

## Amendment No. 875

Senate Amendment to Assembly Bill No. 359 First Reprint (BDR 58-1064)

**Proposed by:** Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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.

MSN/TMC



Date: 6/2/2011

A.B. No. 359—Revises provisions governing energy. (BDR 58-1064)



ASSEMBLY BILL NO. 359—ASSEMBLYMEN  
GOICOECHEA; AND GRADY

MARCH 21, 2011

JOINT SPONSOR: SENATOR SETTELMAYER

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing energy. (BDR 58-1064)

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; revising the categories of uses, capacity goals and prospective expiration of the Waterpower Energy Systems Demonstration Program; revising provisions governing net metering for waterpower energy systems; ~~revising the cumulative capacity requirement for net metering systems;~~ revising provisions governing net metering for certain wind energy systems; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Waterpower Energy Systems Demonstration Program was established for agricultural uses with a goal of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012. (NRS 701B.820, 701B.840) The Waterpower Program is currently set to expire on June 30, 2011. **Section 1** of this bill expands the Waterpower Program to encompass Indian tribes and tribal organizations that are customers of a utility. **Section 2** of this bill increases the capacity goals for the Waterpower Program. ~~and limits the amount of any rebate provided pursuant to the Waterpower Program;~~ and **sections 9-11** of this bill extend the Waterpower Program until June 30, 2016. **Section 6** of this bill authorizes a person who installs a waterpower energy system to participate in net metering if the waterpower energy system is located on property owned by the customer-generator and generates electricity primarily intended to offset the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator. **Section 6 also authorizes certain persons who install certain wind energy systems on property owned or leased by an institution of higher education in this State to participate in net metering. Section 3.7 of this bill provides that persons who own or operate such wind energy systems are not considered public utilities.**

~~Each electric utility in this State is required to offer net metering to customer generators of the utility until the cumulative capacity of net metering systems in the service area of the utility is equal to 1 percent of the utility's peak capacity. (NRS 704.772) Section 7 of this bill requires a utility to offer net metering until the cumulative capacity of net metering systems is equal to 1 percent of the total peak capacity of all utilities in this State and further authorizes the Public Utilities Commission of Nevada to increase the cumulative capacity requirement~~

~~for net metering to 1.5 percent of the total peak capacity of all utilities in this State under certain circumstances.}~~

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

**Section 1.** NRS 701B.820 is hereby amended to read as follows:  
701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for ~~{agricultural uses.}~~ :

(a) *Agricultural uses; and*

(b) *Indian tribes and tribal organizations that are customers of a utility.*

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4, apply to a utility and be selected by the utility for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

**Sec. 2.** NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than ~~{500 kilowatts of waterpower energy systems in this State by 2012}~~ *5 megawatts of waterpower energy systems in this State by 2016* and the goals for each category of the Program. *The regulations must provide that not less than 1 megawatt of capacity must be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.*

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings. ~~{The regulations must provide that the amount of any rebate provided pursuant to the Program must not exceed 50 percent of the total cost of the installation of the waterpower energy system for which the rebate is provided.}~~

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

**Sec. 3.** (Deleted by amendment.)

**Sec. 3.5.** Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

*“Contiguous” means either abutting directly on the boundary or separated by a street, alley, public right-of-way, creek, river or the right-of-way of a railroad or other public service corporation.*

**Sec. 3.7. NRS 704.021 is hereby amended to read as follows:**

704.021 “Public utility” or “utility” does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.

10. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

**Sec. 4.** NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, *and section 3.5 of this act* to:

1. Encourage private investment in renewable energy resources;

2. Stimulate the economic growth of this State;

3. Enhance the continued diversification of the energy resources used in this State; and

4. Streamline the process for customers of a utility to apply for and install net metering systems.

**Sec. 5.** NRS 704.767 is hereby amended to read as follows:

704.767 As used in NRS 704.766 to 704.775, inclusive, *and section 3.5 of this act*, unless the context otherwise requires, the words and terms defined in NRS 704.768 to 704.772, inclusive, *and section 3.5 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 704.771 is hereby amended to read as follows:

704.771 1. "Net metering system" means ~~the~~:

(a) A facility or energy system for the generation of electricity that:

~~the~~ (1) Uses renewable energy as its primary source of energy to generate electricity;

~~the~~ (2) Has a generating capacity of not more than 1 megawatt;

~~the~~ (3) Is located on the customer-generator's premises;

~~the~~ (4) Operates in parallel with the utility's transmission and distribution facilities; and

~~the~~ (5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity ~~the~~; ~~for~~

(b) A facility or energy system for the generation of electricity that:

(1) Uses waterpower as its primary source of energy to generate electricity;

(2) Is located on property owned by the customer-generator;

(3) Has a generating capacity of not more than 1 megawatt;

(4) Generates electricity that is delivered to the transmission and distribution facilities of the utility; and

(5) Is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator ~~the~~; or

(c) A facility or energy system for the generation of electricity:

(1) Which uses wind power as its primary source of energy to generate electricity;

(2) Which is located on property owned or leased by an institution of higher education in this State;

(3) Which has a generating capacity of not more than 1 megawatt;

(4) Which operates in parallel with the utility's transmission and distribution facilities;

(5) Which is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or on contiguous property owned or leased by the customer-generator;

(6) Which is used for research and workforce training; and

(7) The construction or installation of which is commenced on or before December 31, 2011, and is completed on or before December 31, 2012.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred ~~fifty~~ percent of the ~~peak demand of the customer.~~ customer-generator's annual requirements for electricity.

Sec. 7. NRS 704.773 is hereby amended to read as follows:

704.773 1. ~~Except as otherwise provided in this subsection, a~~ utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's total peak capacity. ~~for all utilities in this State. If, at any time, the Commission determines that the cumulative capacity of all such net metering systems is 0.8 percent or more of the total peak capacity of all utilities in this State, the Commission may issue an order requiring a utility to offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1.5 percent of the total peak capacity of all utilities in this State.~~

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~100~~ 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~100~~ 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➤ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. *If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:*

(a) *The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and*

(b) *The customer-generator sells or transfers his or her interest in the contiguous property,*

➤ *the net metering system ceases to be eligible to participate in net metering.*

5. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➤ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive ~~H~~, and section 3.5 of this act.

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that uses renewable energy or energy from a qualified energy recovery process to generate electricity and:

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process to a provider of electric service for delivery into and use in this State.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive ~~+~~, *and section 3.5 of this act.*

**Sec. 9.** Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to ~~106.1~~ 86, inclusive, of this act expire by limitation on June 30, 2011.

*3. Sections 87 to 105, inclusive, of this act expire by limitation on June 30, 2016.*

**Sec. 10.** Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. ~~Sections 2 and 3~~ *Section 2* of this act ~~expire~~ *expires* by limitation on June 30, 2011.

*3. Section 3 of this act expires by limitation on June 30, 2016.*

**Sec. 11.** Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, 1.93 ~~[-1.95]~~ *and* 4.3 to ~~19.1~~ 7, inclusive, ~~and 19.4~~ of this act expire by limitation on June 30, 2011.

3. ~~Sections 1.53 and 19.8~~ *Section 1.53* of this act ~~become~~ *becomes* effective on July 1, 2011.

*4. Sections 1.95 and 7.1 to 9, inclusive, of this act expire by limitation on June 30, 2016.*

*5. Section 19.8 of this act becomes effective on July 1, 2016.*

**Sec. 12.** 1. This section and sections 9, 10 and 11 of this act become effective upon passage and approval.

- 1           2. Sections 1 to 8.5, inclusive, of this act become effective on July 1, 2011.
- 2           3. Sections 1 and 2 of this act expire by limitation on June 30, 2016.