

ASSEMBLY BILL NO. 419—ASSEMBLYMAN HAFEN

MARCH 27, 2023

Referred to Committee on Revenue

SUMMARY—Revises provisions governing tax abatements for certain renewable energy facilities. (BDR 58-741)

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; revising the criteria for certain renewable energy facilities to be eligible for a partial abatement of certain taxes; 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) Existing law requires a renewable energy facility to meet certain criteria to be eligible for such a partial abatement of certain taxes. (NRS 701A.365) **Section 1** of this bill adds to these criteria a requirement that a wholesale facility for the generation of electricity from renewable energy which uses solar energy to generate electricity: (1) generate electricity solely for distribution by the facility or a public utility to end users of the electricity located in this State; and (2) purchase electricity from the public utility providing electric service in the service territory where the facility is located to provide station power for the facility. **Section 2** of this bill provides that this additional criteria for eligibility for a partial abatement of certain taxes applies only to an application for such an abatement that is submitted on or after July 1, 2023.

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

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

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

(e) If the facility will be located 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 facility meets the following requirements:

(1) There will be 50 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 \$3,000,000 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 a third-party administrator and includes health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum



requirements for benefits established by the Director by regulation 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.

(h) If the facility is a wholesale facility for the generation of electricity from renewable energy which uses solar energy to generate electricity and the application for the partial abatement is submitted on or after July 1, 2023, the facility:

(1) Generates electricity solely for distribution by the facility or a public utility to end users of the electricity located in this State; and

(2) Purchases electricity from the public utility providing electric service in the service territory where the facility is located to provide station power.

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, a wholesale facility for the generation of electricity from renewable energy, a facility for the storage of energy from renewable generation or a hybrid renewable generation and energy storage facility 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



1 not exceed the projected loss of tax revenue that will result from the
2 abatement;

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

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

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

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

20 (a) Approve an application for a partial abatement for a facility
21 that does not meet any requirement set forth in subparagraph (1) or
22 (2) of paragraph (d) of subsection 1 or subparagraph (1) or (2) of
23 paragraph (e) of subsection 1; or

24 (b) Add additional requirements that a facility must meet to
25 qualify for a partial abatement.

26 4. The Director shall cooperate with the Office of Economic
27 Development in carrying out the provisions of this section.

28 5. The Director shall submit to the Office of Economic
29 Development an annual report, at such a time and containing such
30 information as the Office may require, regarding the partial
31 abatements granted pursuant to this section.

32 6. The provisions of subparagraph (4) of paragraph (d) of
33 subsection 1 and subparagraph (4) of paragraph (e) of subsection 1
34 concerning the average hourly wage of the employees working on
35 the construction of a facility do not apply to the wages of an
36 apprentice as that term is defined in NRS 610.010.

37 7. As used in this section ~~["wage"]~~:

38 (a) *"Station power" means energy used for operating electric*
39 *equipment, or portions thereof, located on the site of the*
40 *generating unit that is owned by the same entity that owns the*
41 *generating unit, which is necessary for the heating, lighting, air-*
42 *conditioning and office equipment on the site of such a generating*
43 *unit used in the operation, maintenance or repair of the facility.*

44 (b) *"Wage" or "wages":*

45 ~~[(a)]~~ (1) Means:



1 ~~[(1)]~~ (I) The basic hourly rate of pay; and
2 ~~[(2)]~~ (II) The amount of any hourly contribution made to a
3 third-party administrator pursuant to a pension plan or vacation plan
4 which is for the benefit of the employee.

5 ~~[(b)]~~ (2) Except as otherwise provided in ~~[(paragraph (a))]~~
6 *subparagraph (1)*, does not include the amount of any health
7 insurance plan, pension or other bona fide fringe benefits which are
8 a benefit to the employee.

9 **Sec. 2.** The amendatory provisions of section 1 of this act
10 apply only to an application for a partial abatement from taxation
11 submitted on or after July 1, 2023.

12 **Sec. 3.** This act becomes effective on July 1, 2023.

