
ASSEMBLY BILL NO. 442—ASSEMBLYMEN BROOKS; ATKINSON,
BENITEZ-THOMPSON, BUSTAMANTE ADAMS, DALY,
ELLISON, FRIERSON, HICKEY, HORNE, KIRKPATRICK,
OCEGUERA AND PIERCE

MARCH 21, 2011

JOINT SPONSORS: SENATORS LEE AND MANENDO

Referred to Committee on Commerce and Labor

SUMMARY—Establishes the Community Solar Garden
Demonstration Program. (BDR 58-1082)

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 renewable energy; establishing the Community Solar Garden Demonstration Program; requiring the Public Utilities Commission of Nevada to adopt regulations to carry out the Program; providing for the establishment of incentives for subscriber organizations that participate in the Program; providing that subscriber organizations which own and operate community solar gardens may participate in net metering under certain circumstances; requiring a utility to submit an annual plan to the Commission for carrying out the Program in the service area of the utility; providing that subscribers and subscriber organizations are not public utilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 This bill establishes the Community Solar Garden Demonstration Program to
2 achieve the Legislature's goal of not less than 10 megawatts of installed community
3 solar gardens in this State by 2021. A community solar garden is a solar energy
4 system that: (1) has a nameplate capacity of not more than 2 megawatts; (2) is
5 located in a residential neighborhood; (3) is owned and operated by a subscriber
6 organization consisting of 10 or more customers of a utility who reside in the same



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7 municipality or county as the community solar garden; and (4) generates electricity
8 the beneficial use of which is for the subscribers of the community solar garden.
9 **Section 13** of this bill establishes the Program. **Section 14** of this bill requires
10 the Public Utilities Commission of Nevada to adopt regulations to carry out the
11 Program. The regulations adopted pursuant to **section 14** must establish incentives
12 for participants in the Program, eligibility requirements for participation in the
13 Program and requirements for a utility's annual plan for carrying out the Program
14 in its service area. **Section 15** of this bill sets forth certain requirements relating to
15 the annual plan submitted by a utility and authorizes a utility to recover its
16 reasonable and prudent costs associated with carrying out the Program. **Section 16**
17 of this bill establishes certain requirements concerning the process of applying for
18 and participating in the Program.
19 **Section 17** of this bill authorizes a subscriber organization to participate in net
20 metering and further provides that a community solar garden is deemed to be
21 located on the premises of a subscriber for the purposes of net metering. **Section 18**
22 of this bill requires the Commission to issue portfolio energy credits for community
23 solar gardens and provides that such credits must be assigned to and become the
24 property of the utility that is administering the Program.
25 **Section 19** of this bill exempts community solar gardens, participants,
26 subscribers and subscriber organizations from regulation as public utilities.
27 **Section 20** of this bill requires the Commission to submit annual reports on the
28 progress of the Program to the Governor and to the Director of the Legislative
29 Counsel Bureau for transmittal to the Legislature or Legislative Commission.
30 **Section 21** of this bill provides that the Program expires by limitation on
31 December 31, 2021.

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

1 **Section 1.** Chapter 701B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 20, inclusive, of this
3 act.
4 **Sec. 2.** *As used in sections 2 to 20, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 12, inclusive, of this act have the meanings*
7 *ascribed to them in those sections.*
8 **Sec. 3.** *“Applicant” means a subscriber organization that*
9 *applies to participate in the Program.*
10 **Sec. 4.** *“Commission” means the Public Utilities*
11 *Commission of Nevada.*
12 **Sec. 5.** *“Community solar garden” means a solar energy*
13 *system which:*
14 *1. Is located in or near a residential neighborhood served by*
15 *a utility;*
16 *2. Is owned and operated by a subscriber organization; and*
17 *3. Generates electricity the beneficial use of which belongs to*
18 *the subscribers of the community solar garden.*
19 **Sec. 6.** *“Participant” means a subscriber organization that*
20 *has been selected by a utility to participate in the Program.*



1 **Sec. 7.** *“Program” means the Community Solar Garden*
2 *Demonstration Program created by section 13 of this act.*

3 **Sec. 8.** *“Solar energy system” means a facility or energy*
4 *system with a nameplate capacity of not more than 2 megawatts*
5 *that uses photovoltaic cells and solar energy to generate electricity.*

6 **Sec. 9.** *“Subscriber” means a customer of a utility who:*
7 1. *Subscribes to a community solar garden; and*
8 2. *Resides within the municipality or county in which the*
9 *community solar garden is located.*

10 **Sec. 10.** *“Subscriber organization” means an entity that, for*
11 *the benefit of its subscribers, owns and operates a community*
12 *solar garden that is subscribed to by 10 or more subscribers.*

13 **Sec. 11.** *“Subscription” means a subscriber’s proportional*
14 *interest in a community solar garden.*

15 **Sec. 12.** *“Utility” means a public utility that supplies*
16 *electricity in this State.*

17 **Sec. 13.** 1. *The Community Solar Garden Demonstration*
18 *Program is hereby created to achieve the Legislature’s goal of not*
19 *less than 10 megawatts of installed community solar gardens in*
20 *residential neighborhoods in this State by 2021.*

21 2. *To be eligible to participate in the Program, a subscriber*
22 *organization must:*

23 (a) *Meet the qualifications established by the Commission*
24 *pursuant to section 14 of this act;*

25 (b) *Submit an application to a utility and be selected by the*
26 *utility as a participant; and*

27 (c) *When installing the community solar garden, use an*
28 *installer who has been issued a classification C-2 license with the*
29 *appropriate subclassification by the State Contractors’ Board*
30 *pursuant to the regulations adopted by the Board.*

31 **Sec. 14.** *The Commission shall adopt regulations necessary*
32 *to carry out the provisions of sections 2 to 20, inclusive, of this act,*
33 *including, without limitation, regulations that:*

34 1. *Establish the type of incentives available to participants*
35 *and the level or amount of those incentives. The regulations must*
36 *provide that the level or amount of the incentives must decline*
37 *over time as the cost of solar energy systems declines. The*
38 *regulations must provide for the allocation of the incentives to*
39 *each subscriber in proportion to his or her share in the community*
40 *solar garden.*

41 2. *Establish the eligibility requirements for subscribers and*
42 *subscriber organizations for participation in the Program,*
43 *including, without limitation, requirements concerning the*
44 *proximity of the property of a subscriber to the premises on which*
45 *a community solar garden is located.*



1 3. *Establish a standard contract that may be used for the*
2 *creation of a subscriber organization and establish the mandatory*
3 *terms of any contract for the creation of a subscriber organization.*

4 4. *Establish requirements relating to the financing of*
5 *community solar gardens, including, without limitation,*
6 *capitalization requirements.*

7 5. *Provide for the transferability of subscriptions.*

8 6. *Authorize a subscriber organization to enter into leases,*
9 *sale-and-leaseback transactions, operating agreements and other*
10 *ownership arrangements with third parties.*

11 7. *Establish the requirements for a utility's annual plan for*
12 *carrying out and administering the Program. A utility's annual*
13 *plan must include, without limitation:*

14 (a) *A detailed plan for advertising the Program;*

15 (b) *A detailed budget and schedule for carrying out and*
16 *administering the Program;*

17 (c) *A detailed account of administrative processes and forms*
18 *that will be used to carry out and administer the Program,*
19 *including, without limitation, a description of the application*
20 *process and copies of all applications and any other forms that are*
21 *necessary to apply for and participate in the Program;*

22 (d) *A detailed account of the procedures that will be used for*
23 *inspection and verification of a participant's community solar*
24 *garden and compliance with the Program;*

25 (e) *A detailed account of training and educational activities*
26 *that will be used to carry out and administer the Program; and*

27 (f) *Any other information required by the Commission.*

28 **Sec. 15. 1.** *Each year on or before the date established by*
29 *the Commission, a utility shall file with the Commission its annual*
30 *plan for carrying out and administering the Program within its*
31 *service area for the following year.*

32 2. *The Commission shall:*

33 (a) *Review each annual plan filed by a utility for compliance*
34 *with the requirements established by regulation of the*
35 *Commission; and*

36 (b) *Approve each annual plan with such modifications and*
37 *upon such terms and conditions as the Commission finds*
38 *necessary or appropriate to facilitate the Program.*

39 3. *A utility shall carry out and administer the Program within*
40 *its service area in accordance with the utility's annual plan as*
41 *approved by the Commission.*

42 4. *A utility may recover its reasonable and prudent costs,*
43 *including, without limitation, participant incentives, that are*
44 *associated with carrying out and administering the Program*
45 *within its service area by seeking recovery of those costs in an*



1 *appropriate proceeding before the Commission pursuant to*
2 *NRS 704.110.*

3 **Sec. 16.** *1. To participate in the Program, an applicant*
4 *must submit an application to a utility.*

5 *2. A utility shall review each application submitted pursuant*
6 *to subsection 1 to ensure that the applicant meets the*
7 *qualifications and requirements to be eligible to participate in the*
8 *Program.*

9 *3. After reviewing an application and ensuring that the*
10 *applicant meets the qualifications and requirements to be eligible*
11 *to participate in the Program, a utility may select the applicant as*
12 *a participant.*

13 *4. Not later than 30 days after the date on which the utility*
14 *selects a participant, the utility shall provide written notice of the*
15 *selection to the participant.*

16 *5. After the utility selects a participant, the utility may*
17 *approve the community solar garden proposed by the participant.*
18 *Upon the utility's approval of the community solar garden:*

19 *(a) The utility shall provide to the participant notice of the*
20 *approval and the amount of incentive for which the community*
21 *solar garden is eligible; and*

22 *(b) The participant may install and energize the community*
23 *solar garden.*

24 *6. Upon the completion of the installation and energizing of*
25 *the community solar garden, the participant must submit to the*
26 *utility an incentive claim form and any supporting information,*
27 *including, without limitation, a verification of the cost of the*
28 *community solar garden and a calculation of the expected system*
29 *output.*

30 *7. Upon receipt of the incentive claim form and verification*
31 *that the community solar garden is properly connected, the utility*
32 *shall issue an incentive payment to the participant.*

33 *8. The amount of the incentive for which a participant is*
34 *eligible must be determined on the date on which the participant is*
35 *selected by the utility, except that a participant forfeits eligibility*
36 *for that amount of incentive if the participant withdraws from*
37 *participation in the Program or does not complete the installation*
38 *of the community solar garden within 12 months after the date on*
39 *which the participant is selected by the utility. A participant that*
40 *forfeits eligibility for an incentive may submit a new application*
41 *for participation in the Program.*

42 **Sec. 17.** *If a community solar garden used by a participant*
43 *meets the requirements of NRS 704.766 to 704.775, inclusive, the*
44 *participant is entitled to participate in net metering pursuant to the*
45 *provisions of NRS 704.766 to 704.775, inclusive. For the purposes*



1 *of NRS 704.766 to 704.775, inclusive, a community solar garden*
2 *shall be deemed to be located on the premises of each subscriber*
3 *in proportion to each subscriber's share of the community solar*
4 *garden. The participant shall provide the utility on a monthly basis*
5 *and at other reasonable times as determined by the utility*
6 *information necessary to determine the proportionate share of*
7 *each subscriber for this purpose.*

8 **Sec. 18.** *1. After a participant installs a community solar*
9 *garden included in the Program, the Commission shall issue*
10 *portfolio energy credits for use within the system of portfolio*
11 *energy credits adopted by the Commission pursuant to NRS*
12 *704.7821 and 704.78213.*

13 *2. The Commission shall designate the portfolio energy*
14 *credits issued pursuant to this section as portfolio energy credits*
15 *generated, acquired or saved from solar renewable energy systems*
16 *for the purposes of the portfolio standard.*

17 *3. All portfolio energy credits issued for a community solar*
18 *garden installed pursuant to the Program must be assigned to and*
19 *become the property of the utility administering the Program.*

20 **Sec. 19.** *Notwithstanding any other provision of law, a*
21 *community solar garden, participant, subscriber or subscriber*
22 *organization is not a public utility and is not subject to regulation*
23 *by the Commission as a public utility.*

24 **Sec. 20.** *On or before March 1 of each year, the Commission*
25 *shall submit to the Governor and to the Director of the Legislative*
26 *Counsel Bureau for transmittal to the Legislature in odd-*
27 *numbered years or the Legislative Commission in even-numbered*
28 *years a written report which must include a summary of the*
29 *progress of the Program in achieving the Legislature's goals set*
30 *forth in section 13 of this act and any recommendations for the*
31 *Program.*

32 **Sec. 21.** 1. This act becomes effective:

33 (a) Upon passage and approval for the purposes of adopting
34 regulations and carrying out any necessary preparatory
35 administrative tasks; and

36 (b) On July 1, 2011, for all other purposes.

37 2. This act expires by limitation on December 31, 2021.

