## ASSEMBLY BILL NO. 447-ASSEMBLYWOMAN KIRKPATRICK

# MARCH 21, 2011

#### Referred to Committee on Taxation

SUMMARY—Revises the provisions governing certain partial property tax abatements for businesses in this State. (BDR 32-519)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

EXPLANATION - Matter in **bolded italics** is new; matter between brackets formitted material; is material to be omitted.

AN ACT relating to tax abatements; revising the provisions governing certain partial property tax abatements for certain businesses in this State; repealing certain provisions governing partial property tax abatements for businesses using recycled material; and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

Existing law provides a partial abatement of property taxes for a business that meets certain requirements for investment in the county in which the business is located and which pays at least the average statewide or countywide hourly wage to its employees. (NRS 361.0687) In addition, existing law provides a partial abatement of property taxes for a business that meets those requirements and also is found to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy. (NRS 701A.210) This bill abolishes these systems and establishes new provisions for granting abatements to certain businesses in this State.

**Section 2** of this bill sets forth the percentage of abatement a business is eligible for and the duration such abatement may last based upon the number of employees the business has and the average wage the business pays its employees. The more employees a business has and the more the business pays them, the higher the percentage of its abatement and the longer the duration of the abatement. **Section 3** of this bill establishes the additional qualifications a business must meet to be eligible for an abatement: (1) only certain industries are eligible for the abatement; (2) at least 50 percent of the product of the business must be exported out of this State; and (3) if the business is a new business its owner or manager must demonstrate relevant management experience to the Commission on Economic Development or complete a training course approved by the Commission. The industries which are eligible for the abatement, pursuant to



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section 3, are manufacturing, information processing, mineral processing, logistics,
technology, and research and development.

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

- **Section 1.** NRS 360.750 is hereby amended to read as follows: 360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.
- 2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:
  - (a) The business is consistent with:
- (1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and
  - (2) Any guidelines adopted pursuant to the State Plan.
- (b) The applicant has executed an agreement with the Commission which must:
  - (1) Comply with the requirements of NRS 360.755;
- (2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and
- (3) Bind the successors in interest of the business for the specified period.
- (c) The business 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 business operates.
- (d) Except as otherwise provided in NRS 361.0687, 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 meets at least two of the following requirements:
- (1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.
- (2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.





- (3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage 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 business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and
- (II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.
- (e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:
- (1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.
- (2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.
- (3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, 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 business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and
- (II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.
- (f) If the business is an existing business, the business meets at least two of the following requirements:
- (1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.
- (2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:





- (I) County assessor of the county in which the business will expand, if the business is locally assessed; or
  - (II) Department, if the business is centrally assessed.
- (3) The [average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:
- (I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees [; and
  - (II) The], and the cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.
- (g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:
- (1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.
- (2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.
- (3) The [average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:
- (I) The] business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees [; and]
- (II) The] and the cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 8.
- 3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:
- (a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.
- (b) May, if the Commission determines that such action is necessary:





- (1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;
- (2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or
- (3) Add additional requirements that a business must meet to qualify for a partial abatement.
- 4. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:
  - (a) The Department;

- (b) The Nevada Tax Commission; and
- (c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.
- 5. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.
- 6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:
  - (a) To meet the requirements set forth in subsection 2; or
- (b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,
- the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.
  - 7. A county treasurer:
- (a) Shall deposit any money that he or she receives pursuant to subsection 6 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and





- (b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.
  - 8. The Commission on Economic Development:
- (a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and
- (b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.
  - 9. The Nevada Tax Commission:

- (a) Shall adopt regulations regarding:
- (1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2: and
- (2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.
- (b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.
- 10. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.
- **Sec. 2.** Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

In addition to the requirements set forth in NRS 361.0687:

- 1. A business that has at least 10 but not more than 20 employees which pays its employees an average wage of:
- (a) Less than \$15 per hour is eligible for a duration of 1 year for a 5 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.
- (b) At least \$15 but less than \$25 per hour is eligible for a duration of 3 years for a 10 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.
- (c) At least \$25 but less than \$40 per hour is eligible for a duration of 5 years for a 20 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.
- (d) At least \$40 per hour is eligible for a duration of 8 years for a 30 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.
- 2. A business that has at least 21 but not more than 40 employees which pays its employees an average wage of:





(a) Less than \$15 per hour is eligible for a duration of 1 year for a 10 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

(b) At least \$15 but less than \$25 per hour is eligible for a duration of 5 years for a 15 percent abatement of the taxes on personal property payable by the business each year pursuant to

this chapter.

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(c) At least \$25 but less than \$40 per hour is eligible for a duration of 5 years for a 20 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

(d) At least \$40 per hour is eligible for a duration of 8 years for a 30 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

3. A business that has at least 41 but not more than 60

employees which pays its employees an average wage of:

17 (a) Less than \$15 per hour is eligible for a duration of 2 years 18 for a 10 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter. 19

(b) At least \$15 but less than \$25 per hour is eligible for a duration of 5 years for a 20 percent abatement of the taxes on personal property payable by the business each year pursuant to

23 this chapter.

> (c) At least \$25 but less than \$40 per hour is eligible for a duration of 8 years for a 25 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

> (d) At least \$40 per hour is eligible for a duration of 12 years for a 40 percent abatement of the taxes on personal property

30 payable by the business each year pursuant to this chapter.

4. A business that has at least 61 but not more than 75 employees which pays its employees an average wage of:

(a) Less than \$15 per hour is eligible for a duration of 2 years for a 15 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

(b) At least \$15 but less than \$25 per hour is eligible for a duration of 8 years for a 20 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

(c) At least \$25 but not more than \$40 per hour is eligible for a duration of 10 years for a 25 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.





(d) At least \$40 per hour is eligible for a duration of 12 years for a 45 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

5. A business that has more than 75 employees which pays its

employees an average wage of:

(a) Less than \$15 per hour is eligible for a duration of 3 years for a 15 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.

(b) At least \$15 but less than \$25 per hour is eligible for a duration of 8 years for a 25 percent abatement of the taxes on personal property payable by the business each year pursuant to

this chapter.

- (c) At least \$25 but less than \$40 per hour is eligible for a duration of 10 years for a 30 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.
- (d) At least \$40 per hour is eligible for a duration of 15 years for a 50 percent abatement of the taxes on personal property payable by the business each year pursuant to this chapter.
  - 6. A business which is eligible for an abatement for:
- 21 (a) A period of 1, 2 or 3 years has not more than 3 months to 22 fully meet the employee standards required pursuant to this 23 section;
  - (b) A period of 4 or 5 years has not more than 6 months to fully meet the employee standards required pursuant to this section; and
  - (c) A period of 6 years or more has not more than 12 months to fully meet the employee standards required pursuant to this section.
  - For purposes of determining the percentage of abatement a business is eligible to receive, the number of employees employed by a business refers to the number of employees of a new business or the number of new employees of a business which is expanding.
    - **Sec. 3.** 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 Commission on 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 Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:





- (a) [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:
- (1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and
- (2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.
- (b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:
- (1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and
- (2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.] The business is in one of the following industries:
  - (1) Manufacturing;
  - (2) Information processing;
  - (3) Mineral processing;
  - (4) Logistics;
  - (5) Technology; or
  - (6) Research and Development.
- → A business in any other industry is not eligible for a partial abatement pursuant to this section, including, without limitation, casinos and businesses in retail, excavation and drilling, and renewable energy generation;
- (b) The business will export at least 50 percent of its product out of this State; and
- (c) If a business is a newly formed business, the owner or manager of the business has provided sufficient evidence to the Commission on Economic Development that he or she has relevant management experience or he or she has completed a training program approved by the Commission.
- 3. [Except as otherwise provided in NRS 701A.210, if] If a partial abatement from the taxes imposed by this chapter is





approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

- 4 (1) <del>Be for a duration of at least 1 year but not more than 10</del> 5 <del>years;</del>
  - (2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and
  - (3)] Be for the duration and percentage of the taxes on personal property payable by a business each year pursuant to this chapter appropriate to the size of the business and average wage paid to the employees pursuant to section 2 of this act; and
  - (2) Be administered and carried out in the manner set forth in NRS 360.750.
  - (b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission 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. 4. NRS 701A.210 is hereby repealed.
  - **Sec. 5.** Notwithstanding the amendatory provisions of this act, any partial abatement of a tax that was approved by the Commission on Economic Development pursuant to NRS 361.0687 of 701A.210 before July 1, 2011, remains effective for the period and for the amount for which the Commission on Economic Development approved the partial abatement pursuant to those sections.
  - **Sec. 6.** This act becomes effective on July 1, 2011, and expires by limitation on July 1, 2021.

### TEXT OF REPEALED SECTION

# 701A.210 Partial abatement of certain property taxes for businesses and facilities using recycled material; requirements and limitations.

- 1. Except as otherwise provided in this section, if a:
- (a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or





an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for

the generation of electricity from recycled material,

- ⇒ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.
- 2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:
  - (a) The partial abatement must:
- (1) Be for a duration of at least 1 year but not more than 10 years;
- (2) Not exceed 50 percent of the taxes on real property payable by the business each year; and
- (3) Be administered and carried out in the manner set forth in NRS 360.750.
- (b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission 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.
- 3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.
- 4. As used in this section, "facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:





- (a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;
- (b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and
  - (c) Municipal waste, such as sewage and sludge.
- The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.





