

Amendment No. 323

Senate Amendment to Senate Bill No. 298	(BDR 58-908)
Proposed by: Senate Committee on Growth and Infrastructure	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of S.B. 298 (§ 5).

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.

JFD/BJF



Date: 4/17/2019

S.B. No. 298—Revises provisions relating to partial tax abatements for certain renewable energy facilities. (BDR 58-908)



SENATE BILL NO. 298—SENATOR BROOKS

MARCH 18, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to partial tax abatements for certain renewable energy facilities. (BDR 58-908)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to renewable energy facilities; requiring the recipients of certain partial tax abatements to create and retain certain records and submit an annual payroll report to the Office of Energy ~~[; providing for an on-site inspection or audit of a facility receiving a partial tax abatement to be conducted by the Office;]~~ and the board of county commissioners of the county in which the facility receiving a partial tax abatement is located; providing that the wage used to determine eligibility for certain partial tax abatements does not include certain fringe benefits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain renewable energy facilities to apply for a partial abatement of certain taxes. (NRS 701A.300-701A.390) For a renewable energy facility to be eligible for such a partial tax abatement, a certain number of full-time employees must be employed on the construction of the facility, including a certain percentage of employees who are Nevada residents, and the wages paid to employees of the facility or employees working on the construction of the facility must represent a certain percentage of the average statewide hourly wage, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation. (NRS 701A.365)

Section 2 of this bill requires a recipient of such a partial tax abatement to keep or cause to be kept certain records regarding employees of the facility and employees who worked on the construction of the facility.

Section 3 of this bill requires a recipient of a partial tax abatement to submit to the Office of Energy ~~[;]~~ and the board of county commissioners of the county in which the facility receiving a partial tax abatement is located, on an annual basis, a certified payroll report containing certain information. ~~[Section 3 also authorizes the Office to conduct an on-site inspection or audit of a renewable energy facility which is receiving a partial tax abatement and requires the Office to conduct such an on-site inspection or audit at the request of the board of county commissioners of the county in which the renewable energy facility is located. Section 3 also requires a recipient of a partial tax abatement to provide certain records to the Office to verify the information contained in a certified payroll report, and to make available certain records in connection with an on-site inspection or audit by the Office.]~~

For the purpose of determining the wage that must be paid to employees of a facility and employees working on the construction of a facility in order for a facility to be eligible for a partial tax abatement, existing law defines "wage" as including the cost of certain bona fide

fringe benefits which are provided to an employee, including pension and health benefits. (NRS 701A.365) **Section 4** of this bill provides that wages, for the purposes of determining eligibility for a partial tax abatement, do not include the amount of any health insurance plan, pension or other bona fide fringe benefits which are provided to an employee.

Existing law authorizes the Director of the Office of Energy to charge and collect a fee from each applicant who submits an application for a partial abatement of certain taxes that does not exceed the cost to the Director for processing and approving such applications. (NRS 701A.390) Section 5 of this bill ~~makes a conforming change.~~ authorizes the Director to include in the fee charged to applicants an additional amount to help sustain the work of the Office to support and expand renewable energy development in this State.

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

Section 1. Chapter 701A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~1. A recipient of a partial abatement of taxes pursuant to this section and NRS 701A.300 to 701A.390, inclusive, and section 3 of this act shall keep or cause to be kept:~~

~~(a) An accurate record showing, for each employee who performed work on the construction of the facility, including, without limitation, the employee of any contractor or subcontractor who performed work on the facility, and for each employee of the facility in this State:~~

~~(1) The name of the employee;~~

~~(2) The occupation of the employee;~~

~~(3) If the employee has a driver's license or identification card, an indication of the state or other jurisdiction that issued the license or card; and~~

~~(4) The actual per diem, wages and benefits paid to the employee.~~

~~(b) An additional accurate record showing, for each employee who performed work on the construction of the facility, including, without limitation, the employee of any contractor or subcontractor who performed work on the facility, who has a driver's license or identification card and each employee of the facility in this State who has a driver's license or identification card:~~

~~(1) The name of the employee;~~

~~(2) The driver's license number or identification card number of the employee; and~~

~~(3) The state or other jurisdiction that issued the license or card.~~

~~2. The records maintained pursuant to this section must be open at all reasonable hours to the inspection of the Office of Energy.~~ the records required to be kept by a contractor engaged on a public work pursuant to subsection 5 of NRS 338.070 for each employee who performed work on the construction of the facility, including, without limitation, the employee of any contractor or subcontractor who performed work on the facility, and for each employee of the facility.

Sec. 3. ~~1. A recipient of a partial abatement of taxes pursuant to this section and NRS 701A.300 to 701A.390, inclusive, and section 2 of this act shall submit annually to the Office of Energy and the board of county commissioners of the county in which the facility is located a certified payroll report on a form or in a format prescribed by the Director. The certified payroll report must:~~

~~(a) 1. Be accompanied by a statement certifying the truthfulness and accuracy of the payroll report; and~~

~~1~~ ~~(b)}~~ 2. Include the information contained in the records required to be
~~2 kept pursuant to section 2 of this act.~~

~~3~~ ~~(c) List employees based on the type of work actually performed by the~~
~~4 employee and based on the number of hours worked per employee per day.~~

~~5~~ ~~(d) Include an itemization of all contributions made to a third party pursuant~~
~~6 to a fund, plan or program in the name of an employee; and~~

~~7~~ ~~(e) Contain such other information as the Office deems necessary to~~
~~8 determine whether the facility continues to meet any eligibility requirements for~~
~~9 the abatement.~~

~~10~~ ~~2. The Office of Energy shall provide a copy of the certified payroll report~~
~~11 submitted pursuant to subsection 1 to the board of county commissioners of the~~
~~12 county in which the facility is located.~~

~~13~~ ~~3. Upon the request of the Office of Energy, a recipient of a partial~~
~~14 abatement of taxes pursuant to this section and NRS 701A.300 to 701A.390,~~
~~15 inclusive, and section 2 of this act shall provide to the Office payroll records and~~
~~16 any other records deemed necessary by the Office to verify the accuracy of~~
~~17 information contained in a certified payroll report submitted pursuant to~~
~~18 subsection 1.~~

~~19~~ ~~4. The Office may conduct an on-site inspection or audit of a facility which~~
~~20 is receiving a partial abatement of taxes pursuant to this section and NRS~~
~~21 701A.300 to 701A.390, inclusive, and section 2 of this act at any time to verify~~
~~22 whether the facility continues to meet any eligibility requirements for the partial~~
~~23 abatement of taxes. The Office shall conduct such an inspection or audit upon~~
~~24 the request of the board of county commissioners of the county in which the~~
~~25 facility is located. A facility shall make available to the Office all books, accounts,~~
~~26 claims, reports, vouchers and other records requested by the Office in connection~~
~~27 with any such inspection or audit. The Office shall confine requests for such~~
~~28 records to those which specifically relate to the eligibility of the facility for the~~
~~29 abatement.~~

Sec. 4. NRS 701A.365 is hereby amended to read as follows:

~~30~~ ~~701A.365~~ 1. The Director, in consultation with the Office of Economic
~~31~~ ~~Development,~~ shall approve an application for a partial abatement pursuant to NRS
~~32~~ ~~701A.300 to 701A.390, inclusive, and sections 2 and 3 of this act~~ if the Director,
~~33~~ ~~in consultation with the Office of Economic Development,~~ makes the following
~~34~~ ~~determinations:~~

~~35~~ (a) The applicant has executed an agreement with the Director which must:

~~36~~ (1) State that the facility will, after the date on which the abatement
~~37~~ ~~becomes effective, continue in operation in this State for a period specified by the~~
~~38~~ ~~Director, which must be at least 10 years, and will continue to meet the eligibility~~
~~39~~ ~~requirements for the abatement; and~~

~~40~~ (2) Bind the successors in interest in the facility for the specified period.

~~41~~ (b) The facility is registered pursuant to the laws of this State or the applicant
~~42~~ ~~commits to obtain a valid business license and all other permits required by the~~
~~43~~ ~~county, city or town in which the facility operates.~~

~~44~~ (c) No funding is or will be provided by any governmental entity in this State
~~45~~ ~~for the acquisition, design or construction of the facility or for the acquisition of~~
~~46~~ ~~any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.~~

~~47~~ (d) Except as otherwise provided in paragraph (e), if the facility will be located
~~48~~ ~~in a county whose population is 100,000 or more or a city whose population is~~
~~49~~ ~~60,000 or more, the facility meets the following requirements:~~

~~50~~ (1) There will be 75 or more full-time employees working on the
~~51~~ ~~construction of the facility during the second quarter of construction, including,~~
~~52~~

1 unless waived by the Director for good cause, at least 50 percent who are residents
2 of Nevada;

3 (2) Establishing the facility will require the facility to make a capital
4 investment of at least \$10,000,000 in this State in capital assets that will be retained
5 at the location of the facility until at least the date which is 5 years after the date on
6 which the abatement becomes effective;

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

12 (4) Except as otherwise provided in subsection 6, the average hourly wage
13 of the employees working on the construction of the facility will be at least 175
14 percent of the average statewide hourly wage, excluding management and
15 administrative employees, as established by the Employment Security Division of
16 the Department of Employment, Training and Rehabilitation on July 1 of each
17 fiscal year and:

18 (I) The employees working on the construction of the facility must be
19 provided a health insurance plan that is provided by a third-party administrator and
20 includes health insurance coverage for dependents of the employees; and

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

24 (e) If the facility will be located in a county whose population is less than
25 100,000, in an area of a county whose population is 100,000 or more that is located
26 within the geographic boundaries of an area that is designated as rural by the United
27 States Department of Agriculture and at least 20 miles outside of the geographic
28 boundaries of an area designated as urban by the United States Department of
29 Agriculture, or in a city whose population is less than 60,000, the facility meets the
30 following requirements:

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

35 (2) Establishing the facility will require the facility to make a capital
36 investment of at least \$3,000,000 in this State in capital assets that will be retained
37 at the location of the facility until at least the date which is 5 years after the date on
38 which the abatement becomes effective;

39 (3) The average hourly wage that will be paid by the facility to its
40 employees in this State is at least 110 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 (4) Except as otherwise provided in subsection 6, the average hourly wage
45 of the employees working on the construction of the facility will be at least 175
46 percent of the average statewide hourly wage, excluding management and
47 administrative employees, as established by the Employment Security Division of
48 the Department of Employment, Training and Rehabilitation on July 1 of each
49 fiscal year and:

50 (I) The employees working on the construction of the facility must be
51 provided a health insurance plan that is provided by a third-party administrator and
52 includes health insurance coverage for dependents of the employees; and

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

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

7 (g) The facility is consistent with the State Plan for Economic Development
8 developed by the Executive Director of the Office of Economic Development
9 pursuant to subsection 2 of NRS 231.053.

10 2. The Director shall not approve an application for a partial abatement of the
11 taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS
12 701A.360 by a facility for the generation of process heat from solar renewable
13 energy or a wholesale facility for the generation of electricity from renewable
14 energy unless the application is approved or deemed approved pursuant to this
15 subsection. The board of county commissioners of a county must provide notice to
16 the Director that the board intends to consider an application and, if such notice is
17 given, must approve or deny the application not later than 30 days after the board
18 receives a copy of the application. The board of county commissioners:

19 (a) Shall, in considering an application pursuant to this subsection, make a
20 recommendation to the Director regarding the application;

21 (b) May, in considering an application pursuant to this subsection, deny an
22 application only if the board of county commissioners determines, based on
23 relevant information, that:

24 (1) The projected cost of the services that the local government is required
25 to provide to the facility will exceed the amount of tax revenue that the local
26 government is projected to receive as a result of the abatement; or

27 (2) The projected financial benefits that will result to the county from the
28 employment by the facility of the residents of this State and from capital
29 investments by the facility in the county will not exceed the projected loss of tax
30 revenue that will result from the abatement;

31 (c) Must not condition the approval of the application on a requirement that the
32 facility agree to purchase, lease or otherwise acquire in its own name or on behalf
33 of the county any infrastructure, equipment, facilities or other property in the
34 county that is not directly related to or otherwise necessary for the construction and
35 operation of the facility; and

36 (d) May, without regard to whether the board has provided notice to the
37 Director of its intent to consider the application, make a recommendation to the
38 Director regarding the application.

39 ➤ If the board of county commissioners does not approve or deny the application
40 within 30 days after the board receives from the Director a copy of the application,
41 the application shall be deemed approved.

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

45 (a) Approve an application for a partial abatement for a facility that does not
46 meet any requirement set forth in subparagraph (1) or (2) of paragraph (d) of
47 subsection 1 or subparagraph (1) or (2) of paragraph (e) of subsection 1; or

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

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

5. 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.

6. The provisions of subparagraph (4) of paragraph (d) of subsection 1 and subparagraph (4) of paragraph (e) of subsection 1 concerning the average hourly wage of the employees working on the construction of a facility do not apply to the wages of an apprentice as that term is defined in NRS 610.010.

7. As used in this section, "wage" or "wages" ~~has the meaning ascribed to it in NRS 338.010.~~;

(a) *Means the basic hourly rate of pay.*

(b) *Does not include the amount of any health insurance plan, pension or other bona fide fringe benefits which are a benefit to the employee.*

Sec. 5. NRS 701A.390 is hereby amended to read as follows:

701A.390 The Director:

1. Shall adopt regulations:

(a) Prescribing the minimum level of benefits that a facility must provide to its employees ; ~~[if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive;]~~

(b) Prescribing such requirements for an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, *and sections 2 and 3 of this act* as will ensure that all information and other documentation necessary for the Director, in consultation with the Office of Economic Development, to make an appropriate determination is filed with the Director;

(c) Requiring each recipient of a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, *and sections 2 and 3 of this act* to file annually with the Director such information and documentation as may be necessary for the Director to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(d) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 1 of NRS 701A.365; and

2. May adopt such other regulations as the Director determines to be necessary to carry out the provisions of NRS 701A.300 to 701A.390, inclusive ~~[,]~~, *and sections 2 and 3 of this act*; and

3. May charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive ~~[,]~~, *and sections 2 and 3 of this act*. The amount of the fee must consist of:

(a) *An amount that does* not exceed the actual cost to the Director for processing and approving the application ~~[,]~~; *and*

(b) *A reasonable amount determined by the Director and designed to help sustain the work of the Office to support and expand renewable energy development in this State by administering the provisions of NRS 701A.300 to 701A.390, inclusive, and sections 2 and 3 of this act.*

Sec. 5.5. The amendatory provisions of this act do not apply to a person who is granted a partial abatement of taxes pursuant to NRS 701A.300 to 701A.390, inclusive, and sections 2 and 3 of this act, if the application for such an abatement was submitted before July 1, 2020.

Sec. 6. This act becomes effective on July 1, ~~[2019,]~~ 2020, and expires by limitation on June 30, 2049.