

Amendment No. 844

Assembly Amendment to Senate Bill No. 114 First Reprint	(BDR 58-380)
Proposed by: Assemblyman Conklin	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

MSN/TMC



Date: 5/19/2009

S.B. No. 114—Makes various changes relating to systems for obtaining and using solar energy and other renewable energy resources.
(BDR 58-380)



SENATE BILL NO. 114—SENATOR SCHNEIDER

FEBRUARY 3, 2009

Referred to Committee on Energy, Infrastructure and Transportation

SUMMARY—Makes various changes relating to systems for obtaining and using solar energy and other renewable energy resources. (BDR 58-380)

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; requiring the Director of the Office of Energy to make certain determinations relating to systems for obtaining solar energy; prohibiting certain restrictions on the use of systems for obtaining solar **energy or wind** energy; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law sets forth a prohibition against covenants, restrictions or conditions
 2 contained in deeds, contracts or other legal documents which prohibit or unreasonably restrict
 3 an owner of property from using a system for obtaining solar ~~for wind~~ energy on his
 4 property. (NRS 111.239, 278.0208) **Sections 2 and 3** of this bill include within the
 5 prohibition any such covenant, restriction or condition which has the effect of prohibiting or
 6 unreasonably restricting the property owner from using ~~such~~ a **solar energy** system.
 7 **Sections 2 and 3** also describe an unreasonable restriction on the use of a system for obtaining
 8 solar energy as including: (1) the placing of a restriction or requirement that decreases the
 9 efficiency or performance of a system for obtaining solar energy by more than 10 percent of
 10 the amount that was originally specified for the system, as determined by the Director of the
 11 Office of Energy; and (2) the prohibition of a system for obtaining solar energy that uses
 12 components painted with black solar glazing.

13 **Section 1** of this bill requires the Director, if requested to make a determination
 14 concerning the efficiency or performance of a system for obtaining solar energy pursuant to
 15 **section 2 or 3**, to make the determination within 30 days after receiving the request. If the
 16 Director needs additional information to make the determination, **section 1** authorizes the
 17 Director to request that information from the person requesting the determination and requires
 18 the Director to make the determination within 15 days after receiving the additional
 19 information.

20 **Sections 1.5 and 2.5 of this bill set forth a prohibition against covenants, restrictions**
 21 **or conditions contained in deeds, contracts or other legal documents, and against local**
 22 **ordinances, regulations or plans, which prohibit or unreasonably restrict an owner of**
 23 **property from using a system for obtaining wind energy on his property. Sections 1.5**
 24 **and 2.5 describe an unreasonable restriction on the use of a system for obtaining wind**
 25 **energy as the placing of a restriction or requirement on the use of a system for obtaining**
 26 **wind energy which significantly decreases the efficiency or performance of the system**
 27 **and which does not allow for the use of an alternative system at a substantially**

28 comparable cost and with substantially comparable efficiency and performance. Sections
29 1.5 and 2.5 do not prohibit reasonable restrictions: (1) imposed pursuant to a
30 determination by the Federal Aviation Administration that the installation of the system
31 for obtaining wind energy would create a hazard to air navigation; or (2) relating to the
32 height, noise or safety of a system for obtaining wind energy.

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

1 **Section 1.** NRS 701.180 is hereby amended to read as follows:

2 701.180 The Director shall:

3 1. Acquire and analyze information relating to energy and to the supply,
4 demand and conservation of its sources.

5 2. Utilize all available public and private means to provide information to the
6 public about problems relating to energy and to explain how conservation of energy
7 and its sources may be accomplished.

8 3. Review and evaluate information which identifies trends and permits
9 forecasting of the energy available to the State. Such forecasts must include
10 estimates on:

11 (a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

12 (b) The amount of energy available to meet each level of demand;

13 (c) The probable implications of the forecast on the demand and supply of
14 energy; and

15 (d) The sources of renewable energy and other alternative sources of energy
16 which are available and their possible effects.

17 4. Study means of reducing wasteful, inefficient, unnecessary or
18 uneconomical uses of energy and encourage the maximum utilization of existing
19 sources of energy in the State.

20 5. Encourage the development of:

21 (a) Any sources of renewable energy and any other energy projects which will
22 benefit the State; and

23 (b) Any measures which conserve or reduce the demand for energy or which
24 result in more efficient use of energy.

25 6. In conjunction with the Desert Research Institute, review policies relating
26 to the research and development of the State's geothermal resources and make
27 recommendations to the appropriate state and federal agencies for establishing
28 methods of developing the geothermal resources within the State.

29 7. Solicit and serve as the point of contact for grants and other money from
30 the Federal Government and other sources to promote:

31 (a) Energy projects that enhance the economic development of the State;

32 (b) The use of renewable energy; and

33 (c) The use of measures which conserve or reduce the demand for energy or
34 which result in more efficient use of energy.

35 8. Coordinate the activities and programs of the Office of Energy with the
36 activities and programs of the Task Force, the Consumer's Advocate and the Public
37 Utilities Commission of Nevada and other federal, state and local officers and
38 agencies that promote, fund, administer or operate activities and programs related
39 to the use of renewable energy and the use of measures which conserve or reduce
40 the demand for energy or which result in more efficient use of energy.

1 9. *If requested to make a determination pursuant to NRS 111.239 or*
2 *278.0208, make the determination within 30 days after receiving the request. If*
3 *the Director needs additional information to make the determination, he may*
4 *request the information from the person making the request for a determination.*
5 *Within 15 days after receiving the additional information, the Director shall*
6 *make a determination on the request.*

7 10. Carry out all other directives concerning energy that are prescribed by the
8 Governor.

9 Sec. 1.5. Chapter 111 of NRS is hereby amended by adding thereto a
10 new section to read as follows:

11 1. Except as otherwise provided in subsection 2, any covenant, restriction or
12 condition contained in a deed, contract or other legal instrument which affects
13 the transfer or sale of, or any other interest in, real property and which prohibits
14 or unreasonably restricts the owner of the property from using a system for
15 obtaining wind energy on his property is void and unenforceable.

16 2. The provisions of subsection 1 do not prohibit a reasonable restriction or
17 requirement:

18 (a) Imposed pursuant to a determination by the Federal Aviation
19 Administration that the installation of the system for obtaining wind energy
20 would create a hazard to air navigation; or

21 (b) Relating to the height, noise or safety of a system for obtaining wind
22 energy.

23 3. For the purposes of this section, “unreasonably restricts the owner of the
24 property from using a system for obtaining wind energy” includes the placing of
25 a restriction or requirement on the use of a system for obtaining wind energy
26 which significantly decreases the efficiency or performance of the system and
27 which does not allow for the use of an alternative system at a substantially
28 comparable cost and with substantially comparable efficiency and performance.

29 Sec. 2. NRS 111.239 is hereby amended to read as follows:

30 111.239 1. Any covenant, restriction or condition contained in a deed,
31 contract or other legal instrument which affects the transfer ~~(f)~~ or sale of, or any
32 other interest in real property ~~(that)~~ and which prohibits or unreasonably restricts
33 or has the effect of prohibiting or unreasonably restricting the owner of the
34 property from using a system for obtaining solar ~~(or wind)~~ energy on his property is
35 void and unenforceable.

36 2. For the purposes of this section, ~~["unreasonably restricts the use of a~~
37 ~~system for obtaining solar or wind energy" means]~~ the following shall be deemed
38 to be unreasonable restrictions:

39 ~~(a) [The placing of a restriction or requirement on the use of a system for~~
40 ~~obtaining wind energy which significantly decreases the efficiency or~~
41 ~~performance of the system and which does not allow for the use of an alternative~~
42 ~~system at a substantially comparable cost and with substantially comparable~~
43 ~~efficiency and performance.~~

44 ~~—(b)]~~ The placing of a restriction or requirement on the use of [such] a system
45 for obtaining solar energy which [significantly] decreases the efficiency or
46 performance of the system by more than 10 percent of the amount that was
47 originally specified for the system, as determined by the Director of the Office of
48 Energy, and which does not allow for the use of an alternative system at a
49 substantially comparable cost and with substantially comparable efficiency and
50 performance.

51 ~~(c)]~~ (b) The prohibition of a system for obtaining solar energy that uses
52 components painted with black solar glazing.

1 Sec. 2.5. Chapter 278 of NRS is hereby amended by adding thereto a
 2 new section to read as follows:

3 1. Except as otherwise provided in subsection 2:

4 (a) A governing body shall not adopt an ordinance, regulation or plan or
 5 take any other action that prohibits or unreasonably restricts the owner of real
 6 property from using a system for obtaining wind energy on his property.

7 (b) Any covenant, restriction or condition contained in a deed, contract or
 8 other legal instrument which affects the transfer or sale of, or any other interest
 9 in, real property and which prohibits or unreasonably restricts the owner of the
 10 property from using a system for obtaining wind energy on his property is void
 11 and unenforceable.

12 2. The provisions of subsection 1 do not prohibit a reasonable restriction or
 13 requirement:

14 (a) Imposed pursuant to a determination by the Federal Aviation
 15 Administration that the installation of the system for obtaining wind energy
 16 would create a hazard to air navigation; or

17 (b) Relating to the height, noise or safety of a system for obtaining wind
 18 energy.

19 3. For the purposes of this section, “unreasonably restricts the owner of the
 20 property from using a system for obtaining wind energy” includes the placing of
 21 a restriction or requirement on the use of a system for obtaining wind energy
 22 which significantly decreases the efficiency or performance of the system and
 23 which does not allow for the use of an alternative system at a substantially
 24 comparable cost and with substantially comparable efficiency and performance.

25 **Sec. 3.** NRS 278.0208 is hereby amended to read as follows:

26 278.0208 1. A governing body shall not adopt an ordinance, regulation or
 27 plan or take any other action that prohibits or unreasonably restricts **or has the**
 28 **effect of prohibiting or unreasonably restricting** the owner of real property from
 29 using a system for obtaining solar ~~for wind~~ energy on his property.

30 2. Any covenant, restriction or condition contained in a deed, contract or
 31 other legal instrument which affects the transfer ~~of~~ **or** sale **of**, or any other interest
 32 in real property ~~that~~ and which prohibits or unreasonably restricts **or has the**
 33 **effect of prohibiting or unreasonably restricting** the owner of the property from
 34 using a system for obtaining solar ~~for wind~~ energy on his property is void and
 35 unenforceable.

36 3. For the purposes of this section, ~~“unreasonably restricting the use of a~~
 37 ~~system for obtaining solar or wind energy” means~~ **the following shall be deemed**
 38 **to be unreasonable restrictions:**

39 ~~(a) The placing of a restriction or requirement on the use of a system for~~
 40 ~~obtaining wind energy which significantly decreases the efficiency or~~
 41 ~~performance of the system and which does not allow for the use of an alternative~~
 42 ~~system at a substantially comparable cost and with substantially comparable~~
 43 ~~efficiency and performance.~~

44 ~~(b)~~ **The placing of a restriction or requirement on the use of ~~such~~** a system
 45 **for obtaining solar energy** which ~~significantly~~ decreases the efficiency or
 46 performance of the system **by more than 10 percent of the amount that was**
 47 **originally specified for the system, as determined by the Director of the Office of**
 48 **Energy, and which** does not allow for the use of an alternative system at a
 49 **substantially** comparable cost and with **substantially** comparable efficiency and
 50 performance.

51 ~~(c)~~ **(b) The prohibition of a system for obtaining solar energy that uses**
 52 **components painted with black solar glazing.**

53 **Sec. 4.** This act becomes effective upon passage and approval.