

SENATE BILL NO. 248—SENATORS TOWNSEND; HARDY, HORSFORD,
LEE, MATHEWS, MCGINNESS AND RHOADS

MARCH 16, 2009

Referred to Committee on Government Affairs

SUMMARY—Authorizes the extension of the validity of certain building permits and development agreements beyond the original expiration date under certain circumstances. (BDR 22-981)

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 local governmental planning; authorizing the extension of the validity of certain building permits and development agreements for a maximum of 15 years beyond the original expiration date if the land is leased for renewable energy generation projects; providing that certain changes to regulations or laws which are made after the issuance of the permit or the time the agreement is entered into, and which apply environmental, life or safety restrictions to the land, apply to the permit or agreement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits construction without a building permit issued by the
2 building official with authority over the land where any proposed construction
3 would take place. (NRS 278.610) Existing law also authorizes the governing body
4 of a city or county to enter into an agreement with a person concerning the
5 development of land. (NRS 278.0201) This bill authorizes the extension of the
6 validity of any such permit or agreement beyond its original expiration date if: (1)
7 the permit holder or landowner cannot finance the proposed project; and (2) the
8 land is leased for certain renewable energy projects. The extension is available for
9 permits and agreements for residential and commercial development for a
10 maximum of 15 years after the original expiration date of the permit or agreement.
11 This bill also provides that if a building permit or development agreement is
12 extended, no condition may be placed on the permit or agreement that was not
13 imposed on the original permit or agreement. Additionally, this bill provides that



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14 new regulations or laws that apply environmental, life or safety protections to the
15 land in question would also apply, but other zoning changes enacted after the
16 issuance of the permit would not. Extensions for building permits and agreements
17 pursuant to the provisions of this bill will not be issued after June 30, 2013.

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

1 **Section 1.** Chapter 278 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2. 1. “Renewable energy” means a source of energy**
4 **that occurs naturally or is regenerated naturally, including,**
5 **without limitation:**

- 6 **(a) Biomass;**
- 7 **(b) Fuel cells;**
- 8 **(c) Geothermal energy;**
- 9 **(d) Solar energy;**
- 10 **(e) Waterpower; and**
- 11 **(f) Wind.**

12 **2. The term does not include coal, natural gas, oil, propane**
13 **or any other fossil fuel, or nuclear energy.**

14 **Sec. 3. “Renewable energy generation project” means a**
15 **project involving an electric generating facility or system that uses**
16 **renewable energy as its primary source of energy to generate**
17 **electricity. The term does not include a project involving an**
18 **electric generating facility or system that uses nuclear energy, in**
19 **whole or in part, to generate electricity.**

20 **Sec. 4. 1. A director of planning or a governing body may**
21 **extend the period for which a building permit for a residential or**
22 **commercial project is valid if the person to whom the permit has**
23 **been issued:**

24 **(a) Applies for an extension before July 1, 2013, subject to any**
25 **applicable ordinances or regulations adopted by the governing**
26 **body;**

27 **(b) Demonstrates to the satisfaction of the director of planning**
28 **or governing body that:**

29 **(1) Financing for the residential or commercial project is**
30 **not available; and**

31 **(2) The land will be leased for a renewable energy**
32 **generation project; and**

33 **(c) Submits with his application for an extension an affidavit**
34 **showing that due diligence has been used to obtain financing for**
35 **the residential or commercial project. The affidavit must include,**
36 **without limitation, evidence that:**



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(1) The project was denied financing by at least two lenders; or

(2) The person was unable to issue bonds or other securities to finance the project.

2. A building permit that is extended pursuant to subsection 1 must not be effective:

(a) For more than 15 years after the original expiration date of the building permit; or

(b) If the land ceases to be leased for a renewable energy generation project, after the period established by the director of planning or governing body pursuant to subsection 3.

3. If a director of planning or governing body extends the period for which a building permit is valid pursuant to subsection 1, the director of planning or governing body shall establish the maximum duration of the period for which the permit will remain valid if the land is no longer leased for a renewable energy generation project.

4. If a director of planning or governing body extends the period for which a building permit is valid pursuant to subsection 1:

(a) No condition may be placed on the permit that was not imposed on the original permit; and

(b) Except as otherwise provided in subsection 5, the ordinances, resolutions or regulations applicable to the land and governing the permitted uses of the land, density and standards for design, improvements and construction are those in effect at the time the building permit is issued.

5. Changes to ordinances, resolutions or regulations that enforce environmental, life or safety standards against parcels of land that the director of planning or governing body determines are similar to the land for which the building permit was issued will apply to the parcel of land for which the permit was issued.

6. As used in this section, "environmental, life or safety standards" include, without limitation:

(a) Standards and codes relating to the usage of water; and

(b) Any specialized or uniform code related to environmental, life or safety standards.

Sec. 5. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections 2, 3 and 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.



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Sec. 6. NRS 278.0201 is hereby amended to read as follows:

278.0201 1. In the manner prescribed by ordinance, a governing body may, upon application of any person having a legal or equitable interest in land, enter into an agreement with that person concerning the development of that land. This agreement must describe the land which is the subject of the agreement and specify the duration of the agreement, the permitted uses of the land, the density or intensity of its use, the maximum height and size of the proposed buildings and any provisions for the dedication of any portion of the land for public use. The agreement may fix the period within which construction must commence and provide for an extension of that deadline.

2. *For an agreement entered into for the residential or commercial development of land, the governing body may extend, beyond the original deadline and beyond any extension of that deadline pursuant to subsection 1, the period within which construction must commence if the person:*

(a) Applies for an extension before July 1, 2013, subject to any applicable ordinances adopted by the governing body;

(b) Demonstrates to the satisfaction of the governing body that:

(1) Financing for the residential or commercial project is not available; and

(2) The land will be leased for a renewable energy generation project; and

(c) Submits with his application for an extension an affidavit showing that due diligence has been used to obtain financing for the residential or commercial project. The affidavit must include, without limitation, evidence that:

(1) The project was denied financing by at least two lenders; or

(2) The person was unable to issue bonds or other securities to finance the project.

3. *An agreement must not be extended pursuant to subsection 2:*

(a) For more than 15 years after the original deadline or, if the deadline is extended pursuant to subsection 1, after that extension; or

(b) If the land ceases to be leased for a renewable energy generation project, after the period established pursuant to subsection 4.

4. *If a governing body extends a deadline pursuant to subsection 2, the governing body shall establish the maximum duration of the period for which the agreement will remain valid if*



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the land is no longer leased for a renewable energy generation project.

5. Unless the agreement otherwise provides ~~H~~ *and except as otherwise provided in subsection 7*, the ordinances, resolutions or regulations applicable to that land and governing the permitted uses of that land, density and standards for design, improvements and construction are those in effect at the time the agreement is made.

~~B.1~~ 6. This section does not prohibit the governing body from adopting new ordinances, resolutions or regulations applicable to that land which do not conflict with those ordinances, resolutions and regulations in effect at the time the agreement is made, except that any subsequent action by the governing body must not prevent the development of the land as set forth in the agreement. The governing body is not prohibited from denying or conditionally approving any other plan for development pursuant to any ordinance, resolution or regulation in effect at the time of that denial or approval.

~~F.1~~ 7. *Notwithstanding the provisions of subsection 6, if the governing body extends a deadline pursuant to subsection 2, changes to ordinances, resolutions or regulations that:*

(a) Are made after the extension is granted; and

(b) Enforce environmental, life or safety standards against land that the governing body determines are similar to the land for which an agreement was made pursuant to this section, apply to the land for which the agreement was made.

8. The provisions of subsection 2 of NRS 278.315 and NRS 278.350 and 278.360 do not apply if an agreement entered into pursuant to this section contains provisions which are contrary to the respective sections.

9. *As used in this section, "environmental, life or safety standards" include, without limitation:*

(a) Standards and codes relating to the usage of water; and

(b) Any specialized or uniform code related to environmental, life or safety standards.

Sec. 7. This act becomes effective on July 1, 2009.

