

Amendment No. 797

Assembly Amendment to Senate Bill No. 252 Second Reprint (BDR 58-775)

Proposed by: Assemblyman Bobzien

Amends: Summary: No Title: No 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: 5/21/2013

S.B. No. 252—Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)



SENATE BILL NO. 252—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 15, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)

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 renewable energy; revising provisions which specify the renewable energy systems which qualify as portfolio energy systems; revising provisions relating to the implementation of energy efficiency measures by a provider of electric service for the purpose of complying with the renewable portfolio standard; revising provisions relating to the carrying forward to subsequent calendar years of the excess kilowatt-hours of electricity that a provider generates or acquires from portfolio energy systems; requiring the Public Utilities Commission of Nevada to open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises provisions relating to the portfolio standard for providers of electric service, which requires that each year each provider of electric service in this State must generate or acquire from renewable energy systems or save as a result of energy efficiency measures a certain percentage of the electricity sold by the provider to its retail customers in this State.

In 2005, the 22nd Special Session of the Legislature revised the portfolio standard to authorize a provider to meet a portion of the portfolio standard through savings achieved from energy efficiency measures. (**Sections 26-29** of chapter 2, Statutes of Nevada 2005, 22nd Special Session, pp. 82-84) **Section 6** of this bill revises the portfolio standard to limit the use of savings achieved from energy efficiency measures by a provider to satisfy the portfolio standard.

Section 4 of this bill revises the definition of “portfolio energy system or efficiency measure” to provide that a renewable energy system or energy efficiency measure qualifies as a portfolio energy system if: (1) the renewable energy system was placed into operation before July 1, 1997, and a provider used electricity generated or acquired from the system to satisfy the portfolio standard before July 1, 2009; (2) the renewable energy system was placed into operation on or after July 1, 1997; or (3) the energy efficiency measure was installed on or before December 31, 2019.

Existing law provides that 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. (NRS 704.78215) Section 8 of this bill excludes from the calculation of portfolio energy credit certain electricity used by a portfolio energy system for its basic operations if the portfolio energy system is placed into operation on or after January 1, 2016.

Existing law provides that, for the purpose of satisfying the portfolio standard, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from certain solar photovoltaic systems for each 1 kilowatt-hour actually generated or acquired. (NRS 704.7822) **Section 9** of this bill revises the applicability of this provision to systems that were placed into operation on or before December 31, 2015.

Existing law requires the Public Utilities Commission of Nevada to authorize a provider to carry forward into future years any excess kilowatt-hours of electricity the provider generates or acquires from portfolio energy systems if the provider exceeds the portfolio standard for any calendar year. (NRS 704.7828) **Section 11** of this bill authorizes a provider that carries forward excess kilowatt-hours of electricity in an amount that is more than 10 percent but less than 25 percent of the amount necessary to satisfy the provider's portfolio standard for the subsequent calendar year to sell the excess kilowatt-hours of electricity the provider generates or acquires from portfolio energy systems. **Section 11** requires a provider to make reasonable efforts to sell any credits which are in excess of 25 percent of the amount of portfolio energy credits necessary to comply with its portfolio standard for the subsequent calendar year.

Section 14 of this bill requires the Commission to open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits and to submit a written report on the results of the investigatory docket and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 704.7804 is hereby amended to read as follows:

704.7804 "Portfolio energy system or efficiency measure" means:

1. Any renewable energy system ~~or~~

~~2. Any energy efficiency measure.~~

(a) Placed into operation before July 1, 1997, if a provider of electric service used electricity generated or acquired from the renewable energy system to satisfy its portfolio standard before July 1, 2009; or

(b) Placed into operation on or after July 1, 1997; or

2. Any energy efficiency measure installed on or before December 31, 2019.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar years 2015 through 2019, inclusive, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar years 2020 through 2024, inclusive, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(h) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than:

(1) For calendar years 2009 through 2015, inclusive, 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(2) For calendar year 2016 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures ~~during~~:

(1) During calendar years 2013 and 2014, not more than 25 percent of that amount may be based on energy efficiency measures;

(2) During each calendar year ~~2015 to 2019, inclusive~~, not more than ~~12.5~~ 20 percent of that amount may be based on energy efficiency measures ~~12.5~~;

(3) During each calendar year 2020 to 2024, inclusive, not more than 10 percent of that amount may be based on energy efficiency measures; and

(4) For calendar year 2025 and each calendar year thereafter, no portion of that amount may be based on energy efficiency measures.

➤ If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be

1 deemed to be a prudent investment and the utility provider may recover all just and
2 reasonable costs associated with the contract.

3 3. If, for the benefit of one or more retail customers in this State, the provider
4 has paid for or directly reimbursed, in whole or in part, the costs of the acquisition
5 or installation of a solar energy system which qualifies as a renewable energy
6 system and which reduces the consumption of electricity, the total reduction in the
7 consumption of electricity during each calendar year that results from the solar
8 energy system shall be deemed to be electricity that the provider generated or
9 acquired from a renewable energy system for the purposes of complying with its
10 portfolio standard.

11 4. The Commission shall adopt regulations that establish a system of portfolio
12 energy credits that may be used by a provider to comply with its portfolio standard.

13 5. Except as otherwise provided in subsection 6, each provider shall comply
14 with its portfolio standard during each calendar year.

15 6. If, for any calendar year, a provider is unable to comply with its portfolio
16 standard through the generation of electricity from its own renewable energy
17 systems or, if applicable, through the use of portfolio energy credits, the provider
18 shall take actions to acquire or save electricity pursuant to one or more renewable
19 energy contracts or energy efficiency contracts. If the Commission determines that,
20 for a calendar year, there is not or will not be a sufficient supply of electricity or a
21 sufficient amount of energy savings made available to the provider pursuant to
22 renewable energy contracts and energy efficiency contracts with just and reasonable
23 terms and conditions, the Commission shall exempt the provider, for that calendar
24 year, from the remaining requirements of its portfolio standard or from any
25 appropriate portion thereof, as determined by the Commission.

26 7. The Commission shall adopt regulations that establish:

27 (a) Standards for the determination of just and reasonable terms and conditions
28 for the renewable energy contracts and energy efficiency contracts that a provider
29 must enter into to comply with its portfolio standard.

30 (b) Methods to classify the financial impact of each long-term renewable
31 energy contract and energy efficiency contract as an additional imputed debt of a
32 utility provider. The regulations must allow the utility provider to propose an
33 amount to be added to the cost of the contract, at the time the contract is approved
34 by the Commission, equal to a compensating component in the capital structure of
35 the utility provider. In evaluating any proposal made by a utility provider pursuant
36 to this paragraph, the Commission shall consider the effect that the proposal will
37 have on the rates paid by the retail customers of the utility provider.

38 8. Except as otherwise provided in NRS 704.78213, the provisions of this
39 section do not apply to a provider of new electric resources as defined in NRS
40 704B.130.

41 9. As used in this section:

42 (a) "Energy efficiency contract" means a contract to attain energy savings from
43 one or more energy efficiency measures owned, operated or controlled by other
44 parties.

45 (b) "Renewable energy contract" means a contract to acquire electricity from
46 one or more renewable energy systems owned, operated or controlled by other
47 parties.

48 (c) "Terms and conditions" includes, without limitation, the price that a
49 provider must pay to acquire electricity pursuant to a renewable energy contract or
50 to attain energy savings pursuant to an energy efficiency contract.

51 **Sec. 7.** (Deleted by amendment.)

1 **Sec. 8.** NRS 704.78215 is hereby amended to read as follows:

2 704.78215 1. Except as otherwise provided in this section or by specific
3 statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of
4 electricity that the provider generates, acquires or saves from a portfolio energy
5 system or efficiency measure.

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

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

22 **Sec. 9.** NRS 704.7822 is hereby amended to read as follows:

23 704.7822 For the purpose of complying with a portfolio standard established
24 pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have
25 generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy
26 system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a
27 solar photovoltaic system, if:

28 1. The system is installed on the premises of a retail customer; ~~and~~

29 2. *The system was placed into operation on or before December 31, 2015;*
30 *and*

31 3. On an annual basis, at least 50 percent of the electricity generated by the
32 system is utilized by the retail customer on that premises.

33 **Sec. 10.** (Deleted by amendment.)

34 **Sec. 11.** NRS 704.7828 is hereby amended to read as follows:

35 704.7828 1. The Commission shall adopt regulations to carry out and
36 enforce the provisions of NRS 704.7801 to 704.7828, inclusive. The regulations
37 adopted by the Commission may include any enforcement mechanisms which are
38 necessary and reasonable to ensure that each provider of electric service complies
39 with its portfolio standard. Such enforcement mechanisms may include, without
40 limitation, the imposition of administrative fines.

41 2. If a provider exceeds the portfolio standard for any calendar year ~~the~~:

42 (a) *The* Commission shall authorize the provider to carry forward to
43 subsequent calendar years for the purpose of complying with the portfolio standard
44 for those subsequent calendar years any excess kilowatt-hours of electricity that the
45 provider generates, acquires or saves from portfolio energy systems or efficiency
46 measures ~~it~~;

47 (b) *By more than 10 percent but less than 25 percent of the amount of
48 portfolio energy credits necessary to comply with its portfolio standard for the
49 subsequent calendar year, the provider may sell any portfolio energy credits
50 which are in excess of 10 percent of the amount of portfolio energy credits
51 necessary to comply with its portfolio standard for the subsequent calendar year;
52 and*

1 *(c) By 25 percent or more of the amount of portfolio energy credits necessary*
2 *to comply with its portfolio standard for the subsequent calendar year, the*
3 *provider shall use reasonable efforts to sell any portfolio energy credits which are*
4 *in excess of 25 percent of the amount of portfolio energy credits necessary to*
5 *comply with its portfolio standard for the subsequent calendar year.*

6 *↪ Any money received by a provider from the sale of portfolio energy credits*
7 *pursuant to paragraphs (b) and (c) must be credited against the provider's costs*
8 *for purchased fuel and purchased power pursuant to NRS 704.187 in the same*
9 *calendar year in which the money is received, less any verified administrative*
10 *costs incurred by the provider to make the sale, including any costs incurred to*
11 *qualify the portfolio energy credits for potential sale regardless of whether such*
12 *sales are made.*

13 3. If a provider does not comply with its portfolio standard for any calendar
14 year and the Commission has not exempted the provider from the requirements of
15 its portfolio standard pursuant to NRS 704.7821 or 704.78213, the Commission:

16 (a) Shall require the provider to carry forward to subsequent calendar years the
17 amount of the deficiency in kilowatt-hours of electricity that the provider does not
18 generate, acquire or save from portfolio energy systems or efficiency measures
19 during a calendar year in violation of its portfolio standard; and

20 (b) May impose an administrative fine against the provider or take other
21 administrative action against the provider, or do both.

22 4. ~~The~~ *Except as otherwise provided in subsection 5, the* Commission may
23 impose an administrative fine against a provider based upon:

24 (a) Each kilowatt-hour of electricity that the provider does not generate,
25 acquire or save from portfolio energy systems or efficiency measures during a
26 calendar year in violation of its portfolio standard; or

27 (b) Any other reasonable formula adopted by the Commission.

28 5. *If a provider sells any portfolio energy credits pursuant to paragraph (b)*
29 *or (c) of subsection 2 in any calendar year in which the Commission determines*
30 *that the provider did not comply with its portfolio standard, the Commission shall*
31 *not make any adjustment to the provider's expenses or revenues and shall not*
32 *impose on the provider any administrative fine authorized by this section for that*
33 *calendar year if:*

34 (a) *In the calendar year immediately preceding the calendar year in which*
35 *the portfolio energy credits were sold, the amount of portfolio energy credits held*
36 *by the provider and attributable to electricity generated, acquired or saved from*
37 *portfolio energy systems or efficiency measures by the provider exceeded the*
38 *amount of portfolio energy credits necessary to comply with the provider's*
39 *portfolio standard by more than 10 percent;*

40 (b) *The price received for any portfolio energy credits sold by the provider*
41 *was not lower than the most recent value of portfolio energy credits, net of any*
42 *energy value if the price was for bundled energy and credits, as determined by*
43 *reference to the last long-term renewable purchased power agreements approved*
44 *by the Commission in the most recent proceeding that included such agreements;*
45 *and*

46 (c) *The provider would have complied with the portfolio standard in the*
47 *relevant year even after the sale of portfolio energy credits based on the load*
48 *forecast of the provider at the time of the sale.*

49 6. In the aggregate, the administrative fines imposed against a provider for all
50 violations of its portfolio standard for a single calendar year must not exceed the
51 amount which is necessary and reasonable to ensure that the provider complies with
52 its portfolio standard, as determined by the Commission.

~~16+~~ 7. If the Commission imposes an administrative fine against a utility provider:

- (a) The administrative fine is not a cost of service of the utility provider;
- (b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and
- (c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.

~~17+~~ 8. All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. As soon as practicable after October 1, 2013, the Public Utilities Commission of Nevada shall open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits, as defined in NRS 704.7803, to determine whether the process can be improved to:

(a) Better enable providers of electric service, as defined in NRS 704.7808, to engage in the sale of portfolio energy credits; and

(b) Provide the greatest economic benefit to customers of providers of electric service in this State.

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

- (a) Each provider of electric service operating in this State;
- (b) The Regulatory Operations Staff of the Commission;
- (c) The Consumer's Advocate and the Bureau of Consumer Protection in the Office of the Attorney General; and
- (d) Any other interested parties.

3. The Commission shall, on or before January 31, 2015, submit a written report on the results of the investigatory docket and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.