

ASSEMBLY BILL NO. 122—ASSEMBLYMAN LIVERMORE

PREFILED FEBRUARY 3, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions concerning the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind energy. (BDR 22-592)

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 energy; revising provisions concerning the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the governing body of a city or county: (1) may enact
2 zoning regulations and restrictions to promote the health, safety, morals or general
3 welfare of the community; (2) is prohibited from adopting an ordinance or taking
4 any other action which unreasonably prohibits or restricts an owner of real
5 property from using a system for obtaining wind energy on his or her property; and
6 (3) may impose a reasonable restriction on the use of a system for obtaining wind
7 energy which is related to the height, noise or safety of the system. (NRS 278.020,
8 278.02077) This bill provides that, in addition to reasonable restrictions relating to
9 height, noise or safety, reasonable restrictions on the use of a system for obtaining
10 wind energy may include restrictions relating to setback, location and finish. This
11 bill also deletes provisions which provide that the governing body of a city or
12 county unreasonably prohibits or restricts the use of a system for obtaining wind
13 energy if the governing body imposes restrictions that significantly decrease the
14 efficiency or performance of the wind energy system unless the restriction provides
15 for the use of a comparable alternative system.

1 WHEREAS, Nevada has significant amounts of wind resources
2 available for use in the production of clean, renewable sources of
3 energy; and



1 WHEREAS, It has been a stated goal of the Nevada Legislature to
2 encourage the availability of these wind resources for use by the
3 residents of this State; and

4 WHEREAS, Local governments have traditionally been
5 authorized to enact zoning and land use regulations and restrictions
6 to promote the health, safety, morals and general welfare of their
7 communities; and

8 WHEREAS, It is the intent of the Nevada Legislature to
9 encourage local governments to balance the use of clean, renewable
10 sources of energy with the promotion of the health, safety, morals
11 and general welfare of their communities; now, therefore

12
13 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
14 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
15

16 **Section 1.** NRS 278.02077 is hereby amended to read as
17 follows:

18 278.02077 1. Except as otherwise provided in subsection 2:

19 (a) A governing body shall not adopt an ordinance, regulation or
20 plan or take any other action that prohibits or unreasonably restricts
21 the owner of real property from using a system for obtaining wind
22 energy on his or her property.

23 (b) Any covenant, restriction or condition contained in a deed,
24 contract or other legal instrument which affects the transfer or sale of,
25 or any other interest in, real property and which prohibits or
26 unreasonably restricts the owner of the property from using a system
27 for obtaining wind energy on his or her property is void and
28 unenforceable.

29 2. The provisions of subsection 1 do not prohibit a reasonable
30 restriction or requirement:

31 (a) Imposed pursuant to a determination by the Federal Aviation
32 Administration that the installation of the system for obtaining wind
33 energy would create a hazard to air navigation; or

34 (b) Relating to the *finish*, height, *location*, noise , ~~for~~ safety *or*
35 *setback* of a system for obtaining wind energy.

36 ~~[3. For the purposes of this section, "unreasonably restricts the~~
37 ~~owner of the property from using a system for obtaining wind~~
38 ~~energy" includes the placing of a restriction or requirement on the~~
39 ~~use of a system for obtaining wind energy which significantly~~
40 ~~decreases the efficiency or performance of the system and which~~
41 ~~does not allow for the use of an alternative system at a substantially~~
42 ~~comparable cost and with substantially comparable efficiency and~~
43 ~~performance.]~~

44 **Sec. 2.** (Deleted by amendment.)



* A B 1 2 2 R 3 *

1 **Sec. 3.** This act becomes effective upon passage and approval.

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