.180, inclusive, *and section 2 of this act* have the meanings  
10 ascribed to them in those sections.

11    **Sec. 10.** NRS 701B.200 is hereby amended to read as follows:  
12    701B.200 The Commission shall adopt regulations necessary  
13 to carry out the provisions of NRS 701B.010 to 701B.290, inclusive,  
14 *and sections 2 to 6, inclusive, of this act*, including, without  
15 limitation, regulations that establish:

16    1. The type of incentives available to participants in the Solar  
17 Program and the level or amount of those incentives; *and*

18    2. The requirements for a utility's annual plan for carrying out  
19 and administering the Solar Program. A utility's annual plan must  
20 include, without limitation:

21    (a) A detailed plan for advertising the Solar Program;

22    (b) A detailed budget and schedule for carrying out and  
23 administering the Solar Program;

24    (c) A detailed account of administrative processes and forms  
25 that will be used to carry out and administer the Solar Program,  
26 including, without limitation, a description of the application  
27 process and copies of all applications and any other forms that are  
28 necessary to apply for and participate in the Solar Program;

29    (d) A detailed account of the procedures that will be used for  
30 inspection and verification of a participant's solar energy system  
31 and compliance with the Solar Program;

32    (e) A detailed account of training and educational activities that  
33 will be used to carry out and administer the Solar Program; and

34    (f) Any other information required by the Commission.

35    **Sec. 11.** NRS 701B.210 is hereby amended to read as follows:  
36    701B.210 The Commission shall adopt regulations that  
37 establish:

38    1. The qualifications and requirements an applicant must meet  
39 to be eligible to participate in each applicable category of:

40    (a) School property;

41    (b) Public and other property; and

42    (c) Private residential property and small business property; and

43    2. *The qualifications and requirements which a utility that is*  
44 *a party to a solar power purchase agreement must meet to be*  
45 *eligible:*



- (a) *To participate in each category of the Solar Program; and*  
(b) *For any incentives offered through the Solar Program.*

3. The form and content of the master application which a utility must submit to the Task Force pursuant to NRS 701B.250.

**Sec. 12.** NRS 701B.250 is hereby amended to read as follows:

701B.250 1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years. *An application submitted pursuant to this section must include, without limitation, an estimate of the cost of the installation of the solar energy system.*

2. Each ~~[year]~~ *calendar quarter*, on or before the date established by the Commission, a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the Task Force:

(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and

(b) A master application containing all the applications recommended by the utility.

3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to NRS 701B.260.

**Sec. 13.** NRS 701B.260 is hereby amended to read as follows:

701B.260 1. Except as otherwise provided in this section, the Commission may approve, for a program year, *any* solar energy ~~[systems:]~~ *system which:*

(a) ~~[Totaling 2,000 kilowatts of capacity for]~~ *For* school property ~~[;]~~, *has a capacity of not more than 100 kilowatts;*

(b) ~~[Totaling 760 kilowatts of capacity for]~~ *For* public and other property ~~[; and]~~, *has a capacity of not more than 50 kilowatts;*

(c) ~~[Totaling 1,000 kilowatts of capacity for]~~ *For* private residential property, *has a capacity of not more than 5 kilowatts;* and

(d) *For* small business property ~~[;]~~, *has a capacity of not more than 30 kilowatts.*



2. ~~If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the~~ *The Commission may [in any combination it deems] approve such solar energy systems that exceed the capacity authorized by subsection 1 as it determines are appropriate.* ~~[-~~

~~—(a) Allow a utility to submit additional applications to the Task Force from applicants who want to participate in that category; or~~

~~—(b) Reallocate any of the unused capacity in that category to any of the other categories;~~

~~but in no case may the sum of the allocated total capacities of all the categories be greater than 3,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.~~

~~3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property 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 property.~~

~~4.]~~ 3. After reviewing the master application submitted by a utility pursuant to NRS 701B.250 and ensuring that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the Task Force shall:

(a) ~~[Within the limits of the capacity allocated to each category, select]~~ *Select* applicants to be participants in the Solar Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program. ~~[if any capacity within a category becomes available.~~

~~5.]~~ 4. Not later than 30 days after the date on which the Task Force selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Task Force on behalf of the applicant shall provide written notice of the selection to the applicant.

~~6.]~~ 5. After the Task Force selects an applicant to be on the list of participants, the utility which submitted the application to the Task Force on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of NRS 701B.250, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.



**Sec. 14.** NRS 701B.270 is hereby amended to read as follows:

701B.270 1. Except as otherwise provided in this section, if the Commission determines that a participant has not complied with the requirements for participation in the Solar Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.

2. ~~[The]~~ *Except as otherwise provided in section 5 of this act,* the Commission ~~[may, without]~~ *shall, after* notice, ~~[for an opportunity for a hearing,]~~

(a) A participant in the category of private residential property and small business property, if the participant does not ~~[complete]~~:

*(1) Finalize the contract for the installation of a solar energy system within 60 days after the date the participant receives written notice of his selection to participate in the Solar Program;*  
*or*

*(2) Complete* the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.

(b) A participant in the category of school property or public and other property, if the participant does not ~~[complete]~~:

*(1) Finalize the contract for the installation of a solar energy system within 180 days after the date the participant receives written notice of his selection to participate in the Solar Program; or*

*(2) Complete* the installation of a solar energy system within 30 months after the date the participant receives written notice of his selection to participate in the Solar Program.

3. A participant who is withdrawn from the Solar Program pursuant to subsection 2 forfeits any incentives.

**Sec. 15.** NRS 701B.400 is hereby amended to read as follows:

701B.400 NRS 701B.400 to 701B.650, inclusive, *and section 7 of this act* may be cited as the Wind Energy Systems Demonstration Program Act.

**Sec. 16.** NRS 701B.410 is hereby amended to read as follows:

701B.410 As used in NRS 701B.400 to 701B.650, inclusive, *and section 7 of this act*, unless the context otherwise requires, the words and terms defined in NRS 701B.420 to 701B.560, inclusive, have the meaning ascribed to them in those sections.

**Sec. 17.** NRS 701B.630 is hereby amended to read as follows:

701B.630 1. Except as otherwise provided in this section, if the Task Force determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the Task Force shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.



2. ~~[The]~~ *Except as otherwise provided in section 7 of this act,*  
the Task Force ~~[may, without]~~ *shall, after* notice , ~~[or an~~  
~~opportunity for a hearing,]~~ withdraw from the Program:

(a) A participant in the category of private residential property  
and small business property or a participant in the category of  
agricultural property if the participant does not ~~[complete]~~ :

*(1) Finalize the contract for the installation of a wind  
energy system within 60 days after the date the participant receives  
written notice of his selection to participate in the Program; or*

*(2) Complete* the installation of a wind energy system within  
12 months after the date the participant receives written notice of his  
selection to participate in the Program.

(b) A participant in the category of school property or a  
participant in the category of other public property if the participant  
does not ~~[complete]~~ :

*(1) Finalize the contract for the installation of a wind  
energy system within 180 days after the date the participant  
receives written notice of his selection to participate in the  
Program; or*

*(2) Complete* the installation of a wind energy system within  
30 months after the date the participant receives written notice of his  
selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant  
to subsection 2 forfeits any incentives.

**Sec. 18.** 1. This act becomes effective on July 1, 2009.

2. Sections 7, 15, 16 and 17 of this act expire by limitation on  
June 30, 2011.

