

(Reprinted with amendments adopted on May 19, 2021)

FIRST REPRINT

S.B. 442

SENATE BILL NO. 442—COMMITTEE ON FINANCE

(ON BEHALF OF THE OFFICE OF FINANCE
IN THE OFFICE OF THE GOVERNOR)

MAY 10, 2021

Referred to Committee on Growth and Infrastructure

SUMMARY—Prospectively eliminates the program to provide a partial abatement of property taxes for certain buildings and structures which meet certain energy efficiency standards. (BDR 58-1070)

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

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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; prohibiting the Director of the Office of Energy from altering or amending the Green Building Rating System after a certain date; prohibiting the Director from accepting new applications for property tax abatements for certain buildings and structures which meet certain energy efficiency standards; prospectively eliminating the requirements for the Director to adopt a Green Building Ratings System and grant such property tax abatements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Director of the Office of Energy to grant a partial
2 abatement of certain property taxes for a building or other structure that meets
3 certain energy efficiency standards under the Green Building Rating System
4 adopted by the Director. (NRS 701A.100, 701A.110) This bill prospectively
5 eliminates the requirement to grant such a partial abatement. **Section 2** of this bill
6 prohibits the Director from accepting an application for the partial tax abatement on
7 or after July 1, 2021. **Section 1** of this bill prohibits the Director from altering or
8 amending the Green Building Rating System after July 1, 2021, and requires that
9 the standards and ratings in effect on that date remain in effect.

10 **Section 3** of this bill prospectively eliminates the requirements for the Director
11 to: (1) adopt a Green Building Rating System; and (2) grant a partial abatement of
12 property taxes for the construction of a building or other structure that meets certain



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13 energy efficiency standards. **Section 4** of this bill provides that the elimination of
14 these requirements becomes effective on July 1, 2035.

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

1 **Section 1.** NRS 701A.100 is hereby amended to read as
2 follows:

3 701A.100 1. The Director of the Office of Energy shall adopt
4 a Green Building Rating System for the purposes of determining the
5 eligibility of a building or other structure for a tax abatement
6 pursuant to NRS 701A.110. *The Director shall not alter or amend*
7 *the Green Building Rating System adopted pursuant to this section*
8 *after July 1, 2021, and the standards and ratings in effect on that*
9 *date shall remain in effect.*

10 2. The Green Building Rating System must include standards
11 and ratings equivalent to the standards and ratings provided pursuant
12 to the Leadership in Energy and Environmental Design Green
13 Building Rating System or an equivalent rating system, except that
14 the standards adopted by the Director:

15 (a) Except as otherwise provided in paragraphs (b) and (c), must
16 not include:

17 (1) Any standard that has not been included in the
18 Leadership in Energy and Environmental Design Green Building
19 Rating System or the equivalent rating system for at least 2 years; or

20 (2) Standards for homes;

21 (b) Must provide reasonable exceptions based on the size of the
22 area occupied by the building or other structure; and

23 (c) Must require a building or other structure to obtain:

24 (1) At least 5 points in the Optimize Energy Performance
25 credit, or its equivalent, to meet the equivalent of the silver level;

26 (2) At least 7 points in the Optimize Energy Performance
27 credit, or its equivalent, to meet the equivalent of the gold level; and

28 (3) At least 11 points in the Optimize Energy Performance
29 credit, or its equivalent, to meet the equivalent of the platinum level.

30 3. As used in this section, "home" means a building or other
31 structure for which the principal use is as a residential dwelling for
32 not more than four families.

33 **Sec. 2.** NRS 701A.110 is hereby amended to read as follows:

34 701A.110 1. Except as otherwise provided in this section, the
35 Director, in consultation with the Office of Economic Development,
36 shall grant a partial abatement from the portion of the taxes imposed
37 pursuant to chapter 361 of NRS, other than any taxes imposed for
38 public education, on a building or other structure that is determined
39 to meet the equivalent of the silver level or higher by an



1 independent contractor authorized to make that determination in
2 accordance with the Green Building Rating System adopted by the
3 Director pursuant to NRS 701A.100, if:

4 (a) No funding is provided by any governmental entity in this
5 State for the acquisition, design, construction or renovation of the
6 building or other structure or for the acquisition of any land therefor.
7 For the purposes of this paragraph:

8 (1) Private activity bonds must not be considered funding
9 provided by a governmental entity.

10 (2) The term "private activity bond" has the meaning
11 ascribed to it in 26 U.S.C. § 141.

12 (b) The owner of the property:

13 (1) Submits an application for the partial abatement to the
14 Director ~~to~~ *before July 1, 2021*. If such an application is submitted
15 for a project that has not been completed on the date of that
16 submission and there is a significant change in the scope of the
17 project after that date, the application must be amended to include
18 the change or changes.

19 (2) Except as otherwise provided in this subparagraph,
20 provides to the Director, within 48 months after applying for the
21 partial abatement, proof that the building or other structure meets
22 the equivalent of the silver level or higher, as determined by an
23 independent contractor authorized to make that determination in
24 accordance with the Green Building Rating System adopted by the
25 Director pursuant to NRS 701A.100. The Director may, for good
26 cause shown, extend the period for providing such proof.

27 (3) Files a copy of each application and amended application
28 submitted to the Director pursuant to subparagraph (1) with the:

29 (I) Chief of the Budget Division of the Office of Finance;

30 (II) Department of Taxation;

31 (III) County assessor;

32 (IV) County treasurer;

33 (V) Office of Economic Development;

34 (VI) Board of county commissioners; and

35 (VII) City manager and city council, if any.

36 (c) The abatement is consistent with the State Plan for Economic
37 Development developed by the Executive Director of the Office of
38 Economic Development pursuant to subsection 2 of NRS 231.053.

39 2. The Director shall not approve an application for a partial
40 abatement of the taxes imposed pursuant to chapter 361 of NRS
41 submitted pursuant to this section by the owner of the property
42 unless the application is approved or deemed approved by the board
43 of county commissioners pursuant to this subsection. The board of
44 county commissioners of a county must provide notice to the
45 Director that the board intends to consider an application and, if



1 such notice is given, must approve or deny the application not later
2 than 30 days after the board receives a copy of the application. The
3 board of county commissioners:

4 (a) Shall, in considering an application pursuant to this
5 subsection, make a recommendation to the Director regarding the
6 application;

7 (b) May, in considering an application pursuant to this
8 subsection, deny an application only if the board of county
9 commissioners determines, based on relevant information, that:

10 (1) The projected cost of the services that the local
11 government is required to provide to the building or other structure
12 for which the abatement is received will exceed the amount of tax
13 revenue that the local government is projected to receive as a result
14 of the abatement; or

15 (2) The projected financial benefits that will result to the
16 county from any employment resulting from the use of the building
17 or other structure and from capital investments by the owner of the
18 building or other structure in the county will not exceed the
19 projected loss of tax revenue that will result from the abatement; and

20 (c) May, without regard to whether the board has provided
21 notice to the Director of its intent to consider the application, make a
22 recommendation to the Director regarding the application.

23 ↪ If the board of county commissioners does not approve or deny
24 the application pursuant to this subsection within 30 days after the
25 board receives a copy of the application, the application shall be
26 deemed approved.

27 3. As soon as practicable after the Director receives the
28 application and proof required by subsection 1, the Director, in
29 consultation with the Office of Economic Development, shall
30 determine whether the building or other structure is eligible for the
31 abatement and, if so, forward a certificate of eligibility for the
32 abatement to the:

- 33 (a) Department of Taxation;
- 34 (b) County assessor;
- 35 (c) County treasurer; and
- 36 (d) Office of Economic Development.

37 4. The Director may, with the assistance of the Chief of the
38 Budget Division and the Department of Taxation, publish a fiscal
39 note that indicates an estimate of the fiscal impact of the partial
40 abatement on the State and on each affected local government. If the
41 Director publishes a fiscal note that estimates the fiscal impact of
42 the partial abatement on local government, the Director shall
43 forward a copy of the fiscal note to each affected local government.
44 As soon as practicable after receiving a copy of a certificate of
45 eligibility pursuant to subsection 3, the Department of Taxation



1 shall forward a copy of the certificate to each affected local
2 government.

3 5. The partial abatement for:

4 (a) A building or other structure must, except as otherwise
5 provided in paragraph (b), be for a duration of not more than 10
6 years and in an annual amount that equals, for a building or other
7 structure that meets the equivalent of:

8 (1) The silver level, 25 percent of the portion of the taxes
9 imposed pursuant to chapter 361 of NRS, other than any taxes
10 imposed for public education, that would otherwise be owed for the
11 building or other structure, excluding the associated land;

12 (2) The gold level, 30 percent of the portion of the taxes
13 imposed pursuant to chapter 361 of NRS, other than any taxes
14 imposed for public education, that would otherwise be owed for the
15 building or other structure, excluding the associated land; or

16 (3) The platinum level, 35 percent of the portion of the taxes
17 imposed pursuant to chapter 361 of NRS, other than any taxes
18 imposed for public education, that would otherwise be owed for the
19 building or other structure, excluding the associated land.

20 (b) A building or other structure that qualifies for an abatement
21 under the Leadership in Energy and Environmental Design
22 "Existing Buildings: Operations and Maintenance" rating system, or
23 its equivalent, must be for a duration of not more than 5 years and in
24 an annual amount that equals, except as otherwise provided in
25 subsection 6, for a building or other structure that meets the
26 equivalent of:

27 (1) The silver level, 25 percent of the portion of the taxes
28 imposed pursuant to chapter 361 of NRS, other than any taxes
29 imposed for public education, that would otherwise be owed for the
30 building or other structure, excluding the associated land;

31 (2) The gold level, 30 percent of the portion of the taxes
32 imposed pursuant to chapter 361 of NRS, other than any taxes
33 imposed for public education, that would otherwise be owed for the
34 building or other structure, excluding the associated land; or

35 (3) The platinum level, 35 percent of the portion of the taxes
36 imposed pursuant to chapter 361 of NRS, other than any taxes
37 imposed for public education, that would otherwise be owed for the
38 building or other structure, excluding the associated land.

39 6. The Director shall not grant a partial abatement of more than
40 \$100,000 in any year for a building or other structure that qualifies
41 for an abatement pursuant to paragraph (b) of subsection 5.

42 7. A partial abatement granted pursuant to this section:

43 (a) Does not apply during any period in which the owner of the
44 building or other structure is receiving another abatement or



1 exemption pursuant to this chapter or NRS 361.045 to 361.159,
2 inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

3 (b) Terminates upon any determination by the Director that the
4 building or other structure has ceased to meet the equivalent of the
5 silver level or higher. The Director shall provide notice and a
6 reasonable opportunity to cure any noncompliance issues before
7 making a determination that the building or other structure has
8 ceased to meet that standard. The Director shall immediately
9 provide notice of each determination of termination to the:

10 (1) Department of Taxation, who shall immediately notify
11 each affected local government of the determination;

12 (2) County assessor;

13 (3) County treasurer; and

14 (4) Office of Economic Development.

15 8. If a partial abatement terminates pursuant to paragraph (b) of
16 subsection 7, the owner of the property to which the partial
17 abatement applied shall repay to the county treasurer the amount of
18 the exemption that was allowed pursuant to this section before the
19 date of that termination. The owner shall, in addition to the amount
20 of the exemption required to be paid pursuant to this subsection, pay
21 interest on the amount due at the rate most recently established
22 pursuant to NRS 99.040 for each month, or portion thereof, from the
23 last day of the month following the period for which the payment
24 would have been made had the partial abatement not been approved
25 until the date of payment of the tax.

26 9. The Director, in consultation with the Office of Economic
27 Development, shall adopt regulations:

28 (a) Establishing the qualifications and methods to determine
29 eligibility for and the duration of the abatement;

30 (b) Prescribing such forms as will ensure that all information
31 and other documentation necessary to make an appropriate
32 determination is filed with the Director; and

33 (c) Prescribing the criteria for determining when there is a
34 significant change in the scope of a project for the purposes of
35 subparagraph (1) of paragraph (b) of subsection 1,

36 ↪ and the Department of Taxation shall adopt such additional
37 regulations as it determines to be appropriate to carry out the
38 provisions of this section.

39 10. The Director shall:

40 (a) Cooperate with the Office of Economic Development in
41 carrying out the provisions of this section; and

42 (b) Submit to the Office of Economic Development an annual
43 report, at such a time and containing such information as the Office
44 may require, regarding the partial abatements granted pursuant to
45 this section.



1 11. The Director may charge and collect a fee from each
2 applicant who submits an application for a partial abatement
3 pursuant to this section. The amount of the fee must not exceed the
4 actual cost to the Director for processing the application and
5 evaluating the proof submitted by the applicant pursuant to
6 subsection 1 and making the determination concerning eligibility for
7 the partial abatement required by subsection 3.

8 12. As used in this section:

9 (a) "Building or other structure" does not include any building
10 or other structure for which the principal use is as a residential
11 dwelling for not more than four families.

12 (b) "Director" means the Director of the Office of Energy
13 appointed pursuant to NRS 701.150.

14 (c) "Taxes imposed for public education" means:

15 (1) Any ad valorem tax authorized or required by chapter
16 387 of NRS;

17 (2) Any ad valorem tax authorized or required by chapter
18 350 of NRS for the obligations of a school district, including,
19 without limitation, any ad valorem tax necessary to carry out the
20 provisions of subsection 5 of NRS 350.020; and

21 (3) Any other ad valorem tax for which the proceeds thereof
22 are dedicated to the public education of pupils in kindergarten
23 through grade 12.

24 **Sec. 3.** NRS 701A.100 and 701A.110 are hereby repealed.

25 **Sec. 4.** 1. This section and sections 1 and 2 of this act
26 become effective on July 1, 2021.

27 2. Section 3 of this act becomes effective July 1, 2035.

TEXT OF REPEALED SECTIONS

701A.100 Adoption of Green Building Rating System; requirements and limitations.

1. The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110.

2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System or an equivalent rating system, except that the standards adopted by the Director:



(a) Except as otherwise provided in paragraphs (b) and (c), must not include:

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System or the equivalent rating system for at least 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must require a building or other structure to obtain:

(1) At least 5 points in the Optimize Energy Performance credit, or its equivalent, to meet the equivalent of the silver level;

(2) At least 7 points in the Optimize Energy Performance credit, or its equivalent, to meet the equivalent of the gold level; and

(3) At least 11 points in the Optimize Energy Performance credit, or its equivalent, to meet the equivalent of the platinum level.

3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.

701A.110 Partial abatement of certain property taxes for buildings or structures that meet certain standards under Green Building Rating System; requirements and limitations; regulations.

1. Except as otherwise provided in this section, the Director, in consultation with the Office of Economic Development, shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design, construction or renovation of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.



(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

- (I) Chief of the Budget Division of the Office of Finance;
- (II) Department of Taxation;
- (III) County assessor;
- (IV) County treasurer;
- (V) Office of Economic Development;
- (VI) Board of county commissioners; and
- (VII) City manager and city council, if any.

(c) The abatement 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.

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 this section by the owner of the property unless the application is approved or deemed approved by the board of county commissioners 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 building or other structure for which the abatement is received 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 any employment resulting from the use of the building or other structure and from capital investments by the owner of the



building or other structure in the county will not exceed the projected loss of tax revenue that will result from the abatement; and

(c) 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 pursuant to this subsection within 30 days after the board receives a copy of the application, the application shall be deemed approved.

3. As soon as practicable after the Director receives the application and proof required by subsection 1, the Director, in consultation with the Office of Economic Development, shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (a) Department of Taxation;
- (b) County assessor;
- (c) County treasurer; and
- (d) Office of Economic Development.

4. The Director may, with the assistance of the Chief of the Budget Division and the Department of Taxation, publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and on each affected local government. If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall forward a copy of the fiscal note to each affected local government. As soon as practicable after receiving a copy of a certificate of eligibility pursuant to subsection 3, the Department of Taxation shall forward a copy of the certificate to each affected local government.

5. The partial abatement for:

(a) A building or other structure must, except as otherwise provided in paragraph (b), be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes



imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land.

(b) A building or other structure that qualifies for an abatement under the Leadership in Energy and Environmental Design “Existing Buildings: Operations and Maintenance” rating system, or its equivalent, must be for a duration of not more than 5 years and in an annual amount that equals, except as otherwise provided in subsection 6, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land.

6. The Director shall not grant a partial abatement of more than \$100,000 in any year for a building or other structure that qualifies for an abatement pursuant to paragraph (b) of subsection 5.

7. A partial abatement granted pursuant to this section:

(a) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(b) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Office of Economic Development.

8. If a partial abatement terminates pursuant to paragraph (b) of subsection 7, the owner of the property to which the partial abatement applied shall repay to the county treasurer the amount of the exemption that was allowed pursuant to this section before the



date of that termination. The owner 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.

9. The Director, in consultation with the Office of Economic Development, shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for and the duration of the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

↳ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

10. The Director shall:

(a) Cooperate with the Office of Economic Development in carrying out the provisions of this section; and

(b) 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.

11. The Director may charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to this section. The amount of the fee must not exceed the actual cost to the Director for processing the application and evaluating the proof submitted by the applicant pursuant to subsection 1 and making the determination concerning eligibility for the partial abatement required by subsection 3.

12. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including,



without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

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