

Amendment No. 727

Assembly Amendment to Senate Bill No. 329 First Reprint (BDR 58-861)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD an appropriation where one does not currently exist in S.B. 329 R1.

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: 5/22/2013

S.B. No. 329—Creates the Account for Clean Energy Loans. (BDR 58-861)



SENATE BILL NO. 329—SENATOR KIHUEN

MARCH 18, 2013

JOINT SPONSOR: ASSEMBLYMAN BOBZIEN

Referred to Committee on Commerce, Labor and Energy

SUMMARY—~~[Creates the Account for Clean Energy Loans.]~~ **Revises provisions governing the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans.** (BDR 58-861)

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; ~~[creating the Account for Clean Energy Loans; providing, with limited exceptions, that money in the Account must be distributed to energy improvement programs for the purpose of making below market rate loans for clean energy improvements to residential real property; setting forth the duties and powers of the Director of the Office of Energy with respect to the Account; setting forth the duties and powers of an energy improvement program that makes loans of money distributed to the energy improvement program from the Account;]~~ **revising provisions governing the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans; making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 6 of this bill establishes the Account for Clean Energy Loans administered by the Director of the Office of Energy, money from which is to be used only to distribute money to energy improvement programs that are established and administered by certain local governments, nonprofit corporations and financial institutions to make loans to qualified borrowers for clean energy improvements to primary residences owned by those qualified borrowers.]~~ **Existing law establishes the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans. (NRS 701.545-701.595) This bill generally authorizes a qualified natural person to receive a loan from the Account for the construction of a clean energy improvement upon his or her residential property.** Section 7 of this bill requires the Director **of the Office of Energy** to adopt certain regulations concerning **a loan for a clean** energy improvement. ~~[programs and the use of money in the Account and authorizes the Director to adopt any other regulations necessary to carry out sections 2-8.5 of this bill. Section 8 of this bill provides limitations on the use of the money in the Account and authorizes certain local governments, nonprofit corporations and financial institutions to apply to the Director for a distribution of money from the Account for the~~

~~purpose of making the loans authorized by section 6. Section 8.5 of this bill requires certain qualified third parties to comply with the Open Meeting Law in establishing and administering energy improvement programs approved by the Director. Section 7.5 of this bill requires the Director to submit an annual report to the Legislature regarding loans from the Account for the construction of clean energy improvements. Section 8.75 of this bill creates a subaccount within the Account for the purpose of providing such loans. Section 8.9 of this bill makes an appropriation from the State General Fund to the subaccount.~~

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8.5, inclusive, of this act.

Sec. 2. ~~As used in sections 2 to 8.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 5.5, inclusive, of this act have the meanings ascribed to them in those sections.~~ **(Deleted by amendment.)**

Sec. 3. **"Clean energy improvement" means any repair of or addition or improvement to residential real property which reduces the consumption of energy at the property or which uses energy generated from renewable energy to meet all or a portion of the demand for energy at the property.**

Sec. 4. ~~"Construction" means the erection, building, acquisition, alteration, remodeling, improvement or extension of a clean energy improvement and the inspection and supervision of such activities and includes, without limitation:~~

~~1. Any preliminary planning to determine the feasibility of a clean energy improvement; and~~

~~2. Any other activities reasonably necessary for the completion of a clean energy improvement.~~ **(Deleted by amendment.)**

Sec. 4.5. ~~"Energy improvement program" means a program established and administered by a qualified third party and designed, intended or used to make below market rate loans to qualified borrowers for clean energy improvements to primary residences owned by those qualified borrowers.~~ **(Deleted by amendment.)**

Sec. 5. ~~"Qualified borrower" means a person who is the owner of a primary residence and who satisfies the criteria established by the Director pursuant to section 7 of this act.~~ **(Deleted by amendment.)**

Sec. 5.5. ~~"Qualified third party" means a local government, nonprofit corporation or financial institution that establishes and administers an energy improvement program approved by the Director.~~ **(Deleted by amendment.)**

Sec. 6. ~~1. The Account for Clean Energy Loans is hereby created in the State General Fund. The Director shall administer the Account.~~

~~2. Except as otherwise provided in section 8 of this act, the money in the Account may be used only to provide money to an energy improvement program to make below market rate loans at a rate not lower than 3 percent to qualified borrowers for clean energy improvements to primary residences owned by those qualified borrowers.~~

~~3. Any money provided for the purposes of sections 2 to 8.5, inclusive, of this act by gift, grant, donation or legislative appropriation and any money from a source identified by the Director pursuant to subsection 2 of section 7 of this act~~

~~must be deposited in the State Treasury for credit to the Account. The interest and income earned on money in the Account for Clean Energy Loans must be credited to the Account.~~

~~4. All money remitted to the State by a qualified third party pursuant to section 8 of this act must be deposited in the State Treasury for credit to the Account.~~

~~5. All claims against the Account must be paid as other claims against the State are paid.~~

~~6. The faith of the State is hereby pledged that the money in the Account will not be used for purposes other than those authorized by sections 2 to 8.5, inclusive, of this act. (Deleted by amendment.)~~

Sec. 7. ~~11.~~ The Director shall, for the purpose of approving a loan from the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans to a qualified applicant for the construction of a clean energy improvement upon the residential property of the qualified applicant, adopt regulations establishing:

~~1. (a) The criteria for approving one or more qualified third parties to establish and administer energy improvement programs in this State.~~

~~(b) The eligibility requirements for an energy improvement program to apply for and receive distributions of money from the Account for Clean Energy Loans.~~

~~(c) The eligibility requirements for applicants for loans of money distributed to energy improvement programs from the Account.~~

~~(d) One or more maximum annual rates of interest, which must be below market rates but which must not be lower than 3 percent, applicable to loans of money distributed to energy improvement programs from the Account.~~

~~(e) 1. The eligibility requirements or a qualified applicant to apply for and receive a loan from the Account;~~

~~2. One or more maximum annual rates of interest, which must be below-market rates but which must not be lower than 3 percent, applicable to loans of money for the construction of clean energy improvements; and~~

~~3. Such other terms and conditions applicable to loans of money distributed to energy improvement programs from the Account; a loan for the construction of a clean energy improvement as the Director determines are necessary.~~

~~2. In addition to any money available through gift, grant, donation or legislative appropriation to carry out the purposes of sections 2 to 8.5, inclusive, of this act, the Director shall identify any other source of money which may, in the opinion of the Director, be used to fund the Account.~~

~~3. The Director may:~~

~~(a) Prepare and enter into agreements with the Federal Government for the acceptance of grants of money for the purposes of sections 2 to 8.5, inclusive, of this act.~~

~~(b) Enter into agreements or cooperate with third parties to provide for enhanced leveraging of money in the Account, additional financing mechanisms or any other program or combination of programs for the purpose of expanding the scope of financial assistance available from the Account.~~

~~(c) Bind the Office of Energy to terms of any agreements entered into pursuant to paragraphs (a) or (b).~~

~~(d) Accept gifts, grants and donations from any source for the purpose of carrying out the provisions of sections 2 to 8.5, inclusive, of this act.~~

~~(e) Adopt such other regulations as are necessary to carry out the provisions of sections 2 to 8.5, inclusive, of this act.~~

~~4. The Director shall not distribute any money in the Account or commit such money for expenditure for the purposes set forth in sections 2 to 8.5, inclusive, of this act without first obtaining the approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.~~

Sec. 7.5. The Director shall, on or before December 31, 2015, and on or before December 31 of each year thereafter:

1. Prepare a report:

(a) Describing the activities of the Director with respect to loans from the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans to qualified applicants for the construction of clean energy improvements.

(b) Evaluating the impact of such loans on clean energy improvements in this State.

2. Submit the report prepared pursuant to subsection 1 to the Director of the Legislative Counsel Bureau for transmittal to:

(a) If the report is prepared during an even-numbered year, the next session of the Legislature.

(b) If the report is prepared during an odd-numbered year, the Legislative Commission and the Interim Finance Committee.

~~Sec. 8. 1. Except as otherwise provided in subsection 5, money in the Account for Clean Energy Loans, including repayments of principal and interest on loans, and interest and income earned on money in the Account, may only be distributed, upon application by a qualified third party, to the qualified third party and may be used by the qualified third party only to make loans at a rate established by the Director pursuant to paragraph (d) of subsection 1 of section 7 of this act to a qualified borrower for the construction of a clean energy improvement to the primary residence of the qualified borrower.~~

~~2. A qualified third party may:~~

~~(a) Apply to the Director for a distribution of money from the Account to make loans to qualified borrowers for the construction of clean energy improvements.~~

~~(b) Make a loan to a qualified borrower in accordance with the regulations adopted by the Director pursuant to section 7 of this act.~~

~~3. A qualified third party shall, before approving an applicant for a loan of money distributed to the qualified third party from the Account, consider whether the applicant has received or is eligible to receive from any governmental entity any money or other financial incentive, including, without limitation, any grant, loan, tax credit or abatement of any tax for the purpose of financing in whole or in part the clean energy improvement of the applicant.~~

~~4. A qualified third party that makes a loan of money distributed to the qualified third party from the Account to a qualified borrower shall remit payments of principal and interest received from the qualified borrower to the Director for deposit in the State Treasury for credit to the Account.~~

~~5. The Director may use the interest earned on money in the Account and the interest earned on loans made by a qualified third party of money distributed from the Account to defray, in whole or in part, the costs and expenses of administering the Account and to carry out the purposes of sections 2 to 8.5, inclusive, of this act. (Deleted by amendment.)~~

~~Sec. 8.5. In establishing and administering an energy improvement program approved by the Director, a qualified third party that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), must comply with the provisions of chapter 241 of NRS. (Deleted by amendment.)~~

Sec. 8.55. NRS 701.545 is hereby amended to read as follows:

701.545 As used in NRS 701.545 to 701.595, inclusive, and sections 3 to 7.5, inclusive, of this act, the words and terms defined in NRS 701.550 to 701.570, inclusive, and section 3 of this act have the meanings ascribed to them in those sections.

Sec. 8.6. NRS 701.555 is hereby amended to read as follows:

701.555 "Construction" means the erection, building, acquisition, alteration, remodeling, improvement or extension of a project or clean energy improvement and the inspection and supervision of such activities and includes, without limitation:

1. Any preliminary planning to determine the feasibility of a project;
2. Engineering, architectural, legal, environmental, fiscal or economic investigations or studies, surveys, designs, plans, working drawings, specifications or procedures that comply with the provisions of the American Recovery and Reinvestment Act and any regulations adopted pursuant thereto; and
3. Any other activities reasonably necessary to the completion of a project ~~++~~ or clean energy improvement.

Sec. 8.65. NRS 701.560 is hereby amended to read as follows:

701.560 "Federal grant" means money authorized by the American Recovery and Reinvestment Act to:

1. Create a revolving loan fund to assist in the financing of the construction of renewable energy projects ~~++~~ and clean energy improvements; or
2. Fund set-aside programs authorized by the American Recovery and Reinvestment Act.

Sec. 8.7. NRS 701.568 is hereby amended to read as follows:

701.568 "Qualified applicant" means ~~++~~ :

1. A person or governmental entity engaged in:
 - ~~++~~ (a) The construction or operation of an energy conservation project;
 - ~~++~~ (b) The construction or operation of an energy efficiency project;
 - ~~++~~ (c) The construction, expansion or operation of a renewable energy system; or
 - ~~++~~ (d) The manufacturing of components of a renewable energy system.
2. A natural person engaged in the construction of a clean energy improvement upon his or her residential property.

Sec. 8.75. NRS 701.575 is hereby amended to read as follows:

701.575 1. The Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans is hereby created in the State General Fund. The Director shall administer the Account.

2. A subaccount in the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans is hereby created to provide loans for the construction of clean energy improvements upon the residential property of qualified applicants.

3. The account to fund activities, other than projects, authorized by the American Recovery and Reinvestment Act, to be known as the Account for Set-Aside Programs, is hereby created in the Fund for the Municipal Bond Bank.

~~++~~ 4. The money in the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act.

~~++~~ 5. All claims against the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs must be paid as other claims against the State are paid.

~~++~~ 6. The faith of the State is hereby pledged that the money in the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the

Account for Set-Aside Programs will not be used for purposes other than those authorized by the American Recovery and Reinvestment Act.

Sec. 8.8. NRS 701.580 is hereby amended to read as follows:

701.580 1. The interest and income earned on money in the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs must be credited to the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs, respectively.

2. All payments of principal and interest on all loans made to a qualified applicant and all proceeds from the sale, refunding or prepayment of obligations of a qualified applicant acquired or loans made in carrying out the purposes of the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans must be deposited in the State Treasury for credit to the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. ~~Only~~ Except for a loan for the construction of a clean energy improvement, only federal money deposited in a separate subaccount of the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans, may be used to benefit a qualified applicant who is not a governmental entity.

Sec. 8.85. NRS 701.590 is hereby amended to read as follows:

701.590 1. Except as otherwise provided in ~~subsection 6~~ subsections 2 and 7 and NRS 701.580, money in the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans, including repayments of principal and interest on loans, and interest and income earned on money in the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans, may be used only to make loans at a rate of not more than 3 percent to a qualified applicant for:

- (a) The construction of an energy conservation project;
- (b) The construction of an energy efficiency project;
- (c) The construction or expansion of a renewable energy system; ~~or~~
- (d) The manufacturing of components of a renewable energy system; ~~or~~ or
- (e) The construction of a clean energy improvement.

2. Money in the subaccount created by subsection 2 of NRS 701.575, including interest and income earned on money in the subaccount, may be used only to make below-market rate loans at a rate not lower than 3 percent per annum to a qualified applicant for the construction of a clean energy improvement upon his or her residential property.

3. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Account for Renewable Energy, Energy Efficiency and Energy Conservation Loans pursuant to the American Recovery and Reinvestment Act.

~~2~~ 4. A qualified applicant who requests a loan or other financial assistance must demonstrate that the qualified applicant has:

1 (a) Complied with the American Recovery and Reinvestment Act and
2 regulations adopted pursuant thereto; or

3 (b) Agreed to take actions that are needed to ensure that the qualified applicant
4 has the capability to comply with the American Recovery and Reinvestment Act
5 and regulations adopted pursuant thereto.

6 ~~4.4~~ 5. Money from the Account for Renewable Energy, Energy Efficiency
7 and Energy Conservation Loans may not be given to a qualified applicant for the
8 expansion of an existing renewable energy system unless the qualified applicant has
9 the technical, managerial and financial capability to ensure compliance with the
10 American Recovery and Reinvestment Act and regulations adopted pursuant
11 thereto. To receive such funding for the construction of a new renewable energy
12 system, a qualified applicant must demonstrate that the qualified applicant has the
13 technical, managerial and financial capability to ensure compliance with the
14 American Recovery and Reinvestment Act and regulations adopted pursuant
15 thereto.

16 ~~4.5~~ 6. The Director shall, before approving an applicant for financial
17 assistance from the Account for Renewable Energy, Energy Efficiency and Energy
18 Conservation Loans, consider whether the applicant has received or is eligible to
19 receive from any other governmental entity any money or other financial incentive,
20 including, without limitation, any grant, loan, tax credit or abatement of any tax for
21 the purpose of financing in whole or in part the energy efficiency or energy
22 conservation project or clean energy improvement of the applicant.

23 ~~4.6~~ 7. The Director may use the interest earned on money in the Account for
24 Renewable Energy, Energy Efficiency and Energy Conservation Loans and the
25 interest earned on loans made from the Account for Renewable Energy, Energy
26 Efficiency and Energy Conservation Loans to defray, in whole or in part, the costs
27 and expenses of administering the Account for Renewable Energy, Energy
28 Efficiency and Energy Conservation Loans and to carry out the purposes of NRS
29 701.545 to 701.595, inclusive.

30 ~~4.7~~ 8. The Director shall give preference to qualified applicants seeking
31 funding or assistance from the Account for Renewable Energy, Energy Efficiency
32 and Energy Conservation Loans for larger energy conservation projects, energy
33 efficiency projects or renewable energy systems. The Director shall, by regulation,
34 define "larger energy conservation projects, energy efficiency projects or renewable
35 energy systems" for purposes of this section.

36 **Sec. 8.9. There is hereby appropriated from the State General Fund to**
37 **the subaccount created within the Account for Renewable Energy, Energy**
38 **Efficiency and Energy Conservation Loans by subsection 2 of NRS 701.575, as**
39 **amended by section 8.75 of this act, the sum of \$100,000.**

40 **Sec. 9.** This act becomes effective:

41 1. Upon passage and approval for the purpose of adopting regulations and
42 performing any preparatory administrative tasks that are necessary to carry out the
43 provisions of this act; and

44 2. On ~~October~~ July 1, 2013, for all other purposes.