

Amendment No. 828

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

Proposed by: Assembly Committee on Ways and Means**Amends:** Summary: Yes 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: 5/30/2011

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, SEGERBLUM 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~~ **Enacts provisions governing** 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]~~ **requiring a person who files certain applications for** an energy development project ~~[without first filing]~~ **to file** a notice **concurrently** with the ~~[Office of Energy within the Office of the Governor.]~~ **Department of Wildlife; requiring the Department of Wildlife to adopt regulations for the provision of information relating to wildlife based on the location of an energy development project; authorizing a developer of an energy development project to request the Director of the Office of Energy to coordinate certain discussions relating to an energy development project in certain circumstances;** creating the Energy Planning and Conservation Fund; requiring the ~~[Office of Energy to coordinate with the]~~ Department of Wildlife to use money from the **Energy Planning and Conservation** Fund for certain wildlife ~~[monitoring]~~ **activities; creating the Fund for the Recovery of Costs; requiring the Department of Wildlife to use money from the Fund for the Recovery of Costs solely to provide certain information relating to wildlife based on the location of an energy development project;** 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

6 demand for energy. (NRS 701.150, 701.180) This bill requires the Department of Wildlife and
7 the Office of Energy to cooperate in ~~monitoring the effects of~~ acting as a resource for the
8 Federal Government, the Public Utilities Commission of Nevada, the counties of this
9 State and the public by compiling and providing certain information relating to certain
10 energy development projects. ~~on wildlife and its habitat.~~

11 **Section 5** of this bill defines an “energy development project” as any project for the
12 generation, transmission and development of energy, whether on public or private land.
13 **Section 6** of this bill exempts from the provisions of this bill ~~projects and systems (1) which~~
14 ~~have~~ a project that has a generating capacity of not more than 100 kilowatts; (2)
15 ~~which are attached to school property or private residential property; or (3) which do not~~
16 ~~require the disturbance of any soil from the provisions of this bill.~~ 10 megawatts.

17 **Section 7** of this bill requires any person who ~~wishes to commence construction of~~ files
18 an application with the Federal Government for a lease or easement for a right-of-way
19 for an energy development project or an application with the Public Utilities Commission
20 of Nevada or any county in this State relating to the construction of an energy
21 development project to file a notice concurrently with the Office of Energy at the same
22 ~~time that the person files for any permits, leases or easements for rights of way required by~~
23 ~~state or federal law.~~ Department of Wildlife. The notice required by **section 7** must include
24 a description of the location, boundaries and estimated infrastructure requirements for the
25 project and a description of the project itself and an estimate of the energy output of the
26 project. **Section 7** further requires ~~in person to pay both a filing fee of not more than \$500 and~~
27 ~~a second fee of at least \$25,000 but not more than \$100,000 based upon the potential of the~~
28 ~~energy development project for impact on wildlife and its habitat, the acreage of the energy~~
29 ~~development project and the area of land to be disturbed by the energy development project.~~
30 ~~The Office of Energy is required to establish the second fee in consultation with the~~
31 ~~Department of Wildlife, and those fees are to be deposited in the Energy Planning and~~
32 ~~Conservation Fund created by section 9 of this bill.~~ the Department to provide a copy of
33 the notice to the Office of Energy and requires the Department, in consultation with the
34 Office of Energy, to adopt regulations to provide for making reasonable deposits and
35 reimbursing the Department for providing information relating to wildlife or wildlife
36 habitat based on the location of an energy development project and to allow for
37 developers to request the Director of the Office of Energy to coordinate discussions with
38 interested parties concerning the potential effects of energy development projects.

39 **Section 9** of this bill creates the Energy Planning and Conservation Fund and
40 requires the money in the Fund to be administered by the Director of the ~~Office of Energy~~
41 Department of Wildlife and used by the Department ~~of Wildlife~~ in accordance with the
42 State Wildlife Action Plan for conducting surveys of wildlife, for mapping locations of
43 wildlife and its habitat, ~~and~~ for conservation projects for the habitat of wildlife impacted by
44 energy development projects. and to match any federal money for a project or program
45 for the conservation of any species of wildlife which is of critical concern. **Section 9.5** of
46 this bill creates the Fund for the Recovery of Costs and requires the money in the Fund
47 to be administered by the Director of the Department of Wildlife and used by the
48 Department solely to provide to the Federal Government, the Public Utilities
49 Commission of Nevada or any person with information relating to wildlife or wildlife
50 habitat based on the location of an energy development project or to match any federal
51 money for a project or program for the conservation of any species of wildlife.

52 **Section 8** of this bill requires the ~~Office of Energy~~ Department of Wildlife to compile
53 and maintain information on all energy development projects for which notice is filed
54 pursuant to **section 7** and to prepare and submit a report detailing such projects to the
55 Legislative Commission in even-numbered years and, in odd-numbered years, to the Director
56 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:

1 **Section 1.** NRS 501.331 is hereby amended to read as follows:

2 501.331 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 to 9.5, inclusive, 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 to 9.5, inclusive, 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.

10. Adopt the regulations required pursuant to sections 7 and 9 of this act.

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, ~~for in~~ the Trout Management Account pursuant to NRS 502.327, ~~for money received from the Director of the Office of Energy from~~ the Energy Planning and Conservation Fund created by section 9 of this act ~~or the Fund for the Recovery of Costs created by section 9.5 of this act.~~

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

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

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

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

(a) Only for the management of wildlife; and

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

Sec. 4. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to ~~9.9~~ 9.5, inclusive, of this act.

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

1. A utility facility, as defined in NRS 704.860, constructed on private land; 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* ~~the~~

~~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.~~ a project that has a generating capacity of less than 10 megawatts.

Sec. 7. *1. Except as otherwise provided in section 6 of this act, a person ~~shall not commence construction of~~ who files an application with the Federal Government for a lease or easement for a right-of-way for an energy development project ~~without first filing~~ or an application with the Public Utilities Commission of Nevada or any county in this State relating to the construction of an energy development project shall, concurrently with the filing of the*

1 application, file a notice of the energy development project with the ~~{Office of~~
2 ~~Energy}~~ Department of Wildlife.

3 2. The notice required by subsection 1 must be ~~fr~~
4 ~~— (a) Provided~~ provided to the ~~{Office of Energy}~~ Department of Wildlife in
5 such form as the ~~{Office}~~ Department prescribes and contain:

6 ~~{(1)}~~ (a) A description of the location and the energy development
7 project to be built thereon;

8 ~~{(2)}~~ (b) A description of the boundaries of the project and the estimated
9 requirements for infrastructure of the project; and

10 ~~{(3)}~~ (c) The estimated energy output for the energy development project
11 . fr

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

15 ~~— (1) The Federal Government, pursuant to any federal law or regulation;~~
16 ~~or~~

17 ~~— (2) Any state or local governmental entity; and~~

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

20 3. ~~{In addition to the fee required by subsection 2, the Office of Energy}~~
21 Within 30 days after a notice is filed pursuant to subsection 1, the Department of
22 Wildlife shall provide a copy of the notice to the Office of Energy.

23 4. The Department of Wildlife shall, in consultation with the ~~{Department~~
24 of Wildlife, establish and collect a fee for each energy development project of at
25 least \$25,000 but not more than \$100,000, pursuant to a schedule of fees set forth
26 in regulations adopted by the Office based on the potential for impact on wildlife
27 and its habitat and the acreage of the energy development project, including,
28 without limitation, any roads used for access to the energy development project
29 and the area of land disturbed by the energy development project. Office of
30 Energy, adopt regulations to carry out the provisions of this section. The
31 regulations must include, without limitation:

32 (a) Provisions setting forth the requirements for making reasonable deposits
33 and reimbursing the Department of Wildlife for the actual costs, not to exceed
34 \$100,000, incurred by the Department of Wildlife for providing to the Federal
35 Government, the Public Utilities Commission of Nevada, an applicant or any
36 county in this State any information relating to any wildlife or wildlife habitat
37 based on the location of the energy development project for which a notice is filed
38 pursuant to subsection 1;

39 (b) Provisions setting forth the requirements for allowing a developer of an
40 energy development project or a local government in a county in which an energy
41 development project is proposed to be located to request the Director of the Office
42 of Energy to coordinate discussions, not otherwise required by any existing
43 regulatory agency, with interested parties concerning any potential effect of the
44 energy development project; and

45 (c) Except as otherwise provided in subsection 5, any other requirements
46 concerning the filing of a notice pursuant to subsection 1.

47 5. Any regulations adopted pursuant to subsection 4 must not require a
48 person to reimburse any costs incurred by the Department of Wildlife for
49 providing any information requested by the Federal Government, the Public
50 Utilities Commission of Nevada or an applicant relating to an energy
51 development project that was previously provided pursuant to paragraph (a) of
52 subsection 4.

53 Sec. 8. The ~~{Office of Energy}~~ Department of Wildlife shall:

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

- 4 (a) The location of the energy development project;
5 (b) A description of the energy development project; ~~and~~
6 (c) The estimated energy output of the energy development project ~~and~~; and
7 (d) The amount charged for the reimbursement of costs for the energy
8 development project in accordance with the regulations specified in subsection 4
9 of section 7 of this act.

10 2. Prepare a report ~~containing~~ :

- 11 (a) Containing the information compiled pursuant to subsection 1 ~~and~~; and
12 (b) Setting forth the effect, if any, on the budget of the Department of
13 Wildlife as a result of receiving the reimbursement of costs for providing
14 information concerning energy development projects and the manner in which
15 the total amount received for those costs was used by the Department of Wildlife.

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

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

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

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

34 4. The Director of the ~~Office of Energy~~ Department of Wildlife shall
35 administer the Fund. The money in the Fund must be ~~provided to~~ used in
36 accordance with the State Wildlife Action Plan and used by the Department of
37 Wildlife ; ~~and used~~

- 38 (a) To conduct surveys of wildlife;
39 (b) To map locations of wildlife and wildlife habitat in this State;
40 (c) To pay for conservation projects for wildlife and its habitat;
41 (d) ~~To provide staff to assist the Director of the Department of Wildlife in~~
42 ~~carrying out the provisions of paragraphs (a), (b) and (c);~~ match any federal
43 money for a project or program for the conservation of any species of wildlife
44 which is of critical concern; and
45 (e) ~~To coordinate carrying out the provisions of paragraphs (a), (b) and (c)~~
46 this subsection in cooperation with the ~~State Department of Conservation and~~
47 Natural Resources. Office of Energy.

48 5. The ~~Director of the Office of Energy~~ Department of Wildlife shall adopt
49 regulations to carry out the provisions of this section. The regulations must
50 include, without limitation ~~the~~

- 51 ~~(a) The~~ the criteria for projects for which the Department of Wildlife may
52 use money from the Fund. ~~and~~
53 ~~(b) Procedures to distribute money from the Fund.~~

6. As used in this section, "State Wildlife Action Plan" means a statewide plan prepared by the Department of Wildlife and approved by the United States Fish and Wildlife Service which sets forth provisions for the conservation of wildlife and wildlife habitat, including, without limitation, provisions for assisting in the prevention of any species of wildlife from becoming threatened or endangered.

Sec. 9.5. 1. The Fund for the Recovery of Costs is hereby created in the State Treasury as a special revenue fund.

2. All money collected by the Department of Wildlife in accordance with regulations adopted pursuant to section 7 of this act 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.

4. 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.

5. The Director of the Department of Wildlife 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. If the Director of the Department of Wildlife receives any matching federal money which is credited to the Fund pursuant to this subsection, the amount of money credited may be transferred to the Energy Planning and Conservation Fund created by section 9 of this act.

6. The Director of the Department of Wildlife shall administer the Fund. The money in the Fund must be used by the Department of Wildlife solely:

(a) To provide to the Federal Government, the Public Utilities Commission of Nevada or any person any information relating to wildlife or wildlife habitat based on the location of an energy development project; or

(b) To match any federal money for a project or program for the conservation of any species of wildlife.

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;

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

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

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

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

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

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

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

(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~~ Cooperate with the Department of Wildlife to carry out in carrying out those the provisions of sections 6 to 9.5, inclusive, of this act.

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

Sec. 12. The ~~Office of Energy~~ Department of Wildlife 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.