

SENATE BILL NO. 338—SENATORS GOICOECHEA AND SETTELMAYER

MARCH 22, 2021

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions governing partial tax abatements for certain renewable energy facilities. (BDR 32-560)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 taxation; authorizing an affected local government to deny an application for a partial abatement of certain taxes levied on a facility that generates electricity from geothermal resources by or for the benefit of the local government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Office of Economic Development within the Office of the Governor to approve an application for a partial abatement of certain taxes imposed on a new or expanded business in this State. (NRS 360.750) Under existing law, at least 30 days before the meeting at which the Office of Economic Development takes action on such an application, the Office is required to provide notice of the application to the governing body of certain local governments in which the business is or will be located, the governing body of any other political subdivision that could be affected by the abatement and the general public. (NRS 360.757) Under **section 1** of this bill, not later than 30 days after being provided notice of an application for a partial abatement of certain taxes imposed on a facility for the generation of electricity from geothermal resources, the governing body of a local government that could be affected by the abatement is authorized to deny the application with respect to the property taxes levied on the facility by or for the benefit of that local government. If the governing body of a local government denies such an application, **section 1**: (1) requires the governing body to notify the Office of Economic Development of that action; and (2) authorizes the Office of Economic Development to approve the application but prohibits the Office from approving any abatement of property taxes levied on the facility by or for the benefit of the local government. **Section 2** of this bill makes a conforming change to reflect that the amount of a partial abatement approved by the Office of



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Economic Development may not include the property taxes levied by or on behalf of a local government that denies an application pursuant to **section 1**.

Existing law authorizes the Director of the Office of Energy to approve an application for a partial abatement of certain taxes imposed on a wholesale facility for the generation of electricity from renewable energy, including, without limitation, geothermal resources. (NRS 701A.340, 701A.365) Under existing law: (1) the Director is required to provide a copy of the application for such a partial abatement to certain governmental entities, including, without limitation, the board of county commissioners of the county in which the facility will be located and the county assessor and county treasurer of that county; and (2) the Director is prohibited from approving the application unless the application is approved or deemed approved within a certain period by the board of county commissioners of the county in which the facility will be located. (NRS 701A.365) Under **sections 3 and 5** of this bill, not later than 30 days after being provided notice of an application for a partial abatement of the taxes imposed on a facility for the generation of electricity from geothermal resources, the governing body of a local government that could be affected by the abatement is authorized to deny the application with respect to the property taxes levied on the facility by or for the benefit of that local government. If the governing body of a local government denies such an application, **section 3**: (1) requires the governing body to notify the Director of that action; and (2) authorizes the Director to approve the application but prohibits the Director from approving any abatement of property taxes levied on the facility by or for the benefit of the local government. **Section 6** of this bill makes a conforming change to reflect that the amount of a partial abatement approved by the Office of Economic Development may not include the property taxes levied by or on behalf of a local government that denies an application pursuant to **section 3**.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If, pursuant to NRS 360.750, a person who intends to locate or expand a facility for the generation of electricity from geothermal resources in this State applies to the Office of Economic Development for a partial abatement of the property taxes imposed on the facility, the governing body of a local government that could be affected by the partial abatement may, not later than 30 days after being provided notice of the application pursuant to NRS 360.757, deny the application with respect to any property taxes levied by or for the benefit of the local government.

2. If, pursuant to subsection 1, the governing body of a local government that could be affected by a partial abatement of the property taxes imposed on a facility for the generation of electricity from geothermal resources, denies an application for a partial abatement of the property taxes levied by or for the benefit of the local government:



(a) *The governing body of the local government must notify the Office of Economic Development of the denial of the application by the governing body;*

(b) *The Office of Economic Development may approve the application for the partial abatement pursuant to NRS 360.750; and*

(c) *The Office of Economic Development shall not approve any abatement of the property levied by or for the benefit of the local government.*

3. As used in this section

(a) *“Facility for the generation of electricity from geothermal resources” means a facility for the generation of electricity from renewable energy that uses geothermal resources as its primary source of energy.*

(b) *“Property taxes” means any taxes levied by the State or a local government pursuant to the provisions of chapter 361 of NRS.*

Sec. 2. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Office of Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Office of Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) Except as otherwise provided in paragraph (b), if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business will, not later than the date which is 2 years after the date on which the abatement becomes effective, make a capital investment in the county or city of:

(1) At least \$5,000,000 if the business is an industrial or manufacturing business; or

(2) At least \$1,000,000 if the business is not an industrial or manufacturing business,

↳ in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(b) If the business is a new business in a county whose population is less than 100,000, in an area of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the



geographic boundaries of an area designated as urban by the United States Department of Agriculture, or in a city whose population is less than 60,000, the business will, not later than the date which is 2 years after the date on which the abatement becomes effective, make a capital investment in the county or city of:

(1) At least \$1,000,000 if the business is an industrial or manufacturing business; or

(2) At least \$250,000 if the business is not an industrial or manufacturing business,

↪ in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

3. Except as otherwise provided in NRS 701A.210 **and section 1 of this act**, if a partial abatement from the taxes imposed by this chapter is approved by the Office of Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Subject to any limitation on the abatement set forth in NRS 360.750, not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Office of Economic Development shall notify the county assessor of the county in which the business is or will be located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Office granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 3. Chapter 701A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If, pursuant to NRS 701A.360, a person who intends to locate a facility for the generation of electricity from geothermal resources in this State applies to the Director for a partial abatement of the property taxes imposed on the facility, the governing body of a local government that could be affected by the partial abatement may, not later than 30 days after being provided a copy of the application pursuant to NRS 701A.360, deny the



1 *application with respect to any property taxes levied by or for the*
2 *benefit of the local government.*

3 2. *If, pursuant to subsection 1, the governing body of a local*
4 *government that could be affected by a partial abatement of the*
5 *property taxes imposed on a facility for the generation of*
6 *electricity from geothermal resources, denies an application for a*
7 *partial abatement of the property taxes levied by or for the benefit*
8 *of the local government:*

9 (a) *The governing body of the local government must notify*
10 *the Director of the denial of the application by the governing*
11 *body;*

12 (b) *The Director may approve the application for the partial*
13 *abatement pursuant to NRS 701A.365; and*

14 (c) *The Director shall not approve any abatement of the*
15 *property taxes levied by or for the benefit of the local government.*

16 3. *As used in this section:*

17 (a) *“Facility for the generation of electricity from geothermal*
18 *resources” means a facility for the generation of electricity from*
19 *renewable energy that uses geothermal resources as its primary*
20 *source of energy.*

21 (b) *“Property taxes” means any taxes levied by the State or a*
22 *local government pursuant to the provisions of chapter 361 of*
23 *NRS.*

24 **Sec. 4.** NRS 701A.300 is hereby amended to read as follows:

25 701A.300 As used in NRS 701A.300 to 701A.390, inclusive,
26 **and section 3 of this act**, unless the context otherwise requires, the
27 words and terms defined in NRS 701A.305 to 701A.345, inclusive,
28 have the meanings ascribed to them in those sections.

29 **Sec. 5.** NRS 701A.360 is hereby amended to read as follows:

30 701A.360 1. A person who intends to locate a facility for the
31 generation of process heat from solar renewable energy or a
32 wholesale facility for the generation of electricity from renewable
33 energy in this State may apply to the Director for a partial abatement
34 of the local sales and use taxes, the taxes imposed pursuant to
35 chapter 361 of NRS, or both local sales and use taxes and taxes
36 imposed pursuant to chapter 361 of NRS. An applicant may submit
37 a copy of the application to the board of county commissioners at
38 any time after the applicant has submitted the application to the
39 Director.

40 2. A facility that is owned, operated, leased or otherwise
41 controlled by a governmental entity is not eligible for an abatement
42 pursuant to NRS 701A.300 to 701A.390, inclusive **H**, **and section**
43 **3 of this act.**



3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall forward a copy of the application to:

- (a) The Chief of the Budget Division of the Office of Finance;
- (b) The Department of Taxation;
- (c) The board of county commissioners;
- (d) The county assessor;
- (e) The county treasurer; ~~and~~
- (f) The Office of Economic Development ~~H~~ ; and

(g) If the application is for a partial abatement of the property taxes imposed on a facility for the generation of electricity from geothermal resources, the governing body of each local government that could be affected by the partial abatement.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The Director shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

Sec. 6. NRS 701A.370 is hereby amended to read as follows:

701A.370 1. ~~HH~~ *Except as otherwise provided in section 3 of this act, if* the Director approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, *and section 3 of this act* of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds 0.6 percent; and



(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2.6 percent.

2. Upon approving an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, **and section 3 of this act** the Director shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation;
- (b) The board of county commissioners;
- (c) The county assessor;
- (d) The county treasurer; and
- (e) The Office of Economic Development.

Sec. 7. The amendatory provisions of this act do not apply to or otherwise affect an application for a partial abatement of taxes submitted pursuant to NRS 360.750 or 701A.360 before July 1, 2021, or a partial abatement of taxes which is approved by the Office of Economic Development within the Office of the Governor or the Director of the Office of Energy within the Office of the Governor pursuant to such an application.

Sec. 8. 1. This act becomes effective on July 1, 2021.

2. Sections 3 to 7, inclusive, of this act expire in June 30, 2049.

