

Amendment No. 893

Assembly Amendment to Assembly Bill No. 388 First Reprint (BDR 58-517)

Proposed by: Assembly Committee on Ways and Means**Amends:** Summary: Yes 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.

JMM/MSN



Date: 5/29/2013

A.B. No. 388—Revises provisions relating to renewable energy systems.
(BDR 58-517)



ASSEMBLY BILL NO. 388—ASSEMBLYMAN BOBZIEN

MARCH 18, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to renewable energy ~~systems.~~
(BDR 58-517)

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 renewable energy; ~~authorizing the Director of the Office of Energy, in consultation with the Office of Economic Development, to grant to certain businesses partial abatements of certain property taxes and local sales and use taxes imposed on certain renewable energy systems; revising provisions governing net metering;~~ revising provisions governing certain energy-related tax incentives; revising provisions governing portfolio energy systems; revising provisions governing jurisdiction of the courts of this State with respect to certain claims or actions relating to certain renewable energy projects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 9 of this bill authorizes a person who intends to locate a new business in this State to apply to the Director of the Office of Energy for a partial abatement of certain property taxes and local sales and use taxes imposed on certain renewable energy systems which are installed on the property of the business and which are for the purpose of supplying all or a part of the electricity requirements of the new business. Section 9 requires the Director to hold a public hearing concerning each application. Section 10 of this bill requires the Director to consult with the Office of Economic Development and to make certain determinations before approving any application. Section 11 of this bill sets forth the duration and maximum amount of the partial abatements.~~

~~Existing law provides generally that a renewable energy system does not qualify as a net metering system if the system exceeds a generating capacity of 1 megawatt. (NRS 704.771.) Section 15 of this bill authorizes the Director, in consultation with the Office of Economic Development, to make a determination that a renewable energy system for which a partial abatement has been approved pursuant to sections 2-16 of this bill is deemed to be a net metering system regardless of the generating capacity of the system. Section 17 of this bill revises certain other provisions governing net metering to provide that excess electricity which is generated by a net metering system and fed back to the utility must be credited to the customer generator based on the value of the electricity under the otherwise applicable rate or time of use rate charged by the utility rather than the number of kilowatt hours of excess electricity generated by the customer generator.~~ Existing law provides for the partial abatement of certain taxes for certain renewable energy facilities. (NRS 701A.300-701A.390) Section 3 of this bill removes the requirement that an application for a partial

abatement of certain taxes for certain geothermal facilities be approved by the board of county commissioners before the application can be approved by the Director of the Office of Energy.

Under existing law, a provider of electric service is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure for the purpose of satisfying the renewable portfolio standard of the provider. (NRS 704.78215) Section 4 of this bill revises provisions governing the calculation of the portfolio energy credits attributable to certain portfolio energy systems.

Section 5 of this bill clarifies that a court of this State has jurisdiction over a claim or action relating to a renewable energy project located upon certain Indian tribal land under certain circumstances.

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

Delete existing sections 1 through 19 of this bill and replace with the following new sections 1 through 5:

Section 1. NRS 701A.340 is hereby amended to read as follows:

701A.340 1. "Renewable energy" means:

- (a) Biomass;
- (b) Fuel cells;
- (c) **Geothermal energy;**
- ~~(d)~~ (e) Solar energy;
- ~~(e)~~ (f) Waterpower; or
- ~~(f)~~ (g) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, ~~geothermal energy~~, or nuclear energy.

Sec. 2. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy, ~~a facility for the generation of electricity from geothermal resources~~ or a facility for the transmission of electricity produced from renewable energy ~~for geothermal resources~~ in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall forward a copy of the application to:

- (a) The Chief of the Budget Division of the Department of Administration;
- (b) The Department of Taxation;
- (c) The board of county commissioners;
- (d) The county assessor;
- (e) The county treasurer; and
- (f) The Office of Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation

1 regarding the facility. A request for a presentation must be made within 30 days
2 after receipt of the application.

3 5. The Director shall hold a public hearing on the application. The hearing
4 must not be held earlier than 30 days after all persons listed in subsection 3 have
5 received a copy of the application.

6 **Sec. 3. NRS 701A.365 is hereby amended to read as follows:**

7 701A.365 1. ~~Except as otherwise provided in subsection 2, the~~ **The**
8 Director, in consultation with the Office of Economic Development, shall approve
9 an application for a partial abatement pursuant to NRS 701A.300 to 701A.390,
10 inclusive, if the Director, in consultation with the Office of Economic
11 Development, makes the following determinations:

12 (a) The applicant has executed an agreement with the Director which must:

13 (1) State that the facility will, after the date on which a certificate of
14 eligibility for the abatement is issued pursuant to NRS 701A.370, continue in
15 operation in this State for a period specified by the Director, which must be at least
16 10 years, and will continue to meet the eligibility requirements for the abatement;
17 and

18 (2) Bind the successors in interest in the facility for the specified period.

19 (b) The facility is registered pursuant to the laws of this State or the applicant
20 commits to obtain a valid business license and all other permits required by the
21 county, city or town in which the facility operates.

22 (c) No funding is or will be provided by any governmental entity in this State
23 for the acquisition, design or construction of the facility or for the acquisition of
24 any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

25 (d) If the facility will be located in a county whose population is 100,000 or
26 more or a city whose population is 60,000 or more, the facility meets the following
27 requirements:

28 (1) There will be 75 or more full-time employees working on the
29 construction of the facility during the second quarter of construction, including,
30 unless waived by the Director for good cause, at least 30 percent who are residents
31 of Nevada;

32 (2) Establishing the facility will require the facility to make a capital
33 investment of at least \$10,000,000 in this State;

34 (3) The average hourly wage that will be paid by the facility to its
35 employees in this State is at least 110 percent of the average statewide hourly wage,
36 excluding management and administrative employees, as established by the
37 Employment Security Division of the Department of Employment, Training and
38 Rehabilitation on July 1 of each fiscal year; and

39 (4) The average hourly wage of the employees working on the construction
40 of the facility will be at least 150 percent of the average statewide hourly wage,
41 excluding management and administrative employees, as established by the
42 Employment Security Division of the Department of Employment, Training and
43 Rehabilitation on July 1 of each fiscal year and:

44 (I) The employees working on the construction of the facility must be
45 provided a health insurance plan that includes an option for health insurance
46 coverage for dependents of the employees; and

47 (II) The cost of the benefits provided to the employees working on the
48 construction of the facility will meet the minimum requirements for benefits
49 established by the Director by regulation pursuant to NRS 701A.390.

50 (e) If the facility will be located in a county whose population is less than
51 100,000 or a city whose population is less than 60,000, the facility meets the
52 following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

(g) The facility 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.

~~2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.~~

~~3.~~ Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

~~4.~~ 3. The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

~~15-1~~ 4. The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

Sec. 4. NRS 704.78215 is hereby amended to read as follows:

704.78215 1. Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.

2. The Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.

3. Except as otherwise provided in this subsection, for portfolio energy systems placed into operation on or after January 1, 2016, the amount of electricity generated or acquired from a portfolio energy system does not include the amount of any electricity used by the portfolio energy system for its basic operations that reduce the amount of renewable energy delivered to the transmission grid for distribution and sale to customers of the provider. The provisions of this subsection do not apply to a portfolio energy system placed into operation on or after January 1, 2016, if a provider entered into a contract for the purchase of electricity generated by the portfolio energy system on or before December 31, 2012. For the purposes of this subsection, the amount of any electricity used by a portfolio energy system for its basic operations does not include the electricity used by a portfolio energy system that generates electricity from geothermal energy for the extraction and transportation of geothermal brine.

Sec. 5. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A court of this State has jurisdiction pursuant to subsection 1 of NRS 14.065 with respect to any claim or action relating to a renewable energy project located upon Indian tribal land if:

(a) The Indian tribe occupying the tribal land has a reservation of not less than 60,000 acres;

(b) The Indian tribal land is located in a county whose population is 700,000 or more; and

(c) The governing body of the Indian tribe has expressly waived its sovereign immunity with respect to such claim or action in a written agreement, contract or other instrument which expressly states that the terms of the agreement, contract or other instrument must be governed by the applicable laws of this State.

2. As used in this section, "renewable energy project" means a project for the construction or installation of a facility for the generation of renewable energy, as defined in NRS 701.070.