

Amendment No. 543

Assembly Amendment to Assembly Bill No. 122 First Reprint (BDR 22-592)

Proposed by: Assemblyman Livermore**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold underlining*** is newly added transitory language.

EGO



Date: 4/26/2011

A.B. No. 122—Authorizes the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind and solar energy. (BDR 22-592)



ASSEMBLY BILL NO. 122—ASSEMBLYMAN LIVERMORE

PREFILED FEBRUARY 3, 2011

Referred to Committee on Government Affairs

SUMMARY—Authorizes the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind and solar 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; authorizing the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind and solar energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the governing body of a city or county: (1) may enact zoning regulations and restrictions to promote the health, safety, morals or general welfare of the community; (2) is prohibited from adopting an ordinance or taking any other action which unreasonably prohibits or restricts an owner of real property from using a system for obtaining solar or wind energy on his or her property; (3) may impose a reasonable restriction on the use of a system for obtaining wind energy which is related to the height, noise or safety of the system; and (4) is required to authorize the use of a system which uses solar or wind energy to reduce energy costs for a structure if the system and structure comply with all applicable building codes and zoning ordinances. (NRS 278.020, 278.02077, 278.0208, 278.580) The governing body of a city or county unreasonably prohibits or restricts the use of a system for obtaining solar or wind energy if the governing body imposes restrictions that significantly decrease the efficiency or performance of the solar or wind energy system unless the restriction provides for the use of a comparable alternative system. (NRS 278.02077, 278.0208) **Section 1** of this bill provides that, in addition to reasonable restrictions relating to height, noise or safety, reasonable restrictions on the use of a system for obtaining wind energy may include restrictions relating to setback, location and ~~appearance, and section 2 of this bill authorizes the imposition of reasonable restrictions relating to the appearance, height, location, noise, safety or setback of a system for obtaining solar energy. Additionally, sections 1 and 2 require a governing body to adopt an ordinance that (1) requires the owner of a residential lot to obtain a special use permit or conditional use permit for a wind or solar energy system; and (2) provides affected property owners with notice and an opportunity to be heard.~~ **finish. Section 2 of this bill authorizes a governing body to require that a special use permit or conditional permit be obtained for a system for obtaining solar energy proposed to be installed or constructed within the boundaries of an incorporated city or town on nonresidential property that is adjacent to residential property.**

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

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

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

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

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

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

278.02077 1. Except as otherwise provided in subsection 2:

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

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

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

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

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

~~(c) Prohibiting the construction of more than one system for obtaining wind energy per acre for a residential lot.~~

3. ~~{Each governing body shall adopt an ordinance that:~~

~~(a) Prohibits an owner of a residential lot from installing a system for obtaining wind energy on the residential lot unless the owner has obtained a special use permit or conditional use permit for that use of the residential lot; and~~

~~(b) Provides any property owner that would be affected by the system for obtaining wind energy with notice and an opportunity to be heard.~~

~~4. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

Sec. 2. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. Except as otherwise provided in subsection 2:

(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of real property from using a system for obtaining solar energy on his or her property.

~~1.2~~ (b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in,

1 real property and which prohibits or unreasonably restricts or has the effect of
2 prohibiting or unreasonably restricting the owner of the property from using a
3 system for obtaining solar energy on his or her property is void and unenforceable.

4 ~~2. [The provisions of subsection 1 do not prohibit a reasonable restriction or~~
5 ~~requirement relating to the appearance, height, location, noise, safety or setback~~
6 ~~of a system for obtaining solar energy.] A governing body may require that a~~
7 ~~special use permit or conditional permit be obtained in the manner provided in~~
8 ~~NRS 278.315 for the construction or installation of a system for obtaining solar~~
9 ~~energy within the boundaries of an incorporated city or town on nonresidential~~
10 ~~property that is adjacent to residential property. As used in this subsection,~~
11 ~~“nonresidential property” means all real property other than residential property~~
12 ~~and includes, without limitation, real property owned by a governmental entity.~~

13 ~~3. [Each governing body shall adopt an ordinance that:~~
14 ~~— (a) Prohibits an owner of a residential lot from installing a system for~~
15 ~~obtaining solar energy on the residential lot unless the owner has obtained a~~
16 ~~special use permit or conditional use permit for that use of the residential lot; and~~
17 ~~— (b) Provides any property owner that would be affected by the system for~~
18 ~~obtaining solar energy with notice and an opportunity to be heard.~~

19 ~~— 4.]~~ For the purposes of this section, the following shall be deemed to be
20 unreasonable restrictions:

21 (a) The placing of a restriction or requirement on the use of a system for
22 obtaining solar energy which decreases the efficiency or performance of the system
23 by more than 10 percent of the amount that was originally specified for the system,
24 as determined by the Director of the Office of Energy, and which does not allow for
25 the use of an alternative system at a substantially comparable cost and with
26 substantially comparable efficiency and performance.

27 (b) The prohibition of a system for obtaining solar energy that uses
28 components painted with black solar glazing.

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