

REQUIRES TWO-THIRDS MAJORITY VOTE (§ 5)

(Reprinted with amendments adopted on May 21, 2019)

SECOND 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; 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.



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**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 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.

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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.** *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



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



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 ~~H~~, *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 ~~H~~, *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 ~~H~~; *and*

(b) *A reasonable amount established by a regulation adopted by the Director pursuant to this paragraph. The Office shall use the proceeds of the fee for activities of the Office that support and expand renewable energy development in this State 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.*

**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, 2020, and expires by limitation on June 30, 2049.

