

**Amendment No. 437**

Assembly Amendment to Assembly Bill No. 307 (BDR 45-872)

**Proposed by:** Assembly Committee on Commerce and Labor

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 307 (§ 7).

| 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.

CAF/JRS



Date: 4/17/2011

A.B. No. 307—Requires the monitoring of the effects of certain energy development projects on wildlife. (BDR 45-872)



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

MARCH 17, 2011

JOINT SPONSORS: SENATORS LESLIE, HORSFORD AND RHODS

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 ~~[Mitigation]~~ *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 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 ~~construction or other~~ 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 ~~(Mitigation)~~ 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 ~~(mitigation)~~ 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.

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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

1 duties and responsibilities of their respective positions. The Director shall designate  
2 a number of employees as game wardens and provide for their training.

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

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

11 7. Administer real property assigned to the Department.

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

15 9. Act as nonvoting Secretary to the Commission.

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

17 501.356 1. Money received by the Department from:

18 (a) The sale of licenses;

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

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

22 (d) Appropriations made by the Legislature; and

23 (e) All other sources, except money derived from the forfeiture of any property  
24 described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust  
25 Account pursuant to NRS 501.3575 or in the Trout Management Account pursuant  
26 to NRS 502.327 ~~or money received from the Director of the Office of Energy~~  
27 *from the Energy Planning and ~~Mitigation~~ Conservation Fund created by*  
28 *section 9 of this act,*

29 ~~must~~ *must* be deposited with the State Treasurer for credit to the Wildlife Account in  
30 the State General Fund.

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

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

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

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

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

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

48 **Sec. 5.** *"Energy development project" means a project for the generation, transmission*  
49 *and development of energy located on public or private land. The*  
50 *term includes, without limitation:*

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

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

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

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

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

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

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

2. The notice required by subsection 1 must be:

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

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

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

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

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

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

(2) ~~The Public Utilities Commission of Nevada, pursuant to NRS 704.820 to 704.900, inclusive; or~~

(3) ~~Any [other]~~ state or local governmental entity; and

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

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

Sec. 8. The Office of Energy shall:

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

(a) The location of the energy development project;

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

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

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 ~~Mitigation~~ 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 ~~mitigation~~ conservation projects for ~~the habitat of~~ wildlife ~~impacted by energy development projects,~~ 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~~ ; 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, inclusive, and section 5 of this act have the meanings ascribed to them in those sections.

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

701.180 The Director shall:

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

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

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

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

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

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

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

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

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

1 (c) The probable implications of the forecast on the demand and supply of  
2 energy; and

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

5 3. Study means of reducing wasteful, inefficient, unnecessary or  
6 uneconomical uses of energy and encourage the maximum utilization of existing  
7 sources of energy in the State.

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

12 (a) To promote energy projects that enhance the economic development of the  
13 State;

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

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

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

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

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

30 6. If requested to make a determination pursuant to NRS 111.239 or  
31 278.0208, make the determination within 30 days after receiving the request. If the  
32 Director needs additional information to make the determination, the Director may  
33 request the information from the person making the request for a determination.  
34 Within 15 days after receiving the additional information, the Director shall make a  
35 determination on the request.

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

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

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

44 **Sec. 13.** This act becomes effective:

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

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