

ASSEMBLY BILL NO. 202—ASSEMBLYMEN
KIRNER, HARDY AND HICKEY

FEBRUARY 22, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Establishes the Fund for Economic Development to provide assistance in paying for electricity costs incurred by certain new manufacturing businesses in this State. (BDR 58-652)

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 assistance; establishing the Fund for Economic Development; requiring certain retail customers of public utilities to pay an economic development energy charge in an amount determined by the Public Utilities Commission of Nevada and approved by the Interim Finance Committee; requiring that money collected from the economic development energy charge be remitted to the Public Utilities Commission and deposited in the State Treasury for credit to the Fund; requiring the Commission on Economic Development to administer the Fund and to use the money in the Fund to establish a program to encourage the development of new manufacturing businesses in this State by assisting such businesses in paying for certain electricity costs incurred by those businesses; requiring the Commission on Economic Development to establish an annual plan to carry out the program and to make certain reports concerning the program; requiring the Public Utilities Commission and the Commission on Economic Development to adopt certain regulations; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Existing law provides the Commission on Economic Development with certain powers and duties relating to economic development in this State, including, without limitation, promoting and developing Nevada business, industry and commerce and developing the State Plan for Industrial Development and Diversification. (NRS 231.064, 231.067)

Section 11 of this bill requires certain retail customers who purchase electricity for consumption in this State to pay an economic development energy charge on each kilowatt-hour of electricity purchased in an amount established by the Public Utilities Commission of Nevada and approved by the Interim Finance Committee.

Section 13 of this bill requires the Public Utilities Commission, after deducting an administrative fee, to deposit the money collected from the economic development energy charge in the State Treasury for credit to the Fund for Economic Development created by **section 14** of this bill. **Section 15** of this bill requires the Commission on Economic Development to use the money distributed from the Fund to establish a program to encourage the development of new manufacturing businesses in this State by providing assistance to eligible manufacturers in paying for certain electricity costs. **Section 15** sets forth the criteria for eligibility for assistance from the Fund, including, without limitation, that the applicant: (1) be a new manufacturing business in this State; and (2) employ at least 25 full-time employees at the new manufacturing business for the entire period during which the applicant will receive assistance from the Fund. **Section 15** requires the Commission on Economic Development to enter into an agreement with each eligible applicant and specifies certain provisions which the agreement must contain. **Section 15** provides that the amount of assistance an applicant may receive from the Fund must not exceed 100 percent of the cost incurred by the applicant's new manufacturing business for electricity during its first year of operation in this State. **Section 15** further requires an applicant who receives assistance from the Fund to repay to the Fund any such assistance received if at any time the Commission on Economic Development determines that the applicant has violated a provision of the agreement entered into between the Commission and the applicant. **Section 16** of this bill requires the Commission on Economic Development to establish an annual plan to implement the program required by **section 15** and to provide an annual report concerning the program to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission and the Interim Finance Committee.

Section 18 of this bill provides that the provisions of this bill governing the economic development energy charge and the Fund expire on June 30, 2015. **Section 17** of this bill provides that if any money remains uncommitted and unencumbered in the Fund on June 30, 2015, the Public Utilities Commission is required to establish a plan for the distribution of the money and present the plan to the Interim Finance Committee for approval.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 10,*



1 *inclusive, of this act have the meanings ascribed to them in those*
2 *sections.*

3 **Sec. 3.** *“Calendar quarter” means each period of 3*
4 *consecutive calendar months ending on March 31, June 30,*
5 *September 30 and December 31 in each calendar year.*

6 **Sec. 4.** *“Economic development energy charge” means the*
7 *charge imposed pursuant to section 11 of this act.*

8 **Sec. 5.** *“Fund” means the Fund for Economic Development*
9 *created by section 14 of this act.*

10 **Sec. 6.** *“Manufacturer” means a person engaged primarily*
11 *in manufacturing or processing which changes raw or unfinished*
12 *materials into another form or creates another product.*

13 **Sec. 7.** *“Municipal utility” includes, without limitation:*

14 *1. A utility established pursuant to chapter 709 or 710 of*
15 *NRS.*

16 *2. Any other utility that is owned, operated or controlled by a*
17 *county, city or other local governmental entity.*

18 **Sec. 8.** *“Person” means:*

19 *1. A natural person;*

20 *2. Any form of business or social organization and any other*
21 *nongovernmental legal entity, including, without limitation, a*
22 *corporation, partnership, association, trust or unincorporated*
23 *organization;*

24 *3. A government or an agency or instrumentality of a*
25 *government, including, without limitation, this State or an agency*
26 *or instrumentality of this State; and*

27 *4. A political subdivision of this State or of any other*
28 *government or an agency or instrumentality of a political*
29 *subdivision of this State or of any other government.*

30 **Sec. 9.** *“Public utility” has the meaning ascribed to it in NRS*
31 *704.020 and 704.021.*

32 **Sec. 10. 1.** *“Retail customer” means an end-use customer*
33 *that purchases electricity for consumption in this State.*

34 *2. The term includes, without limitation:*

35 *(a) A residential, commercial or industrial end-use customer*
36 *that purchases electricity for consumption in this State, including,*
37 *without limitation, an eligible customer that purchases electricity*
38 *for consumption in this State from a provider of new electric*
39 *resources pursuant to chapter 704B of NRS.*

40 *(b) A landlord of a mobile home park or an owner of a*
41 *company town who is subject to any of the provisions of NRS*
42 *704.905 to 704.960, inclusive.*

43 *(c) A landlord who pays for electricity that is delivered through*
44 *a master meter and who distributes or resells the electricity to one*
45 *or more tenants for consumption in this State.*



3. *The term does not include this State, a political subdivision of this State or an agency or instrumentality of this State or political subdivision of this State when it is an end-use customer that purchases electricity for consumption in this State, including, without limitation, when it is an eligible customer that purchases electricity for consumption in this State from a provider of new electric resources pursuant to chapter 704B of NRS.*

Sec. 11. *1. Except as otherwise provided in this section and section 12 of this act, each retail customer shall pay an economic development energy charge in an amount determined by the Public Utilities Commission of Nevada in consultation with the Commission on Economic Development and approved by the Interim Finance Committee, but not to exceed 0.39 mills on each kilowatt-hour of electricity that the retail customer purchases from another person for consumption in this State.*

2. The provisions of subsection 1 do not apply to any kilowatt-hour of electricity used in industries utilizing electrolytic-manufacturing processes.

3. If a retail customer uses the distribution services of a public utility or municipal utility to acquire electricity that is subject to the economic development energy charge, the public utility or municipal utility providing the distribution services shall:

(a) Collect the economic development energy charge from each such retail customer;

(b) Ensure that the economic development energy charge is set forth as a separate item or entry on the bill of each such retail customer; and

(c) Not later than 30 days after the end of each calendar quarter, remit to the Public Utilities Commission the total amount of money collected by the public utility or municipal utility for the economic development energy charge for the immediately preceding calendar quarter.

4. If a retail customer does not use the distribution services of a public utility or municipal utility to acquire electricity that is subject to the economic development energy charge, the retail customer shall, not later than 30 days after the end of each calendar quarter, remit to the Public Utilities Commission the total amount of money owed by the retail customer for the economic development energy charge for the immediately preceding calendar quarter.

5. If, during a calendar quarter, a single retail customer or multiple retail customers under common ownership and control pay, in the aggregate, an economic development energy charge of more than \$25,000 for all consumption of electricity during the calendar quarter, such retail customers are entitled to a refund for



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1 *that calendar quarter of the amount of the economic development*
2 *energy charge that exceeds \$25,000. To receive a refund pursuant*
3 *to this section, not later than 90 days after the end of the calendar*
4 *quarter for which the refund is requested, such retail customers*
5 *must file with the Public Utilities Commission a request for a*
6 *refund. If a request for a refund is filed with the Public Utilities*
7 *Commission:*

8 *(a) The Public Utilities Commission shall determine and*
9 *certify the amount of the refund; and*

10 *(b) The refund must be paid as other claims against the State*
11 *are paid from money in the Fund.*

12 **Sec. 12.** 1. *The provisions of section 11 of this act do not*
13 *apply to any kilowatt-hour of electricity that a retail customer*
14 *purchases from:*

15 *(a) A rural electric cooperative established pursuant to chapter*
16 *81 of NRS.*

17 *(b) A general improvement district established pursuant to*
18 *chapter 318 of NRS.*

19 *(c) A cooperative association, nonprofit corporation, nonprofit*
20 *association or supplier of service which is declared to be a public*
21 *utility pursuant to NRS 704.673 and which provides service only to*
22 *its members.*

23 2. *If a retail customer is exempted from paying the economic*
24 *development energy charge pursuant to subsection 1, the retail*
25 *customer may not receive money or other assistance from the*
26 *Fund.*

27 **Sec. 13.** 1. *The Public Utilities Commission of Nevada*
28 *shall adopt regulations to carry out and enforce the provisions of*
29 *sections 11 and 12 of this act. The regulations may require public*
30 *utilities, municipal utilities and retail customers that are required*
31 *to collect or remit money for the economic development energy*
32 *charge to file reports with the Public Utilities Commission and to*
33 *provide the Public Utilities Commission with information relating*
34 *to compliance with the requirements of this chapter concerning*
35 *the economic development energy charge.*

36 2. *In carrying out the provisions of sections 11 and 12 of this*
37 *act, the Public Utilities Commission shall solicit advice from the*
38 *Commission on Economic Development, the Consumer's*
39 *Advocate of the Bureau of Consumer Protection in the Office of*
40 *the Attorney General, public utilities and municipal utilities and*
41 *other knowledgeable persons.*

42 3. *The Public Utilities Commission may conduct audits and*
43 *investigations of public utilities, municipal utilities and retail*
44 *customers that are required to collect or remit money for the*
45 *economic development energy charge, if the Public Utilities*



1 *Commission determines that such audits and investigations are*
2 *necessary to verify compliance with the requirements of this*
3 *chapter concerning the economic development energy charge. In*
4 *conducting such audits and investigations, the Public Utilities*
5 *Commission may exercise any of the investigative powers granted*
6 *to the Public Utilities Commission pursuant to chapter 703 of*
7 *NRS, including, without limitation, the power to issue orders to*
8 *compel the appearance of witnesses and the production of books,*
9 *accounts, papers and records.*

10 *4. To carry out its powers and duties pursuant to this chapter,*
11 *the Public Utilities Commission is entitled to retain an*
12 *administrative fee of 3 percent of the money collected for the*
13 *economic development energy charge. After deduction of its*
14 *administrative fee, the Public Utilities Commission shall deposit*
15 *the remaining money collected for the economic development*
16 *energy charge in the State Treasury for credit to the Fund.*

17 *5. The Public Utilities Commission may bring an appropriate*
18 *action in its own name for recovery of any money that a person*
19 *fails to pay, collect or remit in violation of the requirements of this*
20 *chapter concerning the economic development energy charge.*

21 **Sec. 14.** *1. The Fund for Economic Development is hereby*
22 *created as a special revenue fund in the State Treasury. The*
23 *Commission on Economic Development shall administer the*
24 *Fund.*

25 *2. In addition to the money that must be credited to the Fund*
26 *from the economic development energy charge, all money received*
27 *from private or public sources to carry out the purposes of this*
28 *chapter must be deposited in the State Treasury for credit to the*
29 *Fund.*

30 *3. The interest and income earned on the money in the Fund,*
31 *after deducting any applicable charges, must be credited to the*
32 *Fund. All claims against the Fund must be paid as other claims*
33 *against the State are paid.*

34 *4. After deduction of any refunds paid from the Fund*
35 *pursuant to section 11 of this act, the money in the Fund must be*
36 *distributed pursuant to section 15 of this act.*

37 **Sec. 15.** *1. The money in the Fund must be used by the*
38 *Commission on Economic Development to establish a program to*
39 *encourage the development of new manufacturing businesses in*
40 *this State by providing assistance to eligible applicants in paying*
41 *for electricity. The Commission on Economic Development may*
42 *use the money in the Fund only to:*

43 *(a) Assist eligible applicants in paying for the cost incurred by*
44 *an applicant's new manufacturing business for electricity during*



1 *the first year in which the new manufacturing business operates in*
2 *this State;*

3 *(b) Carry out activities related to advertising the purposes of*
4 *the Fund and attracting eligible applicants to this State;*

5 *(c) Pay for program design; and*

6 *(d) Pay for the annual evaluations conducted pursuant to*
7 *section 16 of this act.*

8 *2. To be eligible to receive assistance from the Fund, an*
9 *applicant must:*

10 *(a) Be a manufacturer who intends to locate a new*
11 *manufacturing business in this State;*

12 *(b) Employ at least 25 full-time employees at the new*
13 *manufacturing business in this State during the entire period in*
14 *which the applicant will receive assistance from the Fund; and*

15 *(c) Submit an application for such assistance to the*
16 *Commission on Economic Development.*

17 *3. If the Commission on Economic Development determines*
18 *that an applicant is eligible to receive assistance from the Fund,*
19 *the Commission on Economic Development shall:*

20 *(a) Determine the amount of assistance that the applicant will*
21 *receive based upon such factors as:*

22 *(1) The size of the new manufacturing business;*

23 *(2) The number of persons employed by the applicant at the*
24 *new manufacturing business;*

25 *(3) The economic impact on this State of the new*
26 *manufacturing business; and*

27 *(4) Any other relevant factors as determined by the*
28 *Commission on Economic Development; and*

29 *(b) Execute an agreement with the applicant that sets forth the*
30 *terms and conditions of the assistance, which must include,*
31 *without limitation, provisions:*

32 *(1) Specifying the amount of assistance which the applicant*
33 *may receive;*

34 *(2) Specifying the period during which the applicant will*
35 *receive the assistance;*

36 *(3) Requiring the applicant to employ at least 25 full-time*
37 *employees at the new manufacturing business for the entire period*
38 *during which the applicant will receive assistance from the Fund;*

39 *(4) Requiring the applicant to use the assistance only to pay*
40 *for the cost incurred by the applicant's new manufacturing*
41 *business for electricity during the first year in which the new*
42 *manufacturing business operates in this State;*

43 *(5) Specifying any additional conditions upon which receipt*
44 *of the assistance is contingent; and*



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1 (6) *Requiring the applicant to repay to the Fund any money*
2 *received by the applicant pursuant to this section if at any time the*
3 *Commission on Economic Development determines that the*
4 *applicant has violated a provision of the agreement.*

5 4. *The amount of assistance an eligible applicant may receive*
6 *from the Fund must not exceed 100 percent of the cost incurred by*
7 *the applicant's new manufacturing business in this State for*
8 *electricity during the first year in which the new manufacturing*
9 *business operates in this State. The period during which an*
10 *applicant may receive assistance pursuant to this section must not*
11 *begin before the date on which the applicant's new manufacturing*
12 *business begins operating in this State and must end not more*
13 *than 1 year after the date on which the applicant's new*
14 *manufacturing business begins operating in this State.*

15 5. *If at any time the Commission on Economic Development*
16 *determines that an applicant has violated any provision of the*
17 *agreement executed pursuant to this section, the Commission*
18 *shall:*

19 (a) *Declare the applicant ineligible for assistance from the*
20 *Fund;*

21 (b) *Immediately cease any payment of money to the applicant*
22 *from the Fund; and*

23 (c) *Require the applicant to repay to the Fund any money*
24 *received from the Fund.*

25 6. *In carrying out the provisions of this section, the*
26 *Commission on Economic Development shall:*

27 (a) *Solicit advice from knowledgeable persons;*

28 (b) *Identify and implement appropriate delivery systems to*
29 *distribute money from the Fund;*

30 (c) *Establish a process for evaluating the program conducted*
31 *pursuant to this section;*

32 (d) *Develop a process for making changes to the program; and*

33 (e) *Engage in annual planning and evaluation processes as*
34 *required by section 16 of this act.*

35 7. *The Commission on Economic Development shall adopt*
36 *regulations to carry out and enforce the provisions of this section*
37 *and section 14 of this act.*

38 **Sec. 16.** *1. The Commission on Economic Development*
39 *shall establish an annual plan to implement the program*
40 *established pursuant to section 15 of this act. In preparing the*
41 *annual plan, the Commission on Economic Development shall*
42 *solicit advice from knowledgeable persons. The annual plan must*
43 *include, without limitation, a description of:*



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1 (a) *The resources and services being used by the program and*
2 *the efforts that will be undertaken to increase or improve those*
3 *resources and services;*

4 (b) *The efforts that will be undertaken to improve*
5 *administrative efficiency;*

6 (c) *The measures concerning program design that will be*
7 *undertaken to improve program effectiveness; and*

8 (d) *The efforts that will be taken to address issues identified*
9 *during the most recently completed annual evaluation conducted*
10 *pursuant to subsection 2.*

11 2. *The Commission on Economic Development shall:*

12 (a) *Conduct an annual evaluation of the program established*
13 *pursuant to section 15 of this act;*

14 (b) *Solicit advice from the Public Utilities Commission of*
15 *Nevada as part of the annual evaluation; and*

16 (c) *Prepare an annual report concerning the program and*
17 *submit the report to the Governor and to the Director of the*
18 *Legislative Counsel Bureau for transmittal to the Legislative*
19 *Commission and the Interim Finance Committee.*

20 3. *The report prepared pursuant to subsection 2 must include,*
21 *without limitation:*

22 (a) *A description of the objectives of the program;*

23 (b) *An analysis of the effectiveness and efficiency of the*
24 *program in meeting the objectives of the program;*

25 (c) *The amount of money distributed from the Fund and a*
26 *detailed description of the use of that money;*

27 (d) *Any changes planned for the program; and*

28 (e) *Any recommendations for continuing, expanding or ending*
29 *the program.*

30 **Sec. 17.** Notwithstanding the provisions of sections 14 and 15
31 of this act, if any money remains uncommitted and unencumbered in
32 the Fund for Economic Development created by section 14 of this
33 act on June 30, 2015:

34 1. The Commission on Economic Development shall not
35 expend or commit for expenditure any money remaining in the
36 Fund.

37 2. The Public Utilities Commission of Nevada shall, on or
38 before September 30, 2015, establish a plan for the distribution of
39 the money remaining in the Fund and present the plan to the Interim
40 Finance Committee for approval. Upon approval of the plan by the
41 Interim Finance Committee, the Public Utilities Commission shall
42 distribute the money in accordance with the plan.

43 **Sec. 18.** 1. This act becomes effective:



- 1 (a) Upon passage and approval for the purpose of adopting
- 2 regulations and carrying out any other preparatory administrative
- 3 tasks necessary to implement the provisions of this act; and
- 4 (b) On October 1, 2011, for all other purposes.
- 5 2. Sections 1 to 16, inclusive, of this act expire by limitation on
- 6 June 30, 2015.

