

Amendment No. 794

Assembly Amendment to Senate Bill No. 298 First Reprint	(BDR 58-908)
Proposed by: Assembly Committee on Taxation	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 298 R1 (§ 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: 5/19/2019

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.

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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 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 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; authorizing the Director of the Office to charge and collect from an applicant for a certain partial abatement a fee in an amount established by regulation; requiring the proceeds of the fee to be used for specific activities set forth in a regulation adopted by the Director; 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.

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 authorizes the Director to include in the fee charged to applicants an additional amount ~~(to help sustain the work)~~ **established by regulation. Under section 5, the Office is required to use the proceeds of the fee for activities of the Office that support and expand renewable energy development in this State and that are set forth in a regulation adopted by the Director.**

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. *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 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. *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:*

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

2. Include the information contained in the records required to be kept pursuant to section 2 of this act.

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

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

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

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

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

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

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

1 (d) Except as otherwise provided in paragraph (e), if the facility will be located
2 in a county whose population is 100,000 or more or a city whose population is
3 60,000 or more, the facility meets the following requirements:

4 (1) There will be 75 or more full-time employees working on the
5 construction of the facility during the second quarter of construction, including,
6 unless waived by the Director for good cause, at least 50 percent who are residents
7 of Nevada;

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

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

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

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

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

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

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

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

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

49 (4) Except as otherwise provided in subsection 6, the average hourly wage
50 of the employees working on the construction of the facility will be at least 175
51 percent of the average statewide hourly wage, excluding management and
52 administrative employees, as established by the Employment Security Division of

1 the Department of Employment, Training and Rehabilitation on July 1 of each
2 fiscal year and:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The Director shall cooperate with the Office of Economic Development in 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] established by a regulation adopted by the Director [and designed to help sustain the work] pursuant to this paragraph. The Office shall use the proceeds of the fee for activities of the Office [to] that 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.] and are specified in a regulation adopted by the Director pursuant to this paragraph. The Director shall adopt regulations specifying the amount of the fee described in this section and setting forth the specific activities of the Office that the proceeds of the fee will support and expand.*

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

5 **Sec. 6.** This act becomes effective on July 1, 2020, and expires by limitation
6 on June 30, 2049.