

Amendment No. 476

Senate Amendment to Senate Bill No. 184

(BDR 58-229)

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: 4/19/2011

S.B. No. 184—Requires the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program.
(BDR 58-229)



SENATE BILL NO. 184—SENATOR SCHNEIDER

FEBRUARY 22, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Requires the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program. (BDR 58-229)

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; requiring the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program; requiring each provider of electric service in this State to participate in the Program; requiring the Commission to establish standard ~~offers~~ contracts for the purchase and resale of electricity generated by certain renewable energy systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program. **Section 13** of this bill requires each provider of electric service in this State to participate in the Program. **Section 13** also requires the Commission to establish standard ~~offers~~ contracts for the purchase and resale of electricity from certain renewable energy systems and determine the ~~cumulative capacity of renewable energy systems that are authorized to participate in the Program. Additionally, section 13 requires the Commission to: (1) appoint one or more facilitators to engage in the purchase and resale of electricity from renewable energy systems in accordance with the standard offers; and (2) make the standard offers available until the cumulative system capacity of all renewable energy systems participating in the Program meets the cumulative capacity determined by the Commission.~~ price to be paid for electricity pursuant to such standard contracts.

Section 14 of this bill provides that a standard contract ~~for a standard offer~~ is transferable ~~and requires the transferee to provide written notice to the facilitator of any transfer. Section 14 also requires the facilitator to distribute the electricity purchased pursuant to contracts for standard offers and to allocate any associated costs among all providers of electric service on a pro rata basis. Section 13 provides that renewable energy systems owned and operated by a provider of electric service are not eligible for the standard offer, but section 14 requires that a provider of electric service receive a credit toward its share of such associated costs for any renewable energy system which is owned and operated by the provider and which is commissioned on or after January 1, 2012.~~ under certain circumstances. **Section 14** ~~further~~ requires that a standard contract ~~for a standard offer~~ provide that any tradable renewable energy credits associated with a renewable energy system which accepts a standard ~~offer~~ contract are owned by the provider of electric service that purchases electricity from the renewable energy system. Additionally, **section 14** provides

that a standard contract ~~(for a standard offer)~~ entered into by a utility provider is deemed to be a prudent investment, and the utility provider may recover all just and reasonable costs associated with the standard contract.

Section 15 of this bill requires the Commission to ~~make certain determinations concerning the reasonable expenses of facilitators and to allocate those expenses among the system owners and providers of electric service. Section 15 also requires the Commission to establish reporting requirements relating to the Program and to~~ adopt regulations to carry out the Program.

Section 18 of this bill requires the Public Utilities Commission of Nevada to submit ~~its biennial report~~ annual reports to the Legislature ~~or the Legislative Commission~~ concerning the Program. **Section 19** of this bill requires the Public Utilities Commission of Nevada to open an investigatory docket to establish the initial prices for the purchase and resale of electricity under the Program.

Section 20 of this bill requires the regulations which must be adopted by the Commission to carry out the provisions of this bill to be adopted on or before December 31, 2011.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Commissioned” or “commissioning” means the first time a renewable energy system is put into operation following its initial construction or following its modernization if the costs of modernization are equal to 50 percent or more of the costs that would be required to build a new renewable energy system, including all buildings and structures technically required for the operation of a new renewable energy system. The term does not include activities necessary to establish operational readiness of the renewable energy system.*

Sec. 4. ~~“Facilitator” means a person appointed by the Commission pursuant to section 13 of this act.~~ (Deleted by amendment.)

Sec. 5. *“Person” means a natural person, any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization. The term ~~does not include~~ includes, without limitation, an Indian reservation or Indian colony, a government, governmental agency or political subdivision of a government.*

Sec. 6. *“Program” means the Renewable Energy Systems Development Program established by the Commission pursuant to section 13 of this act.*

Sec. 6.5. *“Program year” means the period of July 1 to June 30 of the following year.*

Sec. 7. *“Provider of electric service” has the meaning ascribed to it in NRS 704.7808.*

Sec. 8. *“Renewable energy” has the meaning ascribed to it in NRS 704.7811.*

Sec. 9. *“Renewable energy system” means a facility or energy system that:*

- 1. Uses renewable energy to generate electricity; and*
- 2. Has a system capacity that is 100 kilowatts or more but less than 3 megawatts.*

1 Sec. 9.5. “Standard contract” means a contract which is established by the
2 Commission pursuant to section 13 of this act for the purchase and resale of
3 electricity from qualifying renewable energy systems under the Program.

4 Sec. 10. “System capacity” means the nameplate capacity of a renewable
5 energy system.

6 Sec. 11. “System owner” means the person who has the right to sell
7 electricity generated by a renewable energy system.

8 Sec. 12. “Utility provider” has the meaning ascribed to it in NRS 704.7819.

9 Sec. 13. 1. The Commission shall establish the Renewable Energy
10 Systems Development Program to carry out the provisions of sections 2 to 18,
11 inclusive, of this act. Each provider of electric service in this State shall
12 participate in the Program.

13 2. ~~{To carry out the Program, the}~~ The Commission shall {appoint one or
14 more facilitators to engage in the purchase and resale of electricity generated by
15 qualified renewable energy systems in accordance with the standard offers
16 established by the Commission pursuant to paragraph (a) of subsection 3.} carry
17 out the Program for each program year beginning on July 1, 2012, and ending
18 on June 30, 2020.

19 3. ~~The Commission shall {~~
20 ~~—(a) Establish} establish standard {offers} contracts for the purchase and~~
21 ~~resale of electricity from qualifying renewable energy systems. {}~~ and
22 ~~—(b) Determine the cumulative system capacity for all renewable energy~~
23 ~~systems that participate in the Program.}~~

24 4. ~~{The}~~ For each program year, the Commission shall make the standard
25 ~~{offers} contracts established pursuant to paragraph (a) of subsection 3}~~
26 available to renewable energy systems until the {cumulative system capacity} total
27 amount of all incentives paid to renewable energy systems that have accepted a
28 standard {offer} contract equals {or exceeds the cumulative system capacity
29 determined by the Commission pursuant to paragraph (b) of subsection 3. A
30 renewable energy system owned and operated by a provider of electric service is
31 not eligible for the standard offers established pursuant to paragraph (a) of
32 subsection 3, but the system capacity of a renewable energy system owned and
33 operated by a provider of electric service in this State may be included in
34 calculating the cumulative system capacity determined by the Commission if the
35 renewable energy system is commissioned on or after January 1, 2012.} one-half
36 of 1 percent of the total revenues received by all providers of electric service in
37 this State during the immediately preceding program year.

38 5. ~~The term of a standard {offer established pursuant to paragraph (a) of~~
39 ~~subsection 3 must be 25} contract must not exceed 20 years.~~

40 6. For each program year, the Commission may determine the Program
41 capacity that will be allocated for standard contracts for each type of renewable
42 energy.

43 7. For each type of renewable energy used by a renewable energy system to
44 generate electricity, the Commission shall determine the price that must be paid
45 pursuant to a standard {offer} contract to a system owner for each kilowatt-hour
46 of electricity generated by the renewable energy system. In determining the price,
47 the Commission shall:

48 (a) ~~Determine a {generic cost based on an economic analysis which includes~~
49 ~~a consideration of:~~

50 ~~(1) The type of renewable energy used by the renewable energy system to~~
51 ~~generate electricity; and~~

52 ~~(2) Different generic costs for renewable energy systems of different~~
53 ~~system capacities;~~

~~(b) Include a rate of return of not less than the highest rate of return received by an investor owned utility provider under the rates approved by the Commission as of the date the standard offer goes into effect; and~~

~~(c) Include such adjustments as the Commission determines necessary to ensure that the price provides sufficient incentive for the rapid development and commissioning of renewable energy systems in this State and does not exceed the amount needed to provide such an incentive.~~

~~7. Except as otherwise provided in subsection 9, after}~~ benchmark price based on the weighted average price per kilowatt-hour of electricity generated by each type of renewable energy paid by providers of electric service pursuant to the renewable energy contracts executed pursuant to NRS 704.7821 for the purchase of electricity from that type of renewable energy; and

~~(b) Determine the amount of an incentive to be paid in addition to the benchmark price established pursuant to paragraph (a). The amount of the incentive established pursuant to this paragraph must be calculated to provide an economic incentive for the timely and steady development and commissioning of renewable energy systems in this State.~~

~~8. After the Commission determines the {generic cost and rate of return} benchmark price and incentive amount pursuant to subsection {6} 7, the price to be paid to a system owner under a subsequently executed standard contract {for a standard offer} must comply with those determinations.~~

~~{8} 9. On or before {January 31} March 1, 2013, and on or before {January 31} March 1 of each subsequent {odd numbered} year, the Commission shall review the price determined pursuant to subsection {6} 7 and determine whether the price is providing sufficient incentive for the {rapid} timely and steady development and commissioning of renewable energy systems in this State. If the Commission determines that the price is inadequate or excessive, the Commission shall, in accordance with the requirements of subsection {6} 7, reestablish the price, and that price must be applied prospectively {beginning on March 1 of the following year}.~~

~~9. The Commission shall provide that the amount of any tax credits and other incentives provided by the Federal Government, the State or any local governmental entity to a renewable energy system must be subtracted from the price that would otherwise be paid to the system owner pursuant to a contract for a standard offer.} to standard contracts executed during the next following program year.~~

~~10. A system owner who has executed a standard contract {for a standard offer} before the Commission makes a determination pursuant to subsection {6 or 8} 7 or 9 must continue to receive the price provided for in the standard contract.~~

Sec. 14. 1. A standard contract {for a standard offer is transferable} may be transferred to another person:

(a) Not more than once before the construction or commissioning of the renewable energy system to which the standard contract is applicable; or

(b) If the renewable energy system to which the standard contract is applicable has been commissioned and has been in operation for not less than 90 days and ownership of the real property on which the renewable energy system is located is transferred to the other person.

2. The transferee shall provide written notice to the {facilitator} Commission of any transfer not later than 30 days after the transfer.

~~2. {Except as otherwise provided in subsection 3, the facilitator shall distribute the electricity purchased and allocate any associated costs among all providers of electric service based on their pro rata share of total retail sales of electricity in this State during the previous calendar year, and each provider of~~

~~electric service shall pay its respective allocated costs determined by the facilitator.~~

~~3. A provider of electric service must receive a credit toward its share of the costs determined pursuant to subsection 2 for any renewable energy system which is commissioned on or after January 1, 2012. The amount of the credit is the amount that the system owner would otherwise be eligible to receive, if the owner were not a provider of electric service, pursuant to the standard offer in effect at the time the renewable energy system is commissioned. The amount of any such credit must be reallocated among all other providers of electric service on a basis such that all providers of electric service pay for a proportionate amount of system capacity up to the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act.~~

~~4. A standard contract [for a standard offer] must provide that any tradable renewable energy credits associated with a renewable energy system which accepts a standard [offer] contract are owned by the provider of electric service that purchases electricity from the renewable energy system. [The facilitator shall transfer any tradable renewable energy credits attributable to electricity purchased pursuant to a contract for a standard offer to all providers of electric service in accordance with their pro rata share of the costs for such electricity as determined pursuant to this section.]~~

~~5. 3. If a provider of electric service is a utility provider, a standard contract [for a standard offer] entered into by the utility provider, including the terms and conditions, shall be deemed to be a prudent investment, and the utility provider may recover all just and reasonable costs associated with the standard contract.~~

Sec. 15. The Commission shall ~~fr~~

~~1. Determine the reasonable expenses of each facilitator in carrying out his or her duties pursuant to the Program and allocate those expenses among the system owners and providers of electric service.~~

~~2. Determine the manner and timing of payments by a facilitator to each system owner for energy purchased pursuant to a contract for a standard offer.~~

~~3. Determine the manner and timing of payments to a facilitator by a provider of electric service for energy distributed to the provider of electric service pursuant to a contract for a standard offer.~~

~~4. Establish reporting requirements for facilitators, system owners and providers of electric service.~~

~~5. Adopt] adopt such regulations as the Commission determines necessary to carry out the Program.~~

Sec. 16. The existence of a standard [offer established pursuant to paragraph (a) of subsection 3 of section 13 of this act] contract does not preclude a voluntary contract between a system owner and a provider of electric service on terms that may be different from the terms required for a standard [offer] contract under the Program. A system owner who declines a voluntary contract may accept a standard [offer] contract under the Program.

Sec. 17. The State is not liable to any system owner or provider of electric service with respect to any matter relating to the Program, including, without limitation:

1. Any costs associated with a standard contract ; [for a standard offer];

2. Any damages arising from the breach of a standard contract ; [for a standard offer];

3. Any costs associated with the flow of electricity between a renewable energy system and the electricity grid; or

4. Any costs associated with the interconnection of a renewable energy system with the electricity grid.

Sec. 18. ~~1. On or before February 1, 2013, and on or before February 1 of each subsequent [odd-numbered] year, the Commission shall deliver a written report on the status of the Program to the Director of the Legislative Counsel Bureau for transmittal~~ during each odd-numbered year to the next regular session of the Legislature.

~~2. The report required by subsection 1 must include, without limitation:~~

~~(a) An assessment of the progress made toward achieving the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act;~~

~~(b) If the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act has not been achieved, identification of the barriers to achieving that goal and detailed recommendations for overcoming those barriers; and~~

~~(c) If the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act has been achieved or is likely to be achieved within 1 year after the date of the report, a recommendation of whether the Program should continue and, if so, any recommended modifications to the Program;~~ and for transmittal during each even-numbered year to the Legislative Commission.

Sec. 19. 1. As soon as practicable after the effective date of this act, the Public Utilities Commission of Nevada shall open an investigatory docket to determine just and reasonable prices for the purchase and resale of electricity pursuant to sections 2 to 18, inclusive, of this act.

2. The following parties may participate in the investigatory docket:

(a) A provider of electric service as defined in section 7 of this act;

(b) A system owner as defined in section 11 of this act;

(c) A utility provider as defined in section 12 of this act;

(d) The Regulatory Operations Staff of the Commission; and

(e) Any other interested party.

Sec. 20. The Public Utilities Commission of Nevada shall, on or before December 31, 2011, adopt any regulations which are necessary to carry out the provisions of this act.

Sec. 21. 1. This act becomes effective:

~~1. (a)~~ (a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

~~2. (b)~~ (b) On ~~January~~ July 1, 2012, for all other purposes.

2. This act expires by limitation on June 30, 2020.