

Amendment No. 381

Senate Amendment to Senate Bill No. 392

(BDR 58-663)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

MKM/BJF



Date: 4/19/2017

S.B. No. 392—Revises provisions relating to energy. (BDR 58-663)



SENATE BILL NO. 392—SENATORS DENIS,
SPEARMAN; AND WOODHOUSE

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to energy. (BDR 58-663)

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; revising provisions relating to payment of incentives to certain participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to adopt regulations establishing standards for the operation of community solar gardens; requiring a subscriber to a community solar garden to receive a credit on the subscriber's monthly utility bill for the subscriber's share of the electricity generated by the community solar garden; requiring a utility to ~~submit a plan to the Commission for the~~ purchase ~~of~~ the unsubscribed electricity of a community solar garden; requiring the Commission to issue portfolio energy credits to a subscriber organization that installs a community solar garden; providing that such portfolio energy credits are the property of the subscriber organization; repealing provisions requiring an electric utility to create a Lower Income Solar Energy Pilot Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. Existing law further establishes the amount of incentives that may be authorized for payment by the Public Utilities Commission of Nevada to each Program. (NRS 701B.005, 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 1** of this bill combines the amount of existing incentives available for payment to each Program into a single pool of money from which the Commission may authorize the payment of an incentive to a Program. **Section 1** further requires the Commission, for the period beginning on January 1, 2018, and ending on December 31, 2023, to authorize the payment of incentives in an amount of not more than ~~\$2,000,000~~ **\$1,000,000** per year for the installation of solar energy systems, community solar gardens and distributed generation systems at locations throughout the service territories of electric utilities in this State which benefit low-income and moderate-income customers. **Section 2** of this bill ~~requires~~ **authorizes** that **such** incentives **be made** available to a participant ~~that is a public entity or nonprofit organization must not exceed 75 percent of~~ **for** the installed cost of ~~the solar energy system;~~ **a** community solar garden ~~for~~

~~distributed generation system based on the average installed cost of a system, as applicable in the immediately preceding year.]~~

Sections 4-15 of this bill enact provisions governing community solar gardens in this State. **Section 5** defines a community solar garden as a solar energy system that: (1) has a nameplate capacity of not more than ~~204~~ **15** megawatts; (2) is owned or operated by a subscriber organization; and (3) generates electricity for subscribers of the community solar garden. **Section 11** requires the Commission to adopt regulations establishing standards for the operation of community solar gardens in this State. The regulations adopted pursuant to **section 11** must: (1) establish goals for the generation of electricity by community solar gardens in this State; (2) establish eligibility requirements for subscriber organizations, including, without limitation, a requirement that a subscriber organization have at least ~~104~~ **20** subscribers; (3) authorize any customer in any rate class to become a subscriber of a community solar garden; and (4) establish standards, charges, fees and processes for the interconnection of a community solar garden. **Section 12** entitles a subscriber who participates in a community solar garden to a **kilowatt-hour** credit on the subscriber's monthly utility bill for the subscriber's share of the electricity generated by the community solar garden. **Section 13** requires a utility to ~~submit a plan to the Commission for the~~ purchase ~~of~~ the unsubscribed electricity of a community solar garden located in the utility's service territory. ~~for a period of 25 years after the community solar garden begins generating electricity.]~~ **Section 14** requires the Commission to issue portfolio energy credits for community solar gardens and provides that: (1) such credits must be the property of the subscriber organization that owns or operates the community solar garden; and (2) the subscriber organization is authorized to assign such credits to the utility. **Section 15** exempts community solar gardens, subscriber organizations and subscribers from regulation as public utilities. **It, unless a community solar garden, subscriber organization or subscriber otherwise constitutes a public utility.**

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

Section 1. NRS 701B.005 is hereby amended to read as follows:

701B.005 1. For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, and subject to the limitations prescribed by ~~subsection 2,~~ **subsections 2 and 3**, the Public Utilities Commission of Nevada shall set incentive levels and schedules, with a goal of approving solar energy systems totaling at least 250,000 kilowatts of capacity in this State for the period beginning on July 1, 2010, and ending on December 31, 2021.

2. ~~The~~ **Subject to the limitations prescribed by subsection 3, the** Commission shall not authorize the payment of an incentive pursuant to ~~the~~ **the Solar Energy Systems Incentive Program created by NRS 701B.240, the Wind Energy Systems Demonstration Program created by NRS 701B.580 or the Waterpower Energy Systems Demonstration Program created by NRS 701B.820** if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems, **community solar gardens** and solar distributed generation systems to exceed ~~\$255,270,000~~ **\$295,270,000** for the period beginning on July 1, 2010, and ending on December 31, 2025.

~~(b) The Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820 if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed \$40,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2025. The Commission shall by regulation determine the allocation of incentives for each Program.]~~

3. For the period beginning on January 1, 2018, and ending on December 31, 2023, the Commission shall, from the money authorized for the payment of incentives pursuant to subsection 2, authorize the payment of incentives in an amount of not more than ~~for \$2,000,000~~ \$1,000,000 per year for the installation of solar energy systems, community solar gardens and distributed generation systems at locations throughout the service territories of the utilities in this State which benefit low- and moderate-income customers, including, without limitation, homeless shelters, low-income housing developments, Indian reservations, Indian colonies and public entities, other than municipalities, that serve significant populations of low-income and moderate-income residents.

4. The Commission may, subject to the limitations prescribed by ~~subsection 2~~ subsections 2 and 3, authorize the payment of performance-based incentives for the period ending on December 31, 2025.

~~4~~ 5. A utility may file with the Commission one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Commission shall review and approve any plan submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850, as applicable.

~~5~~ 6. As used in this section:

(a) "Community solar garden" has the meaning ascribed to it in section 5 of this act.

(b) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

~~(b)~~ (c) "Utility" means a public utility that supplies electricity in this State.

Sec. 2. 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. The incentives must be market-based incentives that:

(a) Do not exceed 50 ~~for~~

~~(1) Seventy five percent of the installed cost of a solar energy system, community solar garden or distributed generation system to a public entity or nonprofit organization, excluding the cost of labor, as determined by using the average installed cost of solar energy systems, community solar gardens or distributed generation systems, as applicable, in the immediately preceding year, or~~

~~(2) Fifty~~ percent of the installed cost of a solar energy system, community solar garden or distributed generation system, ~~for a person other than a public entity or nonprofit organization,~~ as determined by using the average installed cost of the solar energy systems, community solar gardens or distributed generation systems, as applicable, ~~for such persons~~ installed in the immediately preceding year;

(b) Are designed to maximize the number of customer categories participating in the Solar Program based on demographics and location, including, without limitation, categories for public entities, customers of lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers; and

(c) Provide for a sustainable Solar Program that maintains sufficient customer participation and that provides for the measured award of incentives to as many participants as possible on or before December 31, 2021.

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;
- (f) Any other information that the Commission requires from the utility as part of the administration of the Solar Program; and
- (g) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems.

Sec. 3. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 15, inclusive, of this act.

Sec. 4. *As used in sections 4 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Community solar garden" means a facility or energy system that uses a solar photovoltaic device to generate electricity which:*

1. *Has a nameplate capacity of not more than ~~100~~ 15 megawatts; and*
2. *Is owned or operated by a subscriber organization.*

Sec. 6. *"Subscriber" means a customer of a utility who subscribes to a community solar garden that is located in the service territory of the utility.*

Sec. 7. *"Subscriber organization" means an entity that owns or operates a community solar garden ~~for~~, which may include, without limitation, a public utility.*

Sec. 8. *"Subscription" means a contract between a subscriber organization and a subscriber setting forth the subscriber's proportional interest in a community solar garden.*

Sec. 9. *"Unsubscribed electricity" means electricity, measured in kilowatt-hours, generated by a community solar garden that is not allocated to a subscriber.*

Sec. 10. *"Utility" means a public utility that supplies electricity in this State.*

Sec. 11. 1. *The Commission shall adopt regulations establishing standards for the operation of community solar gardens. The regulations must:*

(a) *Establish goals for the procurement of electricity from community solar gardens in this State, including, without limitation:*

(1) *A goal that by 2023, community solar gardens in this State generate at least ~~15 percent~~ 200 megawatts of ~~the amount of the peak demand for~~ electric energy ~~in this State, as calculated for the 2016 calendar year.~~*

(2) *A goal for the ~~percentage~~ number of ~~the peak demand for~~ megawatts of electric energy in this State to be generated by community solar gardens in each year after 2023.*

(b) Establish requirements for community solar gardens and subscriber organizations, which must:

(1) Require a ~~subscriber organization~~ community solar garden to have at least ~~10~~ 20 subscribers;

(2) Prohibit a subscriber organization from allowing a subscriber to have a subscription that exceeds 40 percent of a proportional interest in a community solar garden owned or operated by the subscriber organization; and

(3) ~~Prohibit~~ Require a subscriber organization ~~from allowing~~ to make at least 40 percent of the total generating capacity of the community solar garden available in subscriptions to ~~for the community solar garden that are more than 25 kilowatts to account for more than 40 percent of the total generating capacity of the community solar garden~~ or less.

(c) Authorize a subscriber organization to enter into leases, sale-and-leaseback transactions, operating agreements and ownership arrangements with third parties.

(d) Require at least 10 percent of the total generating capacity of community solar gardens in this State be available for use by low-income residential customers of a utility or by persons providing services which benefit low-income customers, including, without limitation, homeless shelters, low-income housing developments, Indian reservations, Indian colonies and schools with a significant population of low-income pupils.

(e) Authorize any customer of a utility in any rate class of a utility to be a subscriber.

(f) Prohibit a utility from placing a subscriber into a different rate class because the subscriber has subscribed to a community solar garden.

(g) Provide for the transferability of subscriptions.

(h) Establish standards, charges, fees and processes for the interconnection of a community solar garden that allow the utility to recover reasonable interconnection costs for each community solar garden.

2. The regulations adopted by the Commission pursuant to subsection 1 must not impose different requirements for a community solar garden that is not owned or operated by a utility than the requirements imposed for a community solar garden owned or operated by a utility.

3. On or before September 1 of each year, each subscriber organization shall submit a report to the Commission demonstrating its compliance with the regulations adopted pursuant to subparagraph (2) of paragraph (b) of subsection 1.

Sec. 12. 1. For a period of 25 years after a community solar garden owned or operated by a subscriber organization begins generating electricity, a subscriber is entitled to a kilowatt-hour credit on the subscriber's monthly utility bill for the proportional output of the community solar garden attributable to that subscriber for the preceding month. Except as otherwise required by the Commission, a utility may apply the credit to the subscriber's monthly utility bill as a reduction in metered use or a monetary credit to the total amount due for the bill. Any excess credit must be carried over to subsequent billing periods. Except as otherwise provided in subsection 2, any monetary credit applied on a subscriber's monthly utility bill pursuant to this subsection shall be not less than the value of the credit had it been applied as a kilowatt-hour credit on the subscriber's monthly utility bill.

2. Subject to the provisions of subsection 3, the Commission may appropriately increase or reduce the value of a kilowatt-hour credit earned by a subscriber to a community solar garden pursuant to subsection 1 if the Commission determines that a community solar garden:

1 (a) Relieves loading on the transmission or distribution system and reduces
2 the long-term cost of transmission or distribution capacity; or

3 (b) Increases loading on the transmission or distribution system and imposes
4 incremental increases on the long-term cost of transmission or distribution
5 capacity.

6 3. The Commission shall ensure that any increase or reduction in the value
7 of a kilowatt-hour credit does not duplicate a cost that has already been credited
8 by or paid to a utility from a subscriber or subscriber organization.

9 4. A subscriber organization shall, on a monthly basis and at other
10 reasonable times determined by the utility in the service territory in which the
11 community solar garden owned or operated by the subscriber organization is
12 located, provide to the utility information necessary to determine the proportional
13 share of each subscriber's subscription.

14 ~~Sec. 13. 1. A utility shall submit a plan to the Commission for the~~
15 ~~purchase of unsubscribed electricity generated by a community solar garden~~
16 ~~within the service area of the utility. A utility required to submit a plan to the~~
17 ~~Commission pursuant to NRS 704.741 must include the plan for the purchase of~~
18 ~~such unsubscribed energy in its plan submitted pursuant to that section. The plan~~
19 ~~must include, without limitation, a rate at which the utility will purchase~~
20 ~~unsubscribed electricity generated by a community solar garden within the~~
21 ~~service area of the utility and a requirement that the utility purchase such~~
22 ~~unsubscribed electricity for a period of 25 years after a community solar garden~~
23 ~~begins generating electricity.~~

24 ~~2. The Commission shall, after a hearing, review and accept or modify a~~
25 ~~plan submitted pursuant to subsection 1. In considering whether to accept or~~
26 ~~modify the plan, the Commission shall consider the cost savings to the utility for~~
27 ~~the purchase of unsubscribed electricity pursuant to this section.~~ Compensation
28 for unsubscribed energy must be provided to the subscriber organization at the
29 rate offered for short-term purchases from qualifying facilities set forth in
30 regulations adopted pursuant to NRS 704.210.

31 Sec. 14. 1. After a subscriber organization installs a community solar
32 garden, the Commission shall issue portfolio energy credits for use within the
33 system of portfolio energy credits adopted by the Commission pursuant to NRS
34 704.7821 and 704.7823.

35 2. The Commission shall designate the portfolio energy credits issued
36 pursuant to this section as portfolio energy credits generated, acquired or saved
37 from solar renewable energy systems for the purposes of the portfolio standard.

38 3. Notwithstanding any other provision of law, portfolio energy credits
39 issued for a community solar garden installed pursuant to the regulations
40 adopted pursuant to section 11 of this act must be considered the property of the
41 subscriber organization. The subscriber organization may assign such portfolio
42 energy credits to the utility for the service territory of the community solar garden
43 generating the portfolio energy credits.

44 Sec. 15. Notwithstanding any other provision of law, a community solar
45 garden, subscriber organization or subscriber is not a public utility and is not
46 subject to regulation as a public utility by the Commission, other than regulation
47 under sections 4 to 15, inclusive, of this act, unless the community solar garden,
48 subscriber organization or subscriber constitutes a public utility and is subject to
49 regulation by the Commission under the provisions of this chapter other than
50 sections 4 to 15, inclusive, of this act.

51 Sec. 16. NRS 704.786 is hereby repealed.

52 Sec. 17. 1. This act becomes effective:

1 (a) Upon passage and approval for the purpose of adopting any regulations or
2 performing any other preparatory administrative tasks necessary to carry out the
3 provisions of this act; and

4 (b) On July 1, 2017, for all other purposes.

5 2. Sections 1 and 2 of this act expire by limitation on December 31, 2025.

TEXT OF REPEALED SECTION

704.786 Lower Income Solar Energy Pilot Program: Creation required by each electric utility in State.

1. Each electric utility in this State shall create a Lower Income Solar Energy Pilot Program for the purpose of installing, before January 1, 2017, distributed generation systems with a cumulative capacity of at least 1 megawatt at locations throughout its service territory which benefit low-income customers, including, without limitation, homeless shelters, low-income housing developments and schools with significant populations of low-income pupils. Each electric utility shall submit the Program as part of its annual plan submitted pursuant to NRS 701B.230. The Commission shall approve the Program with such modifications and upon such terms and conditions as the Commission deems necessary or appropriate to enable the Program to meet the purposes set forth in this subsection.

2. The Office of Energy shall advise the Commission and each electric utility regarding grants and other sources of money available to defray the costs of the Program.

3. As used in this section, “distributed generation system” has the meaning ascribed to it in NRS 701B.055.