

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; providing for an on-site inspection or audit of a facility receiving a partial tax abatement to be conducted by the Office; 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, 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.

**Section 5** of this bill makes a conforming change.

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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.

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 a certified payroll report on a form or in a format prescribed by the Director. The certified payroll report must:

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

(b) Include the records required to be kept pursuant to section 2 of this act;

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

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

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

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

3. Upon the request of the Office of Energy, 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 provide to the Office payroll records and any other records deemed necessary by the Office to verify the accuracy of information contained in a certified payroll report submitted pursuant to subsection 1.

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



**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.

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

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

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

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

(4) Except as otherwise provided in subsection 6, the average hourly wage of the employees working on the construction of the



1 facility will be at least 175 percent of the average statewide hourly  
2 wage, excluding management and administrative employees, as  
3 established by the Employment Security Division of the Department  
4 of Employment, Training and Rehabilitation on July 1 of each fiscal  
5 year and:

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

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

14 (e) If the facility will be located in a county whose population is  
15 less than 100,000, in an area of a county whose population is  
16 100,000 or more that is located within the geographic boundaries of  
17 an area that is designated as rural by the United States Department  
18 of Agriculture and at least 20 miles outside of the geographic  
19 boundaries of an area designated as urban by the United States  
20 Department of Agriculture, or in a city whose population is less than  
21 60,000, the facility meets the following requirements:

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

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

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

37 (4) Except as otherwise provided in subsection 6, the average  
38 hourly wage of the employees working on the construction of the  
39 facility will be at least 175 percent of the average statewide hourly  
40 wage, excluding management and administrative employees, as  
41 established by the Employment Security Division of the Department  
42 of Employment, Training and Rehabilitation on July 1 of each fiscal  
43 year and:

44 (I) The employees working on the construction of the  
45 facility must be provided a health insurance plan that is provided by



1 a third-party administrator and includes health insurance coverage  
2 for dependents of the employees; and

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

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

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

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

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

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

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

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

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



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

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

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

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



1 the Office of Economic Development, to make an appropriate  
2 determination is filed with the Director;

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

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

12 2. May adopt such other regulations as the Director determines  
13 to be necessary to carry out the provisions of NRS 701A.300 to  
14 701A.390, inclusive ~~§~~, *and sections 2 and 3 of this act*; and

15 3. May charge and collect a fee from each applicant who  
16 submits an application for a partial abatement pursuant to NRS  
17 701A.300 to 701A.390, inclusive ~~§~~, *and sections 2 and 3 of this*  
18 *act*. The amount of the fee must not exceed the actual cost to the  
19 Director for processing and approving the application.

20 **Sec. 6.** This act becomes effective on July 1, 2019, and expires  
21 by limitation on June 30, 2049.

