

Amendment No. 438

Assembly Amendment to Assembly Bill No. 202 (BDR 58-652)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from A.B. 202.

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.

SLP/MSN



Date: 4/19/2011

A.B. No. 202—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)



ASSEMBLY BILL NO. 202—ASSEMBLYMEN ATKINSON, CONKLIN,
KIRNER, HARDY, ~~AND~~ HICKEY ; AND KIRKPATRICK

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]~~ Provides for the partial abatement of certain property taxes for 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;]~~ providing for the partial abatement of certain property taxes for certain new manufacturing businesses in this State; providing that eligibility for the partial abatement of certain property taxes is limited to certain new manufacturing businesses that renovate an existing building or other structure; revising provisions governing eligibility for a partial abatement of taxes for a building or other structure that is determined to meet the equivalent of the silver level or higher pursuant to the Green Building Rating System; requiring the [Public Utilities Commission and the Commission on Economic Development] Director of the Office of Energy to adopt certain regulations; and providing other matters properly relating thereto.

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~~ **Section 18** ~~of this bill requires the [Commission on Economic Development to use the money distributed from the Fund] Director of the Office of Energy to establish a program to encourage the development of] regulations for granting a partial abatement of certain property taxes for new manufacturing businesses in this State [by providing assistance to eligible manufacturers in paying for certain electricity costs. Section 15] which renovate an existing building or other structure which meets certain energy efficiency standards. Section 18 sets forth the criteria for eligibility for [assistance from the Fund] the partial abatement of such taxes, 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 partial abatement; and (3) pay an average hourly wage that is at least 100 percent of the average statewide hourly wage or average countywide hourly wage, whichever is less, excluding management and administrative employees. Section 18 prescribes the maximum amount of the partial abatement, provides that the partial abatement is not available for any taxes imposed for public education and limits the partial abatement to not more than 1 year in duration. This new program is patterned after existing provisions which provide for a similar partial abatement of certain taxes for buildings which meet certain standards under the Green Building Rating System. (NRS 701A.100, 701A.110) Section 20 of this bill provides that an applicant for a partial abatement of taxes under the existing program is not eligible for a partial abatement of taxes for the renovation of an existing building or other structure.~~

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. Chapter 701A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the Director of the Office of Energy shall grant a partial abatement from the portion of taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on an existing building or other structure which is renovated for use by a manufacturer if:

(a) The building or other structure is determined after the renovation to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100.

(b) The applicant:

(1) Is a manufacturer who intends to locate a new manufacturing business in this State;

(2) Employs at least 25 full-time employees at the new manufacturing business in this State during the entire period in which the applicant will receive the tax abatement; and

(3) The average hourly wage that will be paid by the manufacturer to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(c) No funding is provided by any governmental entity in this State for the acquisition, design, construction or renovation of the building or other structure or for the acquisition of any land therefore. For the purpose of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(d) The manufacturer:

1 (1) Submits an application for the abatement to the Director. If such an
2 application is submitted for a project that has not been completed on the date of
3 that submission and there is a significant change in the scope of the project after
4 that date, the application must be amended to include the change or changes.

5 (2) Except as otherwise provided in this subparagraph, provides to the
6 Director, within 48 months after applying for the abatement, proof that the
7 building or other structure meets the equivalent of the silver level or higher, as
8 determined by an independent contractor authorized to make that determination
9 in accordance with the Green Building Rating System adopted by the Director
10 pursuant to NRS 701A.100. The Director may, for good cause shown, extend the
11 period for providing such proof.

12 (3) Files a copy of each application and amended application submitted
13 to the Director pursuant to subparagraph (1) with the:

14 (I) Chief of the Budget Division of the Department of
15 Administration;

16 (II) Department of Taxation;

17 (III) County assessor;

18 (IV) County treasurer;

19 (V) Commission on Economic Development;

20 (VI) Board of county commissioners; and

21 (VII) City manager and city council, if any.

22 2. As soon as practicable after the Director receives an application and
23 proof required by subsection 1, the Director shall determine whether the building
24 or other structure is eligible for the abatement and, if so, forward a certificate of
25 eligibility for the abatement to the:

26 (a) Department of Taxation;

27 (b) County assessor;

28 (c) County treasurer; and

29 (d) Commission on Economic Development.

30 3. As soon as practicable after receiving a copy of:

31 (a) An application pursuant to subparagraph (3) of paragraph (d) of
32 subsection 1;

33 (1) The Chief of the Budget Division shall publish a fiscal note that
34 indicates an estimate of the fiscal impact of the partial abatement on the State;
35 and

36 (2) The Department of Taxation shall publish a fiscal note that indicates
37 an estimate of the fiscal impact of the partial abatement on each affected local
38 government, and forward a copy of the fiscal note to each affected local
39 government.

40 (b) A certificate of eligibility pursuant to subsection 2, the Department of
41 Taxation shall forward a copy of the certificate to each affected local
42 government.

43 4. The partial abatement:

44 (a) Must be for a duration not to exceed 1 year, and in an annual amount
45 that equals, for a building or other structure that meets the equivalent of:

46 (1) The silver level, 25 percent of the portion of the taxes imposed
47 pursuant to chapter 361 of NRS, other than any taxes imposed for public
48 education, that would otherwise be payable for the building or other structure,
49 excluding the associated land;

50 (2) The gold level, 30 percent of the portion of the taxes imposed
51 pursuant to chapter 361 of NRS, other than any taxes imposed for public
52 education, that would otherwise be payable for the building or other structure,
53 excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (d) of subsection 1,

and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling, even if the building or other structure is used for more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Manufacturer" means a person engaged primarily in manufacturing or processing which changes raw or unfinished materials into another form or creates another product.

(d) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 19. NRS 701A.100 is hereby amended to read as follows:

701A.100 1. The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110, and section 18 of this act.

2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in

Energy and Environmental Design Green Building Rating System, except that the standards adopted by the Director:

- (a) Except as otherwise provided in paragraphs (b) and (c), must not include:
 - (1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or
 - (2) Standards for homes;
- (b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and
- (c) Must require a building or other structure to obtain:
 - (1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;
 - (2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and
 - (3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.

3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.

Sec. 20. NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

- (I) Chief of the Budget Division of the Department of Administration;
- (II) Department of Taxation;
- (III) County assessor;
- (IV) County treasurer;
- (V) Commission on Economic Development;
- (VI) Board of county commissioners; and
- (VII) City manager and city council, if any.

2. As soon as practicable after the Director receives the application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (a) Department of Taxation;
- (b) County assessor;
- (c) County treasurer; and
- (d) Commission on Economic Development.

3. As soon as practicable after receiving a copy of:

- (a) An application pursuant to subparagraph (3) of paragraph (b) of subsection 1:

- (1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and

- (2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

- (b) A certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

- (a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

- (1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

- (2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

- (3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

- (b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

- (c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

- (1) Department of Taxation, who shall immediately notify each affected local government of the determination;

- (2) County assessor;
 - (3) County treasurer; and
 - (4) Commission on Economic Development.

(d) *Must not be for an existing building or other structure that is renovated.*

5. The Director shall adopt regulations:

- (a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 21. An application for a partial abatement of taxes requested pursuant to NRS 701A.110 submitted on or after the effective date of this section must not be granted if the application is for a partial abatement of taxes for an existing building or other structure which is being renovated.

Sec. 22. The Director of the Office of Energy shall, on or before October 1, 2011, adopt regulations to carry out the amendatory provisions of sections 18 and 20 of this act.

~~Sec. 18.~~ **Sec. 23. 1. This section and sections 20, 21 and 22 of this act become effective upon passage and approval.**

2. Sections 1 to 19, inclusive, of this act ~~becomes~~ become effective:

(a) Upon passage and approval for the purpose of adopting regulations and carrying out any other preparatory administrative tasks necessary to implement the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

~~{ 2. Sections 1 to 16, inclusive, of this act expire by limitation on June 30, 2015. }~~