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(Reprinted with amendments adopted on April 26, 2011)

FIRST REPRINT

S.B. 496

SENATE BILL NO. 496—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

APRIL 20, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes relating to renewable energy.
(BDR 58-1280)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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 renewable energy; revising provisions governing the Solar Energy Systems Incentive Program; requiring the reallocation of certain capacity in the Solar Program under certain circumstances; revising provisions relating to net metering systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program and requires the Public Utilities Commission of Nevada to carry out the Solar Program. (NRS 701B.010-701B.290) **Section 6** of this bill provides that the Solar Program is created to carry out the intent of the Legislature to promote the installation of at least 250 megawatts of solar energy systems in this State by 2020. **Sections 1, 2, 4 and 6** of this bill revise provisions concerning the categories of participants in the Solar Program. **Section 5** of this bill requires the Commission to adopt regulations to carry out the Solar Program, including regulations which: (1) provide that the amount of the incentive paid to a participant in the Solar Program must be paid over a period of 10 years and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system; and (2) require a utility to allocate incentives to each category of participants in an amount that is proportionate to the revenue derived by the utility from customers within each category. **Section 7** of this bill revises certain provisions governing allocation of capacity and incentives among the different categories of participants in the Solar Program and specifically provides that the Commission is prohibited from requiring a utility to pay an incentive if, for any program year, the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed 1 percent of the



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combined total revenue of all utilities in this State during the immediately preceding program year. **Section 19** of this bill provides that current applicants for participation in the Solar Program who do not complete the installation of their solar energy systems within a certain period forfeit eligibility for the incentives for which they were originally determined to be eligible and that any forfeited incentives must be made available to applicants who apply for participation in the Solar Program on or after July 1, 2011.

Section 8 of this bill revises the maximum generating capacity of a net metering system, and **section 9** of this bill revises certain provisions governing the method of calculating the net energy measurement for the purpose of billing for a net metering system.

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

Section 1. NRS 701B.040 is hereby amended to read as follows:

701B.040 “Category” means one of the categories of participation in the Solar Program as set forth in NRS 701B.240 ~~and~~ *or the regulations adopted by the Commission.*

Sec. 2. NRS 701B.110 is hereby amended to read as follows:

701B.110 1. “Public ~~and other~~ property” means any real property, building or facilities which are owned, leased or occupied by ~~the~~

~~—(a) A~~ *a* public entity. ~~the~~

~~—(b) A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended; or~~

~~—(c) A corporation for public benefit as defined in NRS 82.021.~~

~~2. The term includes, without limitation, any real property, building or facilities which are owned, leased or occupied by:~~

~~—(a) A church; or~~

~~—(b) A benevolent, fraternal or charitable lodge, society or association.~~

~~3. 2.~~ The term does not include school property.

Sec. 3. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that:

1. ~~[Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the~~



~~incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.~~

~~2.]~~ Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

~~[3.] 2.~~ Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems . ~~[pursuant to paragraph (b) of subsection 1 of NRS 701B.260.]~~

Sec. 4. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~each applicable category of:~~

~~—(a) School property;~~

~~—(b) Public and other property; and~~

~~—(c) Private residential property and small business property;]~~ *the Solar Program;* and

2. The form and content of the master application.

Sec. 5. NRS 701B.220 is hereby amended to read as follows:

701B.220 In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. *The regulations must:*

1. Provide that the amount of the incentive be paid over a period of 10 years and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system.

2. Require a utility to allocate incentives to each category in an amount that is proportionate to the revenue derived by the utility from customers within each category.



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1 **Sec. 6.** NRS 701B.240 is hereby amended to read as follows:

2 701B.240 1. The Solar Energy Systems Incentive Program is
3 hereby created ~~[]~~ *to carry out the intent of the Legislature to*
4 *promote the installation of at least 250 megawatts of solar energy*
5 *systems throughout this State by 2020.*

6 2. The Solar Program must have ~~[three]~~ *two* categories as
7 follows:

8 (a) ~~[School property;~~

9 ~~—(b) Public and other property; and~~

10 ~~—(c) Private residential property and small business property.]~~
11 *Residential property; and*

12 (b) *Nonresidential property.*

13 ↪ *The Commission may create additional categories for school*
14 *property and public property if the Commission determines that*
15 *the creation of such additional categories is in the public interest.*

16 3. To be eligible to participate in the Solar Program, a person
17 must:

18 (a) Meet the qualifications established by the Commission
19 pursuant to NRS 701B.210;

20 (b) Submit an application to a utility and be selected by the
21 Commission for inclusion in the Solar Program pursuant to NRS
22 701B.250 and 701B.255; *and*

23 (c) When installing the solar energy system, use an installer who
24 has been issued a classification C-2 license with the appropriate
25 subclassification by the State Contractors' Board pursuant to the
26 regulations adopted by the Board. ~~[; and~~

27 ~~—(d) If the person will be participating in the Solar Program in the~~
28 ~~category of school property or public and other property, provide for~~
29 ~~the public display of the solar energy system, including, without~~
30 ~~limitation, providing for public demonstrations of the solar energy~~
31 ~~system and for hands on experience of the solar energy system by~~
32 ~~the public.]~~

33 **Sec. 7.** NRS 701B.260 is hereby amended to read as follows:

34 701B.260 1. ~~[Except as otherwise provided in this section,~~
35 ~~the Commission may approve, for:~~

36 ~~—(a) The program year beginning July 1, 2009, solar energy~~
37 ~~systems:~~

38 ~~—(1) Totaling 2,000 kilowatts of capacity for school property;~~

39 ~~—(2) Totaling 760 kilowatts of capacity for public and other~~
40 ~~property; and~~

41 ~~—(3) Totaling 1,000 kilowatts of capacity for private~~
42 ~~residential property and small business property; and~~

43 ~~—(b) Each program year for the period beginning July 1, 2010,~~
44 ~~and ending on June 30, 2021, an additional 9 percent of the sum of~~
45 ~~the total allocated capacities of all the categories described in~~



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~~paragraph (a)]~~ *The Commission shall adopt regulations which establish for each category:*

(a) The cumulative amount of capacity for which incentives are authorized pursuant to the Solar Program;

(b) Periodic intervals over which the cumulative amount of capacity for which incentives are authorized pursuant to the Solar Program is incrementally increased as the cost of the installation of solar energy systems decreases;

(c) The minimum and maximum capacity of an individual solar energy system that is eligible for participation in the Solar Program, except that the maximum capacity of an individual solar energy system that is eligible for participation in the Solar Program must not exceed 500 kilowatts;

(d) Whether the owner or operator of a solar energy system is required to display publicly the solar energy system, provide for public demonstrations of the solar energy system or provide training to the public regarding the operation of the solar energy system; and

(e) For each program year, the amount of any additional capacity which must be approved for distributed generation systems.

~~2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:~~

~~—(a) Reallocate any of the unused capacity in that category to any of the other categories; or~~

~~—(b) Reallocate any of the unused capacity in that category to future program years within the same category.~~

~~3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.~~

~~4.]~~ The Commission shall not authorize the payment of an incentive for the installation of a solar energy system or distributed generation system if ~~[-~~

~~—(a) For the period beginning July 1, 2010, and ending June 30, 2013, inclusive,], for any program year,~~ the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed ~~[\$78,260,000; and~~

~~—(b) For the period beginning July 1, 2010, and ending June 30, 2021, the payment of the incentive would cause the total amount of~~



~~incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed \$255,270,000.] 1 percent of the combined total revenue of all utilities in this State during the immediately preceding program year.~~

Sec. 8. NRS 704.771 is hereby amended to read as follows:

704.771 1. "Net metering system" means a facility or energy system for the generation of electricity that:

(a) Uses renewable energy as its primary source of energy to generate electricity;

(b) Has a generating capacity ~~[of not more than 1 megawatt;]~~ *that does not exceed 120 percent of the average annual consumption of electricity by the customer-generator at the premises on which the system is located;*

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

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

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

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.

Sec. 9. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.



(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. ~~[If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.]~~

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 and 704.78213 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)



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Sec. 18. NRS 701B.140 is hereby repealed.

Sec. 19. Any applicant for participation in the Solar Energy Systems Incentive Program created by NRS 701B.240 who is approved by a utility and selected by the Public Utilities Commission of Nevada for participation in the Solar Program before July 1, 2011, and who does not complete the installation of his or her solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program forfeits eligibility for the incentive for which the applicant was originally determined to be eligible. Any incentives forfeited pursuant to this section must be made available to applicants who apply for participation in the Solar Program on or after July 1, 2011, in accordance with the amendatory provisions of this act.

Sec. 20. 1. This section becomes effective upon passage and approval.

2. Section 7 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

3. Section 10 of this act becomes effective on October 1, 2011.

4. Sections 1 to 6, inclusive, 8, 9, 18 and 19 of this act become effective on January 1, 2012.

5. Sections 11 to 16, inclusive, of this act become effective 1 year after the date on which the Governor declares by public proclamation that the production of biodiesel in Nevada:

(a) Has reached a volume of 30 million gallons; and

(b) Has equaled or exceeded a rate of 2.5 million gallons per month for 3 consecutive months.

6. Section 17 of this act becomes effective 1 year after the date on which the Governor declares by public proclamation that:

(a) The production of biodiesel in Nevada has reached a volume of 60 million gallons;

(b) The production of biodiesel in Nevada has equaled or exceeded a rate of 5 million gallons per month for 3 consecutive months; and

(c) Each of the three largest manufacturers of diesel-powered motor vehicles doing business in Nevada, as determined based on the total sales of such motor vehicles in Nevada during the immediately preceding calendar year, has certified in writing that the use of biodiesel blends of 10 percent or more in the engines of the diesel-powered motor vehicles produced by the manufacturer will not adversely affect the warranty provided by the manufacturer with respect to those motor vehicles.



TEXT OF REPEALED SECTION

701B.140 “Small business” defined. “Small business” means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

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