

ASSEMBLY BILL NO. 359—ASSEMBLYMEN
GOICOECHEA; AND GRADY

MARCH 21, 2011

JOINT SPONSOR: SENATOR SETTELMEYER

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing energy.
(BDR 58-1064)

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 energy; revising the categories of uses, capacity goals and prospective expiration of the Waterpower Energy Systems Demonstration Program; revising provisions governing net metering for waterpower energy systems; revising provisions governing net metering for certain wind energy systems; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Waterpower Energy Systems Demonstration Program was established for
2 agricultural uses with a goal of the installation of not less than 500 kilowatts of
3 waterpower energy systems in this State by 2012. (NRS 701B.820, 701B.840) The
4 Waterpower Program is currently set to expire on June 30, 2011. **Section 1** of this
5 bill expands the Waterpower Program to encompass Indian tribes and tribal
6 organizations that are customers of a utility. **Section 2** of this bill increases the
7 capacity goals for the Waterpower Program, and **sections 9-11** of this bill extend
8 the Waterpower Program until June 30, 2016. **Section 6** of this bill authorizes a
9 person who installs a waterpower energy system to participate in net metering if the
10 waterpower energy system is located on property owned by the customer-generator
11 and generates electricity primarily intended to offset the customer-generator’s
12 requirements for electricity on that property or contiguous property owned by the
13 customer-generator. **Section 6** also authorizes certain persons who install certain
14 wind energy systems on property owned or leased by an institution of higher
15 education in this State to participate in net metering. **Section 3.7** of this bill
16 provides that persons who own or operate such wind energy systems are not
17 considered public utilities.



* A B 3 5 9 R 2 *

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

1 **Section 1.** NRS 701B.820 is hereby amended to read as
2 follows:

3 701B.820 1. The Waterpower Energy Systems
4 Demonstration Program is hereby created.

5 2. The Waterpower Demonstration Program is created for
6 ~~agricultural uses.~~ :

7 (a) *Agricultural uses; and*

8 (b) *Indian tribes and tribal organizations that are customers of*
9 *a utility.*

10 3. To be eligible to participate in the Waterpower
11 Demonstration Program, a person must meet the qualifications
12 established pursuant to subsection 4, apply to a utility and be
13 selected by the utility for inclusion in the Waterpower
14 Demonstration Program.

15 4. The Commission shall adopt regulations providing for the
16 qualifications an applicant must meet to qualify to participate in the
17 Waterpower Demonstration Program.

18 **Sec. 2.** NRS 701B.840 is hereby amended to read as follows:

19 701B.840 The Commission shall adopt regulations that
20 establish:

21 1. The capacity goals for the Program, which must be designed
22 to meet the goal of the Legislature of the installation of not less than
23 ~~500 kilowatts of waterpower energy systems in this State by 2012~~
24 *5 megawatts of waterpower energy systems in this State by 2016*
25 and the goals for each category of the Program. *The regulations*
26 *must provide that not less than 1 megawatt of capacity must be set*
27 *aside for the installation of waterpower energy systems with a*
28 *nameplate capacity of 100 kilowatts or less.*

29 2. A system of incentives that are based on rebates that decline
30 as the capacity goals for the Program and the goals for each
31 category of the Program are met. The rebates must be based on
32 predicted energy savings.

33 3. The procedure for claiming incentives, including, without
34 limitation, the form and content of the incentive claim form.

35 **Sec. 3.** (Deleted by amendment.)

36 **Sec. 3.5.** Chapter 704 of NRS is hereby amended by adding
37 thereto a new section to read as follows:

38 *“Contiguous” means either abutting directly on the boundary*
39 *or separated by a street, alley, public right-of-way, creek, river or*
40 *the right-of-way of a railroad or other public service corporation.*



1 **Sec. 3.7.** NRS 704.021 is hereby amended to read as follows:
2 704.021 “Public utility” or “utility” does not include:

3 1. Persons engaged in the production and sale of natural gas,
4 other than sales to the public, or engaged in the transmission of
5 natural gas other than as a common carrier transmission or
6 distribution line or system.

7 2. Persons engaged in the business of furnishing, for
8 compensation, water or services for the disposal of sewage, or both,
9 to persons within this State if:

10 (a) They serve 25 persons or less; and

11 (b) Their gross sales for water or services for the disposal of
12 sewage, or both, amounted to \$25,000 or less during the
13 immediately preceding 12 months.

14 3. Persons not otherwise engaged in the business of furnishing,
15 producing or selling water or services for the disposal of sewage, or
16 both, but who sell or furnish water or services for the disposal of
17 sewage, or both, as an accommodation in an area where water or
18 services for the disposal of sewage, or both, are not available from a
19 public utility, cooperative corporations and associations or political
20 subdivisions engaged in the business of furnishing water or services
21 for the disposal of sewage, or both, for compensation, to persons
22 within the political subdivision.

23 4. Persons who are engaged in the production and sale of
24 energy, including electricity, to public utilities, cities, counties or
25 other entities which are reselling the energy to the public.

26 5. Persons who are subject to the provisions of NRS 590.465 to
27 590.645, inclusive.

28 6. Persons who are engaged in the sale or use of special fuel as
29 defined in NRS 366.060.

30 7. Persons who provide water from water storage, transmission
31 and treatment facilities if those facilities are for the storage,
32 transmission or treatment of water from mining operations.

33 8. Persons who are video service providers, as defined in NRS
34 711.151, except for those operations of the video service provider
35 which consist of providing a telecommunication service to the
36 public, in which case the video service provider is a public utility
37 only with regard to those operations of the video service provider
38 which consist of providing a telecommunication service to the
39 public.

40 9. *Persons who own or operate a net metering system*
41 *described in paragraph (c) of subsection 1 of NRS 704.771.*

42 10. Persons who for compensation own or operate individual
43 systems which use renewable energy to generate electricity and sell
44 the electricity generated from those systems to not more than one



1 customer of the public utility per individual system if each
2 individual system is:

3 (a) Located on the premises of another person;

4 (b) Used to produce not more than 150 percent of that other
5 person's requirements for electricity on an annual basis for the
6 premises on which the individual system is located; and

7 (c) Not part of a larger system that aggregates electricity
8 generated from renewable energy for resale or use on premises other
9 than the premises on which the individual system is located.

10 ➔ As used in this subsection, "renewable energy" has the meaning
11 ascribed to it in NRS 704.7811.

12 **Sec. 4.** NRS 704.766 is hereby amended to read as follows:

13 704.766 It is hereby declared to be the purpose and policy of
14 the Legislature in enacting NRS 704.766 to 704.775, inclusive, *and*
15 *section 3.5 of this act* to:

16 1. Encourage private investment in renewable energy
17 resources;

18 2. Stimulate the economic growth of this State;

19 3. Enhance the continued diversification of the energy
20 resources used in this State; and

21 4. Streamline the process for customers of a utility to apply for
22 and install net metering systems.

23 **Sec. 5.** NRS 704.767 is hereby amended to read as follows:

24 704.767 As used in NRS 704.766 to 704.775, inclusive, *and*
25 *section 3.5 of this act*, unless the context otherwise requires, the
26 words and terms defined in NRS 704.768 to 704.772, inclusive, *and*
27 *section 3.5 of this act* have the meanings ascribed to them in those
28 sections.

29 **Sec. 6.** NRS 704.771 is hereby amended to read as follows:

30 704.771 1. "Net metering system" means ~~[(a)]~~:

31 *(a) A facility or energy system for the generation of electricity*
32 *that:*

33 ~~[(a)]~~ *(1) Uses renewable energy as its primary source of energy*
34 *to generate electricity;*

35 ~~[(b)]~~ *(2) Has a generating capacity of not more than 1*
36 *megawatt;*

37 ~~[(c)]~~ *(3) Is located on the customer-generator's premises;*

38 ~~[(d)]~~ *(4) Operates in parallel with the utility's transmission and*
39 *distribution facilities; and*

40 ~~[(e)]~~ *(5) Is intended primarily to offset part or all of the*
41 *customer-generator's requirements for electricity* ~~[(f)]~~;

42 *(b) A facility or energy system for the generation of electricity*
43 *that:*

44 *(1) Uses waterpower as its primary source of energy to*
45 *generate electricity;*



1 (2) *Is located on property owned by the customer-*
2 *generator;*

3 (3) *Has a generating capacity of not more than 1 megawatt;*

4 (4) *Generates electricity that is delivered to the*
5 *transmission and distribution facilities of the utility; and*

6 (5) *Is intended primarily to offset all or part of the*
7 *customer-generator's requirements for electricity on that property*
8 *or contiguous property owned by the customer-generator; or*

9 (c) *A facility or energy system for the generation of electricity:*

10 (1) *Which uses wind power as its primary source of energy*
11 *to generate electricity;*

12 (2) *Which is located on property owned or leased by an*
13 *institution of higher education in this State;*

14 (3) *Which has a generating capacity of not more than 1*
15 *megawatt;*

16 (4) *Which operates in parallel with the utility's*
17 *transmission and distribution facilities;*

18 (5) *Which is intended primarily to offset all or part of the*
19 *customer-generator's requirements for electricity on that property*
20 *or on contiguous property owned or leased by the customer-*
21 *generator;*

22 (6) *Which is used for research and workforce training; and*

23 (7) *The construction or installation of which is commenced*
24 *on or before December 31, 2011, and is completed on or before*
25 *December 31, 2012.*

26 2. The term does not include a facility or energy system for the
27 generation of electricity which has a generating capacity that
28 exceeds the greater of:

29 (a) The limit on the demand that the class of customer of the
30 customer-generator may place on the system of the utility; or

31 (b) One hundred ~~[fifty]~~ percent of the ~~[peak demand of the~~
32 ~~customer.]~~ *customer-generator's annual requirements for*
33 *electricity.*

34 **Sec. 7.** NRS 704.773 is hereby amended to read as follows:

35 704.773 1. A utility shall offer net metering, as set forth in
36 NRS 704.775, to the customer-generators operating within its
37 service area until the cumulative capacity of all such net metering
38 systems is equal to 1 percent of the utility's peak capacity.

39 2. If the net metering system of a customer-generator who
40 accepts the offer of a utility for net metering has a capacity of not
41 more than ~~[100]~~ 25 kilowatts, the utility:

42 (a) Shall offer to make available to the customer-generator an
43 energy meter that is capable of registering the flow of electricity in
44 two directions.



1 (b) May, at its own expense and with the written consent of the
2 customer-generator, install one or more additional meters to monitor
3 the flow of electricity in each direction.

4 (c) Shall not charge a customer-generator any fee or charge that
5 would increase the customer-generator's minimum monthly charge
6 to an amount greater than that of other customers of the utility in the
7 same rate class as the customer-generator.

8 3. If the net metering system of a customer-generator who
9 accepts the offer of a utility for net metering has a capacity of more
10 than ~~100~~ 25 kilowatts, the utility:

11 (a) May require the customer-generator to install at its own cost:

12 (1) An energy meter that is capable of measuring generation
13 output and customer load; and

14 (2) Any upgrades to the system of the utility that are required
15 to make the net metering system compatible with the system of the
16 utility.

17 (b) Except as otherwise provided in paragraph (c), may charge
18 the customer-generator any applicable fee or charge charged to other
19 customers of the utility in the same rate class as the customer-
20 generator, including, without limitation, customer, demand and
21 facility charges.

22 (c) Shall not charge the customer-generator any standby charge.

23 ➔ At the time of installation or upgrade of any portion of a net
24 metering system, the utility must allow a customer-generator
25 governed by this subsection to pay the entire cost of the installation
26 or upgrade of the portion of the net metering system.

27 4. *If the net metering system of a customer-generator is a net*
28 *metering system described in paragraph (b) or (c) of subsection 1*
29 *of NRS 704.771 and:*

30 (a) *The system is intended primarily to offset part or all of the*
31 *customer-generator's requirements for electricity on property*
32 *contiguous to the property on which the net metering system is*
33 *located; and*

34 (b) *The customer-generator sells or transfers his or her*
35 *interest in the contiguous property,*

36 ➔ *the net metering system ceases to be eligible to participate in net*
37 *metering.*

38 5. The Commission shall adopt regulations prescribing the
39 form and substance for a net metering tariff and a standard net
40 metering contract. The regulations must include, without limitation:

41 (a) The particular provisions, limitations and responsibilities of
42 a customer-generator which must be included in a net metering tariff
43 with regard to:

44 (1) Metering equipment;

45 (2) Net energy metering and billing; and



- 1 (3) Interconnection,
2 ↳ based on the allowable size of the net metering system.
3 (b) The particular provisions, limitations and responsibilities of
4 a customer-generator and the utility which must be included in a
5 standard net metering contract.
6 (c) A timeline for processing applications and contracts for net
7 metering applicants.
8 (d) Any other provisions the Commission finds necessary to
9 carry out the provisions of NRS 704.766 to 704.775, inclusive **[H]**,
10 *and section 3.5 of this act.*

11 **Sec. 8.** (Deleted by amendment.)

12 **Sec. 8.5.** NRS 704.7815 is hereby amended to read as follows:

13 704.7815 “Renewable energy system” means:

14 1. A facility or energy system that uses renewable energy or
15 energy from a qualified energy recovery process to generate
16 electricity and:

17 (a) Uses the electricity that it generates from renewable energy
18 or energy from a qualified recovery process in this State; or

19 (b) Transmits or distributes the electricity that it generates from
20 renewable energy or energy from a qualified energy recovery
21 process to a provider of electric service for delivery into and use in
22 this State.

23 2. A solar energy system that reduces the consumption of
24 electricity or any fossil fuel.

25 3. A net metering system used by a customer-generator
26 pursuant to NRS 704.766 to 704.775, inclusive **[H]**, *and section 3.5*
27 *of this act.*

28 **Sec. 9.** Section 113 of chapter 509, Statutes of Nevada 2007,
29 at page 2999, is hereby amended to read as follows:

30 Sec. 113. 1. This act becomes effective:

31 (a) Upon passage and approval for the purposes of
32 adopting regulations and taking such other actions as are
33 necessary to carry out the provisions of this act; and

34 (b) For all other purposes besides those described in
35 paragraph (a):

36 (1) For this section and sections 1, 30, 32, 36 to 46,
37 inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of
38 this act, upon passage and approval.

39 (2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3,
40 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

41 (3) For sections 62 to 106, inclusive, of this act, on
42 October 1, 2007.

43 (4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of
44 this act, on January 1, 2009.

45 (5) For section 48 of this act, on January 1, 2010.



1 (6) For section 50 of this act, on January 1, 2011.
2 2. Sections 62 to ~~[106.]~~ 86, inclusive, of this act expire
3 by limitation on June 30, 2011.
4 3. *Sections 87 to 105, inclusive, of this act expire by*
5 *limitation on June 30, 2016.*
6 **Sec. 10.** Section 13 of chapter 246, Statutes of Nevada 2009,
7 at page 1002, is hereby amended to read as follows:
8 Sec. 13. 1. This act becomes effective on July 1, 2009.
9 2. ~~[Sections 2 and 3]~~ *Section 2* of this act ~~[expire]~~
10 *expires* by limitation on June 30, 2011.
11 3. *Section 3 of this act expires by limitation on*
12 *June 30, 2016.*
13 **Sec. 11.** Section 21 of chapter 321, Statutes of Nevada 2009,
14 at page 1410, is hereby amended to read as follows:
15 Sec. 21. 1. This section and sections 1 to 1.51,
16 inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive,
17 of this act become effective upon passage and approval.
18 2. Sections 1.51, 1.85, 1.87, 1.92, 1.93 ~~[, 1.95,]~~ and 4.3
19 to ~~[9,]~~ 7, inclusive, ~~[and 19.4]~~ of this act expire by limitation
20 on June 30, 2011.
21 3. ~~[Sections 1.53 and 19.8]~~ *Section 1.53* of this act
22 ~~[become]~~ *becomes* effective on July 1, 2011.
23 4. *Sections 1.95 and 7.1 to 9, inclusive, of this act*
24 *expire by limitation on June 30, 2016.*
25 5. *Section 19.8 of this act becomes effective on July 1,*
26 *2016.*
27 **Sec. 12.** 1. This section and sections 9, 10 and 11 of this act
28 become effective upon passage and approval.
29 2. Sections 1 to 8.5, inclusive, of this act become effective on
30 July 1, 2011.
31 3. Sections 1 and 2 of this act expire by limitation on June 30,
32 2016.

