

ASSEMBLY BILL NO. 33—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE OFFICE OF ENERGY)

PREFILED DECEMBER 20, 2012

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the partial abatement of certain taxes for certain energy-efficient buildings. (BDR 58-280)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 provisions governing the partial abatement of certain property taxes for certain buildings and structures which meet certain energy efficiency standards; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Office of Energy to grant a partial abatement of certain property taxes for the: (1) construction of a building or other structure that meets certain energy efficiency standards under the Green Building Rating System adopted by the Director; or (2) renovation by certain manufacturers of an existing building or other structure to bring the building or other structure into compliance with such energy efficiency standards. Existing law provides that the Green Building Rating System adopted by the Director must include standards and ratings equivalent to those provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System. (NRS 701A.100, 701A.110, 701A.115) **Section 1** of this bill provides that the Green Building Rating System adopted by the Director must include standards and ratings equivalent to those provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System or an equivalent rating system. **Section 1** additionally revises provisions relating to the Green Building Rating System used by the Director to determine the eligibility of a building or other structure for certain tax abatements.

Section 4 of this bill repeals the provisions which authorize partial abatements of property taxes specifically for certain manufacturers who renovate existing buildings. **Section 2** of this bill provides that a partial abatement for a building or



other structure that qualifies for the abatement under the Leadership in Energy and Environmental Design “Existing Buildings: Operations and Maintenance” rating system, or an equivalent rating system, must be for a period of not more than 5 years. **Section 2** prohibits the Director from granting a partial abatement for a building or structure that qualifies under such a rating system in an amount which exceeds \$100,000 annually.

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

Section 1. NRS 701A.100 is hereby amended to read as follows:

701A.100 1. The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110. ~~and 701A.115.~~

2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System ~~or~~ *or an equivalent rating system*, except that the standards adopted by the Director:

(a) Except as otherwise provided in paragraphs (b) and (c), must not include:

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System *or the equivalent rating system* for at least 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must require a building or other structure to obtain:

(1) At least ~~3~~ *5* points ~~of~~ *in the Optimize Energy Performance* credit ~~for energy conservation~~, *or its equivalent*, to meet the equivalent of the silver level;

(2) At least ~~5~~ *7* points ~~of~~ *in the Optimize Energy Performance* credit ~~for energy conservation~~, *or its equivalent*, to meet the equivalent of the gold level; and

(3) At least ~~8~~ *11* points ~~of~~ *in the Optimize Energy Performance* credit ~~for energy conservation~~, *or its equivalent*, to meet the equivalent of the platinum level.

3. As used in this section, “home” means a building or other structure for which the principal use is as a residential dwelling for not more than four families.



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

701A.110 1. Except as otherwise provided in this section, the Director, in consultation with the Office of Economic Development, shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design, ~~for~~ construction *or renovation* of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

(I) Chief of the Budget Division of the Department of Administration;

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Office of Economic Development;

(VI) Board of county commissioners; and

(VII) City manager and city council, if any.

(c) The abatement is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053.



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2. As soon as practicable after the Director receives the application and proof required by subsection 1, the Director, in consultation with the Office of Economic Development, shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (a) Department of Taxation;
- (b) County assessor;
- (c) County treasurer; and
- (d) Office of Economic Development.

3. The Director may, with the assistance of the Chief of the Budget Division and the Department of Taxation, publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and on each affected local government. If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall forward a copy of the fiscal note to each affected local government. As soon as practicable after receiving a copy of a certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement ~~is~~ for:

(a) ~~Must~~ *A building or other structure must, except as otherwise provided in paragraph (b), be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:*

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be ~~payable~~ *owed* for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be ~~payable~~ *owed* for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be ~~payable~~ *owed* for the building or other structure, excluding the associated land.

(b) ~~Does~~ *A building or other structure that qualifies for an abatement under the Leadership in Energy and Environmental Design "Existing Buildings: Operations and Maintenance" rating system, or its equivalent, must be for a duration of not more than*



1 *5 years and in an annual amount that equals, except as otherwise*
2 *provided in subsection 5, for a building or other structure that*
3 *meets the equivalent of:*

4 *(1) The silver level, 25 percent of the portion of the taxes*
5 *imposed pursuant to chapter 361 of NRS, other than any taxes*
6 *imposed for public education, that would otherwise be owed for*
7 *the building or other structure, excluding the associated land;*

8 *(2) The gold level, 30 percent of the portion of the taxes*
9 *imposed pursuant to chapter 361 of NRS, other than any taxes*
10 *imposed for public education, that would otherwise be owed for*
11 *the building or other structure, excluding the associated land; or*

12 *(3) The platinum level, 35 percent of the portion of the*
13 *taxes imposed pursuant to chapter 361 of NRS, other than any*
14 *taxes imposed for public education, that would otherwise be owed*
15 *for the building or other structure, excluding the associated land.*

16 *5. The Director shall not grant a partial abatement of more*
17 *than \$100,000 in any year for a building or other structure that*
18 *qualifies for an abatement pursuant to paragraph (b) of*
19 *subsection 4.*

20 *6. A partial abatement granted pursuant to this section:*

21 *(a) Does not apply during any period in which the owner of the*
22 *building or other structure is receiving another abatement or*
23 *exemption pursuant to this chapter or NRS 361.045 to 361.159,*
24 *inclusive, from the taxes imposed pursuant to chapter 361 of NRS.*

25 ~~(e)~~ *(b) Terminates upon any determination by the Director*
26 *that the building or other structure has ceased to meet the equivalent*
27 *of the silver level or higher. The Director shall provide notice and a*
28 *reasonable opportunity to cure any noncompliance issues before*
29 *making a determination that the building or other structure has*
30 *ceased to meet that standard. The Director shall immediately*
31 *provide notice of each determination of termination to the:*

32 *(1) Department of Taxation, who shall immediately notify*
33 *each affected local government of the determination;*

34 *(2) County assessor;*

35 *(3) County treasurer; and*

36 *(4) Office of Economic Development.*

37 ~~(d) Must not be for an existing building or structure that is~~
38 ~~renovated.~~

39 ~~—5.—~~ *7. If a partial abatement terminates pursuant to paragraph*
40 ~~(e)~~ *(b) of subsection 4, 6, the owner of the property to which the*
41 *partial abatement applied shall repay to the county treasurer the*
42 *amount of the exemption that was allowed pursuant to this section*
43 *before the date of that termination. The owner shall, in addition to*
44 *the amount of the exemption required to be paid pursuant to this*
45 *subsection, pay interest on the amount due at the rate most recently*



1 established pursuant to NRS 99.040 for each month, or portion
2 thereof, from the last day of the month following the period for
3 which the payment would have been made had the partial abatement
4 not been approved until the date of payment of the tax.

5 ~~16-1~~ 8. The Director, in consultation with the Office of
6 Economic Development, shall adopt regulations:

7 (a) Establishing the qualifications and methods to determine
8 eligibility for *and the duration of* the abatement;

9 (b) Prescribing such forms as will ensure that all information
10 and other documentation necessary to make an appropriate
11 determination is filed with the Director; and

12 (c) Prescribing the criteria for determining when there is a
13 significant change in the scope of a project for the purposes of
14 subparagraph (1) of paragraph (b) of subsection 1,

15 ➔ and the Department of Taxation shall adopt such additional
16 regulations as it determines to be appropriate to carry out the
17 provisions of this section.

18 ~~17-1~~ 9. The Director shall:

19 (a) Cooperate with the Office of Economic Development in
20 carrying out the provisions of this section; and

21 (b) Submit to the Office of Economic Development an annual
22 report, at such a time and containing such information as the Office
23 may require, regarding the partial abatements granted pursuant to
24 this section.

25 ~~18-1~~ 10. As used in this section:

26 (a) "Building or other structure" does not include any building
27 or other structure for which the principal use is as a residential
28 dwelling for not more than four families.

29 (b) "Director" means the Director of the Office of Energy
30 appointed pursuant to NRS 701.150.

31 (c) "Taxes imposed for public education" means:

32 (1) Any ad valorem tax authorized or required by chapter
33 387 of NRS;

34 (2) Any ad valorem tax authorized or required by chapter
35 350 of NRS for the obligations of a school district, including,
36 without limitation, any ad valorem tax necessary to carry out the
37 provisions of subsection 5 of NRS 350.020; and

38 (3) Any other ad valorem tax for which the proceeds thereof
39 are dedicated to the public education of pupils in kindergarten
40 through grade 12.

41 **Sec. 3.** The Legislature hereby finds that each exemption
42 provided by this act from any ad valorem tax on property:

43 1. Will achieve a bona fide social or economic purpose and that
44 the benefits of the exemption are expected to exceed any adverse
45 effect of the exemption on the provision of services to the public by



- 1 the State or a local government that would otherwise receive
- 2 revenue from the tax from which the exemption would be granted;
- 3 and
- 4 2. Will not impair adversely the ability of the State or a local
- 5 government to pay, when due, all interest and principal on any
- 6 outstanding bonds or any other obligations for which revenue from
- 7 the tax from which the exemption would be granted was pledged.
- 8 **Sec. 4.** 1. NRS 701A.115 is hereby repealed.
- 9 2. Section 21 of chapter 298, Statutes of Nevada 2011, at page
- 10 1656, is hereby repealed.
- 11 **Sec. 5.** This act becomes effective upon passage and approval.

**TEXT OF REPEALED SECTION OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA**

701A.115 Partial abatement of certain property taxes for certain buildings or structures which are renovated for use by manufacturer and which meet certain standards under Green Building Rating System; requirements and limitations; regulations.

1. Except as otherwise provided in this section, the Director of the Office of Energy shall grant a partial abatement from the portion of taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on an existing building or other structure which is renovated for use by a manufacturer if:

(a) The building or other structure is determined after the renovation to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100.

(b) The applicant:

(1) Is a manufacturer who intends to locate a new manufacturing business in this State;

(2) Employs at least 25 full-time employees at the new manufacturing business in this State during the entire period in which the applicant will receive the tax abatement; and

(3) The average hourly wage that will be paid by the manufacturer to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, excluding management and administrative employees, as established by the Employment Security Division of



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the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(c) No funding is provided by any governmental entity in this State for the acquisition, design, construction or renovation of the building or other structure or for the acquisition of any land therefore. For the purpose of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(d) The manufacturer:

(1) Submits an application for the abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

(I) Chief of the Budget Division of the Department of Administration;

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Office of Economic Development;

(VI) Board of county commissioners; and

(VII) City manager and city council, if any.

2. As soon as practicable after the Director receives an application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

(a) Department of Taxation;

(b) County assessor;

(c) County treasurer; and

(d) Office of Economic Development.

3. As soon as practicable after receiving a copy of:



(a) An application pursuant to subparagraph (3) of paragraph (d) of subsection 1:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration not to exceed 1 year, and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Office of Economic Development.

5. The Director shall adopt regulations:



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(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (d) of subsection 1,

➔ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling, even if the building or other structure is used for more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Manufacturer" means a person engaged primarily in manufacturing or processing which changes raw or unfinished materials into another form or creates another product.

(d) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Section 21 of chapter 298, Statutes of Nevada 2011:

Sec. 21. An application for a partial abatement of taxes requested pursuant to NRS 701A.110 submitted on or after the effective date of this section must not be granted if the application is for a partial abatement of taxes for an existing building or other structure which is being renovated.

