

SENATE BILL NO. 217—SENATOR HARDY

FEBRUARY 18, 2019

JOINT SPONSORS: ASSEMBLYMEN LEAVITT; AND HARDY

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to renewable energy.  
(BDR 58-76)

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 governing the types of renewable energy used to determine whether a provider of electric service in this State has complied with the portfolio standard for the provider of electric service; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Public Utilities Commission of Nevada to establish a portfolio standard which requires each provider of electric service in this State to generate, acquire or save electricity from renewable energy systems or energy efficiency measures a certain percentage of the total amount of electricity sold by the provider to its retail customers in this State during a calendar year. (NRS 704.7821) Existing law authorizes electricity generated using waterpower to be used for determining compliance with the portfolio standard only if certain requirements are satisfied, including, without limitation, a requirement that the generating capacity of the plant, facility, equipment or system using waterpower to generate electricity is not more than 30 megawatts. (NRS 704.7811) **Section 8** of this bill provides that any electricity generated from waterpower will be used for determining compliance with the portfolio standard, regardless of the generating capacity of the plant, facility, equipment or system generating the electricity. However, under **section 8**, waterpower that requires the use of any fossil fuel to create the power will not be used for determining compliance with the portfolio standard, unless the primary purpose of the use of the fossil fuel is not the creation of power.

**Sections 1-7 and 9-11** of this bill make conforming changes so that the amendments to existing law set forth in **section 8** do not affect other provisions of



20 existing law governing renewable energy, including without limitation, certain  
21 renewable energy incentive programs and net metering.

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

1     **Section 1.** NRS 701.055 is hereby amended to read as follows:

2     701.055 “Energy development project” means a project for the  
3 generation, transmission and development of energy located on  
4 public or private land. The term includes, without limitation:

5     1. A utility facility, as defined in NRS 704.860, constructed on  
6 private land; and

7     2. Electric generating plants and their associated facilities  
8 which use or will use renewable energy, as defined in NRS  
9 ~~[704.7811,]~~ 704.7715, as their primary source of energy to generate  
10 electricity.

11     **Sec. 2.** NRS 701.380 is hereby amended to read as follows:

12     701.380 1. The Director shall:

13     (a) Coordinate the activities and programs of the Office of  
14 Energy with the activities and programs of the Consumer’s  
15 Advocate and the Public Utilities Commission of Nevada, and with  
16 other federal, state and local officers and agencies that promote,  
17 fund, administer or operate activities and programs related to the use  
18 of renewable energy and the use of measures which conserve or  
19 reduce the demand for energy or which result in more efficient use  
20 of energy.

21     (b) Spend the money in the Trust Account for Renewable  
22 Energy and Energy Conservation to:

23     (1) Educate persons and entities concerning renewable  
24 energy and measures which conserve or reduce the demand for  
25 energy or which result in more efficient use of energy.

26     (2) Create incentives for investment in and the use of  
27 renewable energy and measures which conserve or reduce the  
28 demand for energy or which result in more efficient use of energy.

29     (3) Distribute grants and other money to establish programs  
30 and projects which incorporate the use of renewable energy and  
31 measures which conserve or reduce the demand for energy or which  
32 result in more efficient use of energy.

33     (4) Conduct feasibility studies, including, without limitation,  
34 any feasibility studies concerning the establishment or expansion of  
35 any grants, incentives, rebates or other programs to enable or assist  
36 persons to reduce the cost of purchasing distributed generation  
37 systems and on-site generation systems and net metering systems  
38 that use renewable energy.



(c) Take any other actions that the Director deems necessary to carry out the duties of the Office of Energy, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the Director in carrying out the duties of the Office.

2. The Director shall prepare an annual report concerning the activities and programs of the Office of Energy and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include, without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Account for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

(d) An analysis of the coordination between the Office of Energy and other officers and agencies; and

(e) Any changes planned for each activity and program.

3. As used in this section:

(a) "Distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed:

(1) That uses renewable energy as defined in NRS ~~704.781~~ 704.7715 to generate electricity;

(2) That is located on the property of a customer of an electric utility;

(3) That is connected on the customer's side of the electricity meter;

(4) That provides electricity primarily to offset customer load on that property; and

(5) The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to 704.777, inclusive.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.7571.

**Sec. 3.** NRS 701B.790 is hereby amended to read as follows:

701B.790 "Waterpower" has the meaning ascribed to it in subsection 3 of NRS ~~704.781~~ 704.7715.



**Sec. 4.** NRS 704.021 is hereby amended to read as follows:

704.021 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.

10. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one



customer of the public utility per individual system if each individual system is:

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

➤ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS ~~[704.7811.]~~ **704.7715.**

11. Persons who own, control, operate or manage a facility that supplies electricity only for use to charge electric vehicles.

**Sec. 5.** NRS 704.7315 is hereby amended to read as follows:

704.7315 "Renewable energy facility" means an electric generating facility that uses renewable energy to produce electricity. As used in this section, "renewable energy" has the meaning ascribed to it in NRS ~~[704.7811.]~~ **704.7715.**

**Sec. 6.** NRS 704.738 is hereby amended to read as follows:

704.738 1. A utility which supplies electricity in this state may apply to the Commission for authority to charge, as part of a program of optional pricing, a higher rate for electricity that is generated from renewable energy.

2. The program may provide the customers of the utility with the option of paying a higher rate for electricity to support the increased use by the utility of renewable energy in the generation of electricity.

3. As used in this section, "renewable energy" has the meaning ascribed to it in NRS ~~[704.7811.]~~ **704.7715.**

**Sec. 7.** NRS 704.7715 is hereby amended to read as follows:

704.7715 1. "Renewable energy" ~~[has the meaning ascribed to it in NRS 704.7811.]~~ **means:**

(a) *Biomass;*

(b) *Geothermal energy;*

(c) *Solar energy;*

(d) *Waterpower; and*

(e) *Wind.*

2. *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

3. *As used in this section, "waterpower" means power derived from standing, running or falling water which is used for any plant, facility, equipment or system to generate electricity if the generating capacity of the plant, facility, equipment or system is not more than 30 megawatts. Except as otherwise provided in this subsection, the term includes, without limitation, power derived*



1 *from water that has been pumped from a lower to a higher*  
2 *elevation if the generating capacity of the plant, facility,*  
3 *equipment or system for which the water is used is not more than*  
4 *30 megawatts. The term does not include power:*

5 *(a) Derived from water stored in a reservoir by a dam or*  
6 *similar device, unless:*

7 *(1) The water is used exclusively for irrigation;*

8 *(2) The dam or similar device was in existence on*  
9 *January 1, 2003; and*

10 *(3) The generating capacity of the plant, facility, equipment*  
11 *or system for which the water is used is not more than 30*  
12 *megawatts;*

13 *(b) That requires a new or increased appropriation or*  
14 *diversion of water for its creation; or*

15 *(c) That requires the use of any fossil fuel for its creation,*  
16 *unless:*

17 *(1) The primary purpose of the use of the fossil fuel is not*  
18 *the creation of the power; and*

19 *(2) The generating capacity of the plant, facility, equipment*  
20 *or system for which the water is used is not more than 30*  
21 *megawatts.*

22 **Sec. 8.** NRS 704.7811 is hereby amended to read as follows:

23 704.7811 1. “Renewable energy” means:

24 (a) Biomass;

25 (b) Geothermal energy;

26 (c) Solar energy;

27 (d) Waterpower; and

28 (e) Wind.

29 2. The term does not include coal, natural gas, oil, propane or  
30 any other fossil fuel, or nuclear energy.

31 3. As used in this section, “waterpower” means power derived  
32 from standing, running or falling water which is used for any plant,  
33 facility, equipment or system to generate electricity . ~~[if the~~  
34 ~~generating capacity of the plant, facility, equipment or system is not~~  
35 ~~more than 30 megawatts.]~~ Except as otherwise provided in this  
36 subsection, the term includes, without limitation, power derived  
37 from water that has been pumped from a lower to a higher elevation  
38 . ~~[if the generating capacity of the plant, facility, equipment or~~  
39 ~~system for which the water is used is not more than 30 megawatts.]~~  
40 The term does not include power ~~:~~

41 ~~—(a) Derived from water stored in a reservoir by a dam or similar~~  
42 ~~device, unless:~~

43 ~~—(1) The water is used exclusively for irrigation;~~

44 ~~—(2) The dam or similar device was in existence on January 1,~~  
45 ~~2003; and~~



~~— (3) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts;~~

~~— (b) That requires a new or increased appropriation or diversion of water for its creation; or~~

~~— (c) That~~ *that* requires the use of any fossil fuel for its creation, unless ~~it~~

~~— (1) The~~ *the* primary purpose of the use of the fossil fuel is not the creation of the power. ~~it; and~~

~~— (2) The generating capacity of the plant, facility, equipment or system for which the water is used is not more than 30 megawatts.]~~

**Sec. 9.** NRS 704.860 is hereby amended to read as follows:

704.860 “Utility facility” means:

1. Electric generating plants and their associated facilities, except electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS ~~[704.7811,]~~ *704.7715*, as their primary source of energy to generate electricity and which have or will have a nameplate capacity of not more than 70 megawatts, including, without limitation, a net metering system, as defined in NRS 704.771. As used in this subsection, “associated facilities” includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside any incorporated city.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

**Sec. 10.** NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:



- 1 (a) The nature of the probable effect on the environment;  
2 (b) If the utility facility emits greenhouse gases and does not use  
3 renewable energy as its primary source of energy to generate  
4 electricity, the extent to which the facility is needed to ensure  
5 reliable utility service to customers in this State;  
6 (c) That the need for the facility balances any adverse effect on  
7 the environment;  
8 (d) That the facility represents the minimum adverse effect on  
9 the environment, considering the state of available technology and  
10 the nature and economics of the various alternatives;  
11 (e) That the location of the facility as proposed conforms to  
12 applicable state and local laws and regulations issued thereunder and  
13 the applicant has obtained, or is in the process of obtaining, all other  
14 permits, licenses, registrations and approvals required by federal,  
15 state and local statutes, regulations and ordinances;  
16 (f) That the surplus asset retirement plan filed pursuant to  
17 NRS 704.870:  
18 (1) Complies with federal, state and local laws;  
19 (2) Provides for the remediation and reuse of the facility  
20 within a reasonable period; and  
21 (3) Is able to be reasonably completed under the funding plan  
22 contained in the application; and  
23 (g) That the facility will serve the public interest.  
24 2. If the Commission determines that the location of all or a  
25 part of the proposed facility should be modified, it may condition its  
26 permit upon such a modification. If the applicant has not obtained  
27 all the other permits, licenses, registrations and approvals required  
28 by federal, state and local statutes, regulations and ordinances as of  
29 the date on which the Commission decides to issue a permit, the  
30 Commission shall condition its permit upon the applicant obtaining  
31 those permits and approvals.  
32 3. The requirements set forth in paragraph (g) of subsection 1  
33 do not apply to any application for a permit which is filed by a state  
34 government or political subdivision thereof.  
35 4. As used in this section, “renewable energy” has the meaning  
36 ascribed to it in NRS ~~[704.7811.]~~ 704.7715.  
37 **Sec. 11.** NRS 271.197 is hereby amended to read as follows:  
38 271.197 “Renewable energy” has the meaning ascribed to it in  
39 NRS ~~[704.7811.]~~ 704.7715.  
40 **Sec. 12.** This act becomes effective on July 1, 2019.

