

REQUIRES TWO-THIRDS MAJORITY VOTE (§ 5)

(Reprinted with amendments adopted on April 17, 2019)

FIRST REPRINT

S.B. 298

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; 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



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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 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. *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.

(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 facility will be at least 175 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:

(I) The employees working on the construction of the 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 (e) If the facility will be located in a county whose population is
8 less than 100,000, in an area of a county whose population is
9 100,000 or more that is located within the geographic boundaries of
10 an area that is designated as rural by the United States Department
11 of Agriculture and at least 20 miles outside of the geographic
12 boundaries of an area designated as urban by the United States
13 Department of Agriculture, or in a city whose population is less than
14 60,000, the facility meets the following requirements:

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

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

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

30 (4) Except as otherwise provided in subsection 6, the average
31 hourly wage of the employees working on the construction of the
32 facility will be at least 175 percent of the average statewide hourly
33 wage, excluding management and administrative employees, as
34 established by the Employment Security Division of the Department
35 of Employment, Training and Rehabilitation on July 1 of each fiscal
36 year and:

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

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



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

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

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

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

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

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

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

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



1 documentation as may be necessary for the Director to determine
2 whether the recipient is in compliance with any eligibility
3 requirements for the abatement; and

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

7 2. May adopt such other regulations as the Director determines
8 to be necessary to carry out the provisions of NRS 701A.300 to
9 701A.390, inclusive ~~H~~, and sections 2 and 3 of this act; and

10 3. May charge and collect a fee from each applicant who
11 submits an application for a partial abatement pursuant to NRS
12 701A.300 to 701A.390, inclusive ~~H~~, and sections 2 and 3 of this
13 act. The amount of the fee must consist of:

14 (a) *An amount that does* not exceed the actual cost to the
15 Director for processing and approving the application ~~H~~; and

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

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

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

