

SENATE BILL NO. 184—SENATOR SCHNEIDER

FEBRUARY 22, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Requires the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program. (BDR 58-229)

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 Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program; requiring each provider of electric service in this State to participate in the Program; requiring the Commission to establish standard offers for the purchase and resale of electricity generated by certain renewable energy systems; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill requires the Public Utilities Commission of Nevada to establish the
2 Renewable Energy Systems Development Program. **Section 13** of this bill requires
3 each provider of electric service in this State to participate in the Program. **Section**
4 **13** also requires the Commission to establish standard offers for the purchase and
5 resale of electricity from certain renewable energy systems and determine the
6 cumulative capacity of renewable energy systems that are authorized to participate
7 in the Program. Additionally, **section 13** requires the Commission to: (1) appoint
8 one or more facilitators to engage in the purchase and resale of electricity from
9 renewable energy systems in accordance with the standard offers; and (2) make the
10 standard offers available until the cumulative system capacity of all renewable
11 energy systems participating in the Program meets the cumulative capacity
12 determined by the Commission.

13 **Section 14** of this bill provides that a contract for a standard offer is
14 transferable and requires the transferee to provide written notice to the facilitator of
15 any transfer. **Section 14** also requires the facilitator to distribute the electricity
16 purchased pursuant to contracts for standard offers and to allocate any associated
17 costs among all providers of electric service on a pro rata basis. **Section 13**
18 provides that renewable energy systems owned and operated by a provider of
19 electric service are not eligible for the standard offer, but **section 14** requires that a



20 provider of electric service receive a credit toward its share of such associated costs
21 for any renewable energy system which is owned and operated by the provider and
22 which is commissioned on or after January 1, 2012. **Section 14** further requires that
23 a contract for a standard offer provide that any tradable renewable energy credits
24 associated with a renewable energy system which accepts a standard offer are
25 owned by the provider of electric service that purchases electricity from the
26 renewable energy system. Additionally, **section 14** provides that a contract for a
27 standard offer entered into by a utility provider is deemed to be a prudent
28 investment, and the utility provider may recover all just and reasonable costs
29 associated with the contract.

30 **Section 15** of this bill requires the Commission to make certain determinations
31 concerning the reasonable expenses of facilitators and to allocate those expenses
32 among the system owners and providers of electric service. **Section 15** also requires
33 the Commission to establish reporting requirements relating to the Program and to
34 adopt regulations to carry out the Program.

35 **Section 18** of this bill requires the Commission to submit a biennial report to
36 the Legislature concerning the Program. **Section 19** of this bill requires the
37 Commission to open an investigatory docket to establish the initial prices for the
38 purchase and resale of electricity under the Program.

39 **Section 20** of this bill requires the regulations which must be adopted by the
40 Commission to carry out the provisions of this bill to be adopted on or before
41 December 31, 2011.

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

1 **Section 1.** Chapter 704 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 18, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 18, inclusive, of this act, the*
5 *words and terms defined in sections 3 to 12, inclusive, of this act*
6 *have the meanings ascribed to them in those sections.*

7 **Sec. 3.** *“Commissioned” or “commissioning” means the first*
8 *time a renewable energy system is put into operation following its*
9 *initial construction or following its modernization if the costs of*
10 *modernization are equal to 50 percent or more of the costs that*
11 *would be required to build a new renewable energy system,*
12 *including all buildings and structures technically required for the*
13 *operation of a new renewable energy system. The term does not*
14 *include activities necessary to establish operational readiness of*
15 *the renewable energy system.*

16 **Sec. 4.** *“Facilitator” means a person appointed by the*
17 *Commission pursuant to section 13 of this act.*

18 **Sec. 5.** *“Person” means a natural person, any form of*
19 *business or social organization and any other nongovernmental*
20 *legal entity, including, without limitation, a corporation,*
21 *partnership, association, trust or unincorporated organization.*



1 *The term does not include a government, governmental agency or*
2 *political subdivision of a government.*

3 **Sec. 6.** *“Program” means the Renewable Energy Systems*
4 *Development Program established by the Commission pursuant to*
5 *section 13 of this act.*

6 **Sec. 7.** *“Provider of electric service” has the meaning*
7 *ascribed to it in NRS 704.7808.*

8 **Sec. 8.** *“Renewable energy” has the meaning ascribed to it in*
9 *NRS 704.7811.*

10 **Sec. 9.** *“Renewable energy system” means a facility or*
11 *energy system that:*

12 1. *Uses renewable energy to generate electricity; and*

13 2. *Has a system capacity that is 100 kilowatts or more but less*
14 *than 3 megawatts.*

15 **Sec. 10.** *“System capacity” means the nameplate capacity of*
16 *a renewable energy system.*

17 **Sec. 11.** *“System owner” means the person who has the right*
18 *to sell electricity generated by a renewable energy system.*

19 **Sec. 12.** *“Utility provider” has the meaning ascribed to it in*
20 *NRS 704.7819.*

21 **Sec. 13.** 1. *The Commission shall establish the Renewable*
22 *Energy Systems Development Program to carry out the provisions*
23 *of sections 2 to 18, inclusive, of this act. Each provider of electric*
24 *service in this State shall participate in the Program.*

25 2. *To carry out the Program, the Commission shall appoint*
26 *one or more facilitators to engage in the purchase and resale of*
27 *electricity generated by qualified renewable energy systems in*
28 *accordance with the standard offers established by the*
29 *Commission pursuant to paragraph (a) of subsection 3.*

30 3. *The Commission shall:*

31 (a) *Establish standard offers for the purchase and resale of*
32 *electricity from qualifying renewable energy systems; and*

33 (b) *Determine the cumulative system capacity for all renewable*
34 *energy systems that participate in the Program.*

35 4. *The Commission shall make the standard offers*
36 *established pursuant to paragraph (a) of subsection 3 available to*
37 *renewable energy systems until the cumulative system capacity of*
38 *all renewable energy systems that have accepted a standard offer*
39 *equals or exceeds the cumulative system capacity determined by*
40 *the Commission pursuant to paragraph (b) of subsection 3. A*
41 *renewable energy system owned and operated by a provider of*
42 *electric service is not eligible for the standard offers established*
43 *pursuant to paragraph (a) of subsection 3, but the system capacity*
44 *of a renewable energy system owned and operated by a provider of*
45 *electric service in this State may be included in calculating the*



1 *cumulative system capacity determined by the Commission if the*
2 *renewable energy system is commissioned on or after January 1,*
3 *2012.*

4 *5. The term of a standard offer established pursuant to*
5 *paragraph (a) of subsection 3 must be 25 years.*

6 *6. For each type of renewable energy used by a renewable*
7 *energy system to generate electricity, the Commission shall*
8 *determine the price that must be paid pursuant to a standard offer*
9 *to a system owner for each kilowatt-hour of electricity generated*
10 *by the renewable energy system. In determining the price, the*
11 *Commission shall:*

12 *(a) Determine a generic cost based on an economic analysis*
13 *which includes a consideration of:*

14 *(1) The type of renewable energy used by the renewable*
15 *energy system to generate electricity; and*

16 *(2) Different generic costs for renewable energy systems of*
17 *different system capacities;*

18 *(b) Include a rate of return of not less than the highest rate of*
19 *return received by an investor-owned utility provider under the*
20 *rates approved by the Commission as of the date the standard offer*
21 *goes into effect; and*

22 *(c) Include such adjustments as the Commission determines*
23 *necessary to ensure that the price provides sufficient incentive for*
24 *the rapid development and commissioning of renewable energy*
25 *systems in this State and does not exceed the amount needed to*
26 *provide such an incentive.*

27 *7. Except as otherwise provided in subsection 9, after the*
28 *Commission determines the generic cost and rate of return*
29 *pursuant to subsection 6, the price to be paid to a system owner*
30 *under a subsequently executed contract for a standard offer must*
31 *comply with those determinations.*

32 *8. On or before January 31, 2013, and on or before*
33 *January 31 of each subsequent odd-numbered year, the*
34 *Commission shall review the price determined pursuant to*
35 *subsection 6 and determine whether the price is providing*
36 *sufficient incentive for the rapid development and commissioning*
37 *of renewable energy systems in this State. If the Commission*
38 *determines that the price is inadequate or excessive, the*
39 *Commission shall, in accordance with the requirements of*
40 *subsection 6, reestablish the price, and that price must be applied*
41 *prospectively beginning on March 1 of the following year.*

42 *9. The Commission shall provide that the amount of any tax*
43 *credits and other incentives provided by the Federal Government,*
44 *the State or any local governmental entity to a renewable energy*
45 *system must be subtracted from the price that would otherwise be*



1 *paid to the system owner pursuant to a contract for a standard*
2 *offer.*

3 *10. A system owner who has executed a contract for a*
4 *standard offer before the Commission makes a determination*
5 *pursuant to subsection 6 or 8 must continue to receive the price*
6 *provided for in the contract.*

7 **Sec. 14.** *1. A contract for a standard offer is transferable.*
8 *The transferee shall provide written notice to the facilitator of any*
9 *transfer not later than 30 days after the transfer.*

10 *2. Except as otherwise provided in subsection 3, the*
11 *facilitator shall distribute the electricity purchased and allocate*
12 *any associated costs among all providers of electric service based*
13 *on their pro rata share of total retail sales of electricity in this*
14 *State during the previous calendar year, and each provider of*
15 *electric service shall pay its respective allocated costs determined*
16 *by the facilitator.*

17 *3. A provider of electric service must receive a credit toward*
18 *its share of the costs determined pursuant to subsection 2 for any*
19 *renewable energy system which is commissioned on or after*
20 *January 1, 2012. The amount of the credit is the amount that the*
21 *system owner would otherwise be eligible to receive, if the owner*
22 *were not a provider of electric service, pursuant to the standard*
23 *offer in effect at the time the renewable energy system is*
24 *commissioned. The amount of any such credit must be reallocated*
25 *among all other providers of electric service on a basis such that*
26 *all providers of electric service pay for a proportionate amount of*
27 *system capacity up to the cumulative system capacity determined*
28 *by the Commission pursuant to paragraph (b) of subsection 3 of*
29 *section 13 of this act.*

30 *4. A contract for a standard offer must provide that any*
31 *tradable renewable energy credits associated with a renewable*
32 *energy system which accepts a standard offer are owned by the*
33 *provider of electric service that purchases electricity from the*
34 *renewable energy system. The facilitator shall transfer any*
35 *tradable renewable energy credits attributable to electricity*
36 *purchased pursuant to a contract for a standard offer to all*
37 *providers of electric service in accordance with their pro rata*
38 *share of the costs for such electricity as determined pursuant to*
39 *this section.*

40 *5. If a provider of electric service is a utility provider, a*
41 *contract for a standard offer entered into by the utility provider,*
42 *including the terms and conditions, shall be deemed to be a*
43 *prudent investment, and the utility provider may recover all just*
44 *and reasonable costs associated with the contract.*



1 **Sec. 15. The Commission shall:**

2 1. *Determine the reasonable expenses of each facilitator in*
3 *carrying out his or her duties pursuant to the Program and*
4 *allocate those expenses among the system owners and providers of*
5 *electric service.*

6 2. *Determine the manner and timing of payments by a*
7 *facilitator to each system owner for energy purchased pursuant to*
8 *a contract for a standard offer.*

9 3. *Determine the manner and timing of payments to a*
10 *facilitator by a provider of electric service for energy distributed to*
11 *the provider of electric service pursuant to a contract for a*
12 *standard offer.*

13 4. *Establish reporting requirements for facilitators, system*
14 *owners and providers of electric service.*

15 5. *Adopt such regulations as the Commission determines*
16 *necessary to carry out the Program.*

17 **Sec. 16. The existence of a standard offer established**
18 *pursuant to paragraph (a) of subsection 3 of section 13 of this act*
19 *does not preclude a voluntary contract between a system owner*
20 *and a provider of electric service on terms that may be different*
21 *from the terms required for a standard offer under the Program. A*
22 *system owner who declines a voluntary contract may accept a*
23 *standard offer under the Program.*

24 **Sec. 17. The State is not liable to any system owner or**
25 *provider of electric service with respect to any matter relating to*
26 *the Program, including, without limitation:*

27 1. *Any costs associated with a contract for a standard offer;*

28 2. *Any damages arising from the breach of a contract for a*
29 *standard offer;*

30 3. *Any costs associated with the flow of electricity between a*
31 *renewable energy system and the electricity grid; or*

32 4. *Any costs associated with the interconnection of a*
33 *renewable energy system with the electricity grid.*

34 **Sec. 18. 1. On or before February 1, 2013, and on or**
35 *before February 1 of each subsequent odd-numbered year, the*
36 *Commission shall deliver a written report on the status of the*
37 *Program to the Director of the Legislative Counsel Bureau for*
38 *transmittal to the next regular session of the Legislature.*

39 2. *The report required by subsection 1 must include, without*
40 *limitation:*

41 (a) *An assessment of the progress made toward achieving the*
42 *cumulative system capacity determined by the Commission*
43 *pursuant to paragraph (b) of subsection 3 of section 13 of this act;*

44 (b) *If the cumulative system capacity determined by the*
45 *Commission pursuant to paragraph (b) of subsection 3 of*



1 *section 13 of this act has not been achieved, identification of the*
2 *barriers to achieving that goal and detailed recommendations for*
3 *overcoming those barriers; and*

4 *(c) If the cumulative system capacity determined by the*
5 *Commission pursuant to paragraph (b) of subsection 3 of section*
6 *13 of this act has been achieved or is likely to be achieved within 1*
7 *year after the date of the report, a recommendation of whether the*
8 *Program should continue and, if so, any recommended*
9 *modifications to the Program.*

10 **Sec. 19.** 1. As soon as practicable after the effective date of
11 this act, the Public Utilities Commission of Nevada shall open an
12 investigatory docket to determine just and reasonable prices for the
13 purchase and resale of electricity pursuant to sections 2 to 18,
14 inclusive, of this act.

15 2. The following parties may participate in the investigatory
16 docket:

17 (a) A provider of electric service as defined in section 7 of this
18 act;

19 (b) A system owner as defined in section 11 of this act;

20 (c) A utility provider as defined in section 12 of this act;

21 (d) The Regulatory Operations Staff of the Commission; and

22 (e) Any other interested party.

23 **Sec. 20.** The Public Utilities Commission of Nevada shall, on
24 or before December 31, 2011, adopt any regulations which are
25 necessary to carry out the provisions of this act.

26 **Sec. 21.** This act becomes effective:

27 1. Upon passage and approval for the purposes of adopting
28 regulations and performing any other preparatory administrative
29 tasks necessary to carry out the provisions of this act; and

30 2. On January 1, 2012, for all other purposes.

