

(Reprinted with amendments adopted on April 19, 2011)

FIRST REPRINT

A.B. 307

ASSEMBLY BILL NO. 307—ASSEMBLYMEN BOBZIEN, CARLTON;
ATKINSON, KIRKPATRICK, SEGERBLOM AND SMITH

MARCH 17, 2011

JOINT SPONSORS: SENATORS LESLIE, HORSFORD AND RHOADS

Referred to Committee on Commerce and Labor

SUMMARY—Requires the monitoring of the effects of certain energy development projects on wildlife. (BDR 45-872)

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 governmental administration; prohibiting a person from commencing the construction of an energy development project without first filing a notice with the Office of Energy within the Office of the Governor; creating the Energy Planning and Conservation Fund; requiring the Office of Energy to coordinate with the Department of Wildlife to use money from the Fund for certain wildlife monitoring activities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Department of Wildlife and requires the Department to administer the wildlife laws of this State. (NRS 501.331) Existing law also creates the Office of Energy within the Office of the Governor to analyze, review and study the use of energy and availability of energy in this State, as well as to coordinate activities with other agencies to administer programs related to the use of renewable energy and to conserve or reduce the demand for energy. (NRS 701.150, 701.180) This bill requires the Department of Wildlife and the Office of Energy to cooperate in monitoring the effects of certain energy development projects on wildlife and its habitat.

Section 5 of this bill defines an "energy development project" as any project for the generation, transmission and development of energy, whether on public or private land. **Section 6** of this bill exempts from the provisions of this bill projects and systems: (1) which have a capacity of not more than 400 kilowatts; (2) which



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are attached to school property or private residential property; or (3) which do not require the disturbance of any soil from the provisions of this bill.

Section 7 of this bill requires any person who wishes to commence construction of an energy development project to file notice with the Office of Energy at the same time that the person files for any permits, leases or easements for rights-of-way required by state or federal law. The notice required by **section 7** must include a description of the location, boundaries and estimated infrastructure requirements for the project and a description of the project itself and an estimate of the energy output of the project. **Section 7** further requires a person to pay both a filing fee of not more than \$500 and a second fee of at least \$35,000 but not more than \$100,000 based upon the potential of the energy development project for impact on wildlife and its habitat, the acreage of the energy development project and the area of land to be disturbed by the energy development project. The Office of Energy is required to establish the second fee in consultation with the Department of Wildlife, and those fees are to be deposited in the Energy Planning and Conservation Fund created by **section 9** of this bill. **Section 9** requires the money in the Fund to be administered by the Director of the Office of Energy and used by the Department of Wildlife for conducting surveys of wildlife, for mapping locations of wildlife and its habitat and for conservation projects for the habitat of wildlife impacted by energy development projects.

Section 8 of this bill requires the Office of Energy to compile and maintain information on all energy development projects for which notice is filed pursuant to **section 7** and to prepare and submit a report detailing such projects to the Legislative Commission in even-numbered years and, in odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

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

Section 1. NRS 501.331 is hereby amended to read as follows:
501.331 The Department of Wildlife is hereby created. The Department:

1. Shall administer the wildlife laws of this State , ~~and~~ chapter 488 of NRS ~~and sections 7 and 9 of this act.~~

2. Shall, on or before the fifth calendar day of each regular session of the Legislature, submit to the Legislature a financial report for each of the immediately preceding 2 fiscal years setting forth the activity and status of the Wildlife Obligated Reserve Account in the State General Fund, each subaccount within that Account and any other account or subaccount administered by the Department for which the use of the money in the account or subaccount is restricted. The report must include, without limitation:

(a) A description of each project for which money is expended from each of those accounts and subaccounts and a description of each recipient of that money; and

(b) The total amount of money expended from each of those accounts and subaccounts for each fiscal year, including, without limitation, the amount of any matching contributions received for those accounts and subaccounts for each fiscal year.



Sec. 2. NRS 501.337 is hereby amended to read as follows:

501.337 The Director shall:

1. Carry out the policies and regulations of the Commission.

2. Direct and supervise all administrative and operational activities of the Department, and all programs administered by the Department as provided by law. Except as otherwise provided in NRS 284.143, the Director shall devote his or her entire time to the duties of the office and shall not follow any other gainful employment or occupation.

3. Within such limitations as may be provided by law, organize the Department and, from time to time with the consent of the Commission, may alter the organization. The Director shall reassign responsibilities and duties as he or she may deem appropriate.

4. Appoint or remove such technical, clerical and operational staff as the execution of his or her duties and the operation of the Department may require, and all those employees are responsible to the Director for the proper carrying out of the duties and responsibilities of their respective positions. The Director shall designate a number of employees as game wardens and provide for their training.

5. Submit technical and other reports to the Commission as may be necessary or as may be requested, which will enable the Commission to establish policy and regulations.

6. Prepare, in consultation with the Commission, the biennial budget of the Department consistent with the provisions of this title, ~~and~~ chapter 488 of NRS *and sections 7 and 9 of this act* and submit it to the Commission for its review and recommendation before the budget is submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.

7. Administer real property assigned to the Department.

8. Maintain full control, by proper methods and inventories, of all personal property of the State acquired and held for the purposes contemplated by this title and by chapter 488 of NRS.

9. Act as nonvoting Secretary to the Commission.

Sec. 3. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

(a) The sale of licenses;

(b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;

(c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;

(d) Appropriations made by the Legislature; and

(e) All other sources, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575 or in



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1 the Trout Management Account pursuant to NRS 502.327 ***or***
2 ***money received from the Director of the Office of Energy from the***
3 ***Energy Planning and Conservation Fund created by section 9 of***
4 ***this act,***

5 ***must be deposited with the State Treasurer for credit to the***
6 ***Wildlife Account in the State General Fund.***

7 2. The interest and income earned on the money in the Wildlife
8 Account, after deducting any applicable charges, must be credited to
9 the Account.

10 3. Except as otherwise provided in subsection 4, the
11 Department may use money in the Wildlife Account only to carry
12 out the provisions of this title and chapter 488 of NRS and as
13 provided in NRS 365.535, and the money must not be diverted to
14 any other use.

15 4. Except as otherwise provided in NRS 502.250 and 504.155,
16 all fees for the sale or issuance of stamps, tags, permits and licenses
17 that are required to be deposited in the Wildlife Account pursuant to
18 the provisions of this title and any matching money received by the
19 Department from any source must be accounted for separately and
20 must be used:

21 (a) Only for the management of wildlife; and

22 (b) If the fee is for the sale or issuance of a license, permit or tag
23 other than a tag specified in subsection 5 or 6 of NRS 502.250,
24 under the guidance of the Commission pursuant to subsection 2 of
25 NRS 501.181.

26 **Sec. 4.** Chapter 701 of NRS is hereby amended by adding
27 thereto the provisions set forth as sections 5 to 9, inclusive, of this
28 act.

29 **Sec. 5.** ***“Energy development project” means a project for the***
30 ***generation, transmission and development of energy located on***
31 ***public or private land. The term includes, without limitation:***

32 ***1. A utility facility, as defined in NRS 704.860, constructed on***
33 ***private land; and***

34 ***2. Electric generating plants and their associated facilities***
35 ***which use or will use renewable energy, as defined in NRS***
36 ***704.7811, as their primary source of energy to generate electricity***
37 ***and which have or will have a nameplate capacity of not more***
38 ***than 70 megawatts, including, without limitation, a net metering***
39 ***system, as defined in NRS 704.771, constructed on private land.***

40 **Sec. 6.** ***The provisions of sections 7, 8 and 9 of this act do not***
41 ***apply to:***

42 ***1. A facility or energy system with a capacity of not more***
43 ***than 400 kilowatts;***

44 ***2. A net metering system attached to school property or***
45 ***private residential property; or***



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1 3. A project or energy system the construction of which does
2 not require the disturbance of any soil, including, without
3 limitation, projects or systems constructed on an existing structure
4 or atop existing pavement.

5 **Sec. 7.** 1. Except as otherwise provided in section 6 of this
6 act, a person shall not commence construction of an energy
7 development project without first filing a notice of the energy
8 development project with the Office of Energy.

9 2. The notice required by subsection 1 must be:

10 (a) Provided to the Office of Energy in such form as the Office
11 prescribes and contain:

12 (1) A description of the location and the energy
13 development project to be built thereon;

14 (2) A description of the boundaries of the project and the
15 estimated requirements for infrastructure of the project; and

16 (3) The estimated energy output for the energy development
17 project;

18 (b) Filed with the Office concurrently with any application for
19 permits, leases or easements for rights-of-way for the energy
20 development project filed with:

21 (1) The Federal Government, pursuant to any federal law
22 or regulation; or

23 (2) Any state or local governmental entity; and

24 (c) Accompanied by a filing fee of not more than \$500, as
25 specified in regulations adopted by the Office.

26 3. In addition to the fee required by subsection 2, the Office
27 of Energy shall, in consultation with the Department of Wildlife,
28 establish and collect a fee for each energy development project of
29 at least \$35,000 but not more than \$100,000, pursuant to a
30 schedule of fees set forth in regulations adopted by the Office
31 based on the potential for impact on wildlife and its habitat and
32 the acreage of the energy development project, including, without
33 limitation, any roads used for access to the energy development
34 project and the area of land disturbed by the energy development
35 project.

36 **Sec. 8.** The Office of Energy shall:

37 1. Compile and maintain detailed information concerning
38 each energy development project for which notice is filed pursuant
39 to section 7 of this act. The information must include, without
40 limitation:

41 (a) The location of the energy development project;

42 (b) A description of the energy development project; and

43 (c) The estimated energy output of the energy development
44 project.



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2. Prepare a report containing the information compiled pursuant to subsection 1.

3. On or before January 1 of each even-numbered year, submit the report required pursuant to subsection 2 to the Legislative Commission. On or before January 1 of each odd-numbered year, the Office of Energy shall submit the report required pursuant to subsection 2 to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 9. 1. The Energy Planning and Conservation Fund is hereby created in the State Treasury as a special revenue fund.

2. All money collected by the Office of Energy pursuant to subsection 3 of section 7 of this act must be deposited in the State Treasury for credit to the Fund. The Director of the Office of Energy may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund.

3. The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

4. The Director of the Office of Energy shall administer the Fund. The money in the Fund must be provided to the Department of Wildlife and used:

(a) To conduct surveys of wildlife;

(b) To map locations of wildlife and wildlife habitat in this State;

(c) To pay for conservation projects for wildlife and its habitat;

(d) To provide staff to assist the Director of the Department of Wildlife in carrying out the provisions of paragraphs (a), (b) and (c); and

(e) To coordinate carrying out the provisions of paragraphs (a), (b) and (c) in cooperation with the State Department of Conservation and Natural Resources.

5. The Director of the Office of Energy shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:

(a) The criteria for projects for which the Department of Wildlife may use money from the Fund; and

(b) Procedures to distribute money from the Fund.

Sec. 10. NRS 701.020 is hereby amended to read as follows:

701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 701.025 to 701.090,



1 inclusive, *and section 5 of this act* have the meanings ascribed to
2 them in those sections.

3 **Sec. 11.** NRS 701.180 is hereby amended to read as follows:

4 701.180 The Director shall:

5 1. Acquire and analyze information relating to energy and to
6 the supply, demand and conservation of its sources, including,
7 without limitation:

8 (a) Information relating to the Solar Energy Systems Incentive
9 Program created pursuant to NRS 701B.240 including, without
10 limitation, information relating to:

11 (1) The development of distributed generation systems in this
12 State pursuant to participation in the Solar Energy Systems
13 Incentive Program;

14 (2) The use of carbon-based energy in residential and
15 commercial applications due to participation in the Program; and

16 (3) The average cost of generation on a kilowatt-hour basis
17 for residential and commercial applications due to participation in
18 the Program; and

19 (b) Information relating to any money distributed pursuant to
20 NRS 702.270.

21 2. Review and evaluate information which identifies trends and
22 permits forecasting of the energy available to the State. Such
23 forecasts must include estimates on:

24 (a) The level of demand for energy in the State for 5-, 10- and
25 20-year periods;

26 (b) The amount of energy available to meet each level of
27 demand;

28 (c) The probable implications of the forecast on the demand and
29 supply of energy; and

30 (d) The sources of renewable energy and other alternative
31 sources of energy which are available and their possible effects.

32 3. Study means of reducing wasteful, inefficient, unnecessary
33 or uneconomical uses of energy and encourage the maximum
34 utilization of existing sources of energy in the State.

35 4. Solicit and serve as the point of contact for grants and other
36 money from the Federal Government, including, without limitation,
37 any grants and other money available pursuant to any program
38 administered by the United States Department of Energy, and other
39 sources to cooperate with the Commissioner and the Authority:

40 (a) To promote energy projects that enhance the economic
41 development of the State;

42 (b) To promote the use of renewable energy in this State;

43 (c) To promote the use of measures which conserve or reduce
44 the demand for energy or which result in more efficient use of
45 energy;



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(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. *Adopt any regulations necessary to carry out the provisions of sections 6 to 9, inclusive, of this act and shall coordinate with the Department of Wildlife to carry out those provisions.*

8. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 12. The Office of Energy shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 13. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2011, for all other purposes.

