

SENATE BILL NO. 252—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 15, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)

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; revising provisions setting forth the amount of electricity which a provider of electric service must generate or acquire from renewable energy systems to comply with the portfolio standard; deleting provisions authorizing a provider of electric service to meet the portfolio standard with savings from the implementation of energy efficiency measures; revising provisions which specify those renewable energy systems which qualify as portfolio energy systems; providing that the Public Utilities Commission of Nevada is required to authorize a provider of electric service to carry forward to subsequent calendar years for the purpose of complying with the portfolio standard for those subsequent calendar years not more than 10 percent of the excess kilowatt-hours of electricity that the provider generates or acquires from portfolio energy systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 This bill revises provisions relating to the portfolio standard for providers of
- 2 electric service, which requires that each year each provider of electric service in
- 3 this State must generate or acquire from renewable energy systems or save as a
- 4 result of energy efficiency measures a certain percentage of the electricity sold by
- 5 the provider to its retail customers in this State.
- 6 In 2005, the 22nd Special Session of the Legislature revised the portfolio
- 7 standard to authorize a provider to meet a portion of the portfolio standard through
- 8 savings achieved from energy efficiency measures. (Sections 26-29 of chapter 2,



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9 Statutes of Nevada 2005, 22nd Special Session, pp. 82-84) **Sections 3-8, 10 and 11**
10 of this bill revise the portfolio standard to remove the provisions which authorize a
11 provider to satisfy the portfolio standard through savings achieved from energy
12 efficiency measures.

13 Under existing law, the percentage of electricity sold to retail customers in this
14 State which must be generated, acquired or saved from portfolio energy systems
15 increases each calendar year until calendar year 2025, during which not less than 25
16 percent of the total amount of electricity sold by each provider to its retail
17 customers in this State must be generated, acquired or saved from portfolio energy
18 systems. (NRS 704.7821) **Section 6** revises the portfolio standard for calendar year
19 2014 and each calendar year thereafter so that for calendar year 2025 and each
20 calendar year thereafter, a provider must generate or acquire from portfolio energy
21 systems not less than 35 percent of the total amount of electricity sold by the
22 provider to its retail customers in this State.

23 Existing law requires the Public Utilities Commission of Nevada to adopt
24 regulations establishing methods to classify the financial impact of certain
25 renewable energy contracts. The regulations must allow a provider to propose
26 the addition of certain costs to such contracts as a compensating component in the
27 capital structure of the provider. (NRS 704.7821) **Section 6** requires the
28 Commission, in considering such proposals, to consider the effect of such proposals
29 on the economy and the environment of the State.

30 **Section 4** revises the definition of "portfolio energy system" to provide that a
31 renewable energy system qualifies as a portfolio energy system if: (1) the
32 renewable energy system was placed into operation before July 1, 1997, and a
33 provider used electricity generated or acquired from the system to satisfy the
34 portfolio standard before July 1, 1997; or (2) the renewable energy system was
35 placed into operation on or after July 1, 1997.

36 Existing law provides that, for the purpose of satisfying the portfolio standard,
37 a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of
38 electricity from certain solar photovoltaic systems for each 1 kilowatt-hour actually
39 generated or acquired. (NRS 704.7822) **Section 9** of this bill revises the
40 applicability of this provision to systems that were placed into operation before
41 July 1, 2013. **Section 7** enacts a similar multiplier for electricity generated or
42 acquired from certain solar energy systems by certain new providers of electric
43 services that are subject to the portfolio standard.

44 Existing law requires the Commission to authorize a provider to carry forward
45 into future years any excess kilowatt-hours of electricity the provider generates or
46 acquires from portfolio energy systems if the provider exceeds the portfolio
47 standard for any calendar year. (NRS 704.7828) **Section 11** requires the
48 Commission to authorize a provider to carry forward not more than 10 percent of
49 the excess kilowatt-hours of electricity the provider generates or acquires from
50 portfolio energy systems.

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

1 **Section 1.** NRS 701B.290 is hereby amended to read as
2 follows:

3 701B.290 1. After a participant installs a solar energy system
4 included in the Solar Program, the Commission shall issue portfolio
5 energy credits for use within the system of portfolio energy credits



1 adopted by the Commission pursuant to NRS 704.7821 and
2 704.78213.

3 2. The Commission shall designate the portfolio energy credits
4 issued pursuant to this section as portfolio energy credits generated
5 ~~{}~~ or acquired ~~{or saved}~~ from solar renewable energy systems for
6 the purposes of the portfolio standard.

7 3. All portfolio energy credits issued for a solar energy system
8 installed pursuant to the Solar Program must be assigned to and
9 become the property of the utility administering the Program.

10 **Sec. 2.** NRS 704.7801 is hereby amended to read as follows:
11 704.7801 As used in NRS 704.7801 to 704.7828, inclusive,
12 unless the context otherwise requires, the words and terms defined
13 in NRS ~~{704.7802}~~ **704.7803** to 704.7819, inclusive, have the
14 meanings ascribed to them in those sections.

15 **Sec. 3.** NRS 704.7803 is hereby amended to read as follows:
16 704.7803 "Portfolio energy credit" means any credit which a
17 provider has earned from a portfolio energy system ~~{or efficiency~~
18 ~~measure}~~ and which the provider is entitled to use to comply with its
19 portfolio standard, as determined by the Commission.

20 **Sec. 4.** NRS 704.7804 is hereby amended to read as follows:
21 704.7804 "Portfolio energy system " ~~{or efficiency measure}~~
22 means ~~{~~

23 ~~1. Any} a renewable energy system {; or~~

24 ~~2. Any energy efficiency measure.} :~~

25 *1. Placed into operation before July 1, 1997, if a provider of*
26 *electric service used electricity generated or acquired from the*
27 *renewable energy system to satisfy its portfolio standard before*
28 *July 1, 1997; or*

29 *2. Placed into operation on or after July 1, 1997.*

30 **Sec. 5.** NRS 704.7805 is hereby amended to read as follows:
31 704.7805 "Portfolio standard" means the amount of electricity
32 that a provider must generate ~~{}~~ or acquire ~~{or save}~~ from portfolio
33 energy systems , ~~{or efficiency measures.}~~ as established by the
34 Commission pursuant to NRS 704.7821 and 704.78213.

35 **Sec. 6.** NRS 704.7821 is hereby amended to read as follows:
36 704.7821 1. For each provider of electric service, the
37 Commission shall establish a portfolio standard. The portfolio
38 standard must require each provider to generate ~~{}~~ or acquire ~~{or~~
39 ~~save}~~ electricity from portfolio energy systems ~~{or efficiency~~
40 ~~measures}~~ in an amount that is:

41 (a) For calendar years 2005 and 2006, not less than 6 percent of
42 the total amount of electricity sold by the provider to its retail
43 customers in this State during that calendar year.



1 (b) For calendar years 2007 and 2008, not less than 9 percent of
2 the total amount of electricity sold by the provider to its retail
3 customers in this State during that calendar year.

4 (c) For calendar years 2009 and 2010, not less than 12 percent
5 of the total amount of electricity sold by the provider to its retail
6 customers in this State during that calendar year.

7 (d) For calendar years 2011 and 2012, not less than 15 percent
8 of the total amount of electricity sold by the provider to its retail
9 customers in this State during that calendar year.

10 (e) For calendar ~~years~~ *year* 2013 , ~~and 2014,~~ not less than 18
11 percent of the total amount of electricity sold by the provider to its
12 retail customers in this State during that calendar year.

13 (f) *For calendar year 2014, not less than 21 percent of the total*
14 *amount of electricity sold by the provider to its retail customers in*
15 *this State during that calendar year.*

16 (g) For calendar years 2015 ~~through 2019, inclusive,~~ and
17 *2016*, not less than ~~20~~ *24* percent of the total amount of electricity
18 sold by the provider to its retail customers in this State during that
19 calendar year.

20 ~~(g)~~ (h) For calendar years ~~2020 through 2024, inclusive,~~
21 *2017 and 2018*, not less than ~~22~~ *26* percent of the total amount of
22 electricity sold by the provider to its retail customers in this State
23 during that calendar year.

24 ~~(h)~~ (i) *For calendar years 2019 and 2020, not less than 30*
25 *percent of the total amount of electricity sold by the provider to its*
26 *retail customers in this State during that calendar year.*

27 (j) *For calendar years 2021 through 2024, inclusive, not less*
28 *than 32 percent of the total amount of electricity sold by the*
29 *provider to its retail customers in this State during that calendar*
30 *year.*

31 (k) For calendar year 2025 and for each calendar year thereafter,
32 not less than ~~25~~ *35* percent of the total amount of electricity sold
33 by the provider to its retail customers in this State during that
34 calendar year.

35 2. In addition to the requirements set forth in subsection 1, the
36 portfolio standard for each provider must require that:

37 (a) Of the total amount of electricity that the provider is required
38 to generate ~~or~~ *or* acquire ~~or save~~ from portfolio energy systems ~~or~~
39 ~~efficiency measures~~ during each calendar year, not less than:

40 (1) For calendar years 2009 through 2015, inclusive, 5
41 percent of that amount must be generated or acquired from *portfolio*
42 *energy systems which are* solar renewable energy systems.

43 (2) For calendar year 2016 and for each calendar year
44 thereafter, 6 percent of that amount must be generated or acquired



1 from *portfolio energy systems which are* solar renewable energy
2 systems.

3 ~~(b) Of the total amount of electricity that the provider is~~
4 ~~required to generate, acquire or save from portfolio energy systems~~
5 ~~or efficiency measures during each calendar year, not more than 25~~
6 ~~percent of that amount may be based on energy efficiency measures.~~
7 ~~If the provider intends to use energy efficiency measures to comply~~
8 ~~with its portfolio standard during any calendar year, of the total~~
9 ~~amount of electricity saved from energy efficiency measures for~~
10 ~~which the provider seeks to obtain portfolio energy credits pursuant~~
11 ~~to this paragraph, at least 50 percent of that amount must be saved~~
12 ~~from energy efficiency measures installed at service locations of~~
13 ~~residential customers of the provider, unless a different percentage~~
14 ~~is approved by the Commission.~~

15 ~~—(c) If the provider acquires [or saves] electricity from a~~
16 ~~portfolio energy system [or efficiency measure] pursuant to a~~
17 ~~renewable energy contract [or energy efficiency contract] with~~
18 ~~another party:~~

19 (1) The term of the contract must be not less than 10 years,
20 unless the other party agrees to a contract with a shorter term; ~~and]~~

21 (2) *The contract must be for the net amount of energy that*
22 *is delivered to the provider; and*

23 (3) The terms and conditions of the contract must be just and
24 reasonable, as determined by the Commission. If the provider is a
25 utility provider and the Commission approves the terms and
26 conditions of the contract between the utility provider and the other
27 party, the contract and its terms and conditions shall be deemed to
28 be a prudent investment and the utility provider may recover all just
29 and reasonable costs associated with the contract.

30 3. If, for the benefit of one or more retail customers in this
31 State, the provider has paid for or directly reimbursed, in whole or
32 in part, the costs of the acquisition or installation of a solar energy
33 system which qualifies as a ~~[renewable]~~ *portfolio* energy system and
34 which reduces the consumption of electricity, the total reduction in
35 the consumption of electricity during each calendar year that results
36 from the solar energy system shall be deemed to be electricity that
37 the provider generated or acquired from a ~~[renewable]~~ *portfolio*
38 energy system for the purposes of complying with its portfolio
39 standard.

40 4. The Commission shall adopt regulations that establish a
41 system of portfolio energy credits that may be used by a provider to
42 comply with its portfolio standard.

43 5. Except as otherwise provided in subsection 6, each provider
44 shall comply with its portfolio standard during each calendar year.



1 6. If, for any calendar year, a provider is unable to comply with
2 its portfolio standard through the generation of electricity from its
3 own ~~renewable~~ *portfolio* energy systems or, if applicable, through
4 the use of portfolio energy credits, the provider shall take actions to
5 acquire ~~for save~~ electricity pursuant to one or more renewable
6 energy ~~contracts or energy efficiency~~ contracts. If the Commission
7 determines that, for a calendar year, there is not or will not be a
8 sufficient supply of electricity ~~for a sufficient amount of energy~~
9 ~~savings~~ made available to the provider pursuant to renewable
10 energy contracts ~~and energy efficiency contracts~~ with just and
11 reasonable terms and conditions, the Commission shall exempt the
12 provider, for that calendar year, from the remaining requirements of
13 its portfolio standard or from any appropriate portion thereof, as
14 determined by the Commission.

15 7. The Commission shall adopt regulations that establish:

16 (a) Standards for the determination of just and reasonable terms
17 and conditions for the renewable energy contracts ~~and energy~~
18 ~~efficiency contracts~~ that a provider must enter into to comply with
19 its portfolio standard.

20 (b) Methods to classify the financial impact of each long-term
21 renewable energy contract ~~and energy efficiency contract~~ as an
22 additional imputed debt of a utility provider. The regulations must
23 allow the utility provider to propose an amount to be added to the
24 cost of the contract, at the time the contract is approved by the
25 Commission, equal to a compensating component in the capital
26 structure of the utility provider. In evaluating any proposal made by
27 a utility provider pursuant to this paragraph, the Commission shall
28 consider the effect that the proposal will have on the rates paid by
29 the retail customers of the utility provider ~~and~~ *and on the economy*
30 *and the environment of the State.*

31 8. Except as otherwise provided in NRS 704.78213, the
32 provisions of this section do not apply to a provider of new electric
33 resources as defined in NRS 704B.130.

34 9. As used in this section:

35 (a) ~~“Energy efficiency contract” means a contract to attain~~
36 ~~energy savings from one or more energy efficiency measures~~
37 ~~owned, operated or controlled by other parties.~~

38 ~~(b)~~ “Renewable energy contract” means a contract to acquire
39 electricity from one or more ~~renewable~~ *portfolio* energy systems
40 owned, operated or controlled by other parties.

41 ~~(c)~~ (b) “Terms and conditions” includes, without limitation,
42 the price that a provider must pay to acquire electricity pursuant to a
43 renewable energy ~~contract or to attain energy savings pursuant to~~
44 ~~an energy efficiency~~ contract.



1 **Sec. 7.** NRS 704.78213 is hereby amended to read as follows:

2 704.78213 1. If the Commission issues an order approving an
3 application that is filed pursuant to NRS 704B.310 or a request that
4 is filed pursuant to NRS 704B.325 regarding a provider of new
5 electric resources and an eligible customer, the Commission must
6 establish in the order a portfolio standard applicable to the
7 electricity sold by the provider of new electric resources to the
8 eligible customer in accordance with the order. The portfolio
9 standard must require the provider of new electric resources to
10 generate ~~††~~ *or* acquire ~~{or-save}~~ electricity from portfolio energy
11 systems ~~{for-efficiency-measures}~~ in the amounts described in the
12 portfolio standard set forth in NRS 704.7821 which is effective on
13 the date on which the order approving the application or request is
14 approved.

15 2. ~~{Of the total amount of electricity that a provider of new
16 electric resources is required to generate, acquire or save from
17 portfolio energy systems or efficiency measures during each
18 calendar year, not more than 25 percent of that amount may be
19 based on energy efficiency measures.~~

20 ~~—3.†~~ If, for the benefit of one or more eligible customers, the
21 eligible customer of a provider of new electric resources has paid for
22 or directly reimbursed, in whole or in part, the costs of the
23 acquisition or installation of a solar energy system which qualifies
24 as a ~~{renewable}~~ *portfolio* energy system and which reduces the
25 consumption of electricity ~~{,the}~~ :

26 (a) *The* total reduction in the consumption of electricity during
27 each calendar year that results from the solar energy system shall be
28 deemed to be electricity that the provider of new electric resources
29 generated or acquired from a ~~{renewable}~~ *portfolio* energy system
30 for the purposes of complying with its portfolio standard ~~†~~

31 ~~—4.†~~ ; and

32 (b) *For the purpose of complying with its portfolio standard,
33 the new provider of electric service shall be deemed to have
34 generated or acquired 2.4 kilowatt-hours of electricity from the
35 solar energy system for each 1.0 kilowatt-hour of actual electricity
36 generated or acquired if:*

37 (1) *The system is installed on the premises of a retail
38 customer; and*

39 (2) *On an annual basis, at least 50 percent of the electricity
40 generated by the system is utilized by the retail customer on that
41 premises.*

42 3. As used in this section:

43 (a) "Eligible customer" has the meaning ascribed to it in
44 NRS 704B.080.



1 (b) "Provider of new electric resources" has the meaning
2 ascribed to it in NRS 704B.130.

3 **Sec. 8.** NRS 704.78215 is hereby amended to read as follows:

4 704.78215 ~~{-}~~ Except as otherwise provided ~~{in this section~~
5 ~~or}~~ by specific statute, a provider is entitled to one portfolio energy
6 credit for each kilowatt-hour of electricity that the provider
7 generates ~~{}~~ or acquires ~~{or saves}~~ from a portfolio energy system .
8 ~~{or efficiency measure.}~~

9 ~~—2. The Commission may adopt regulations that give a provider~~
10 ~~more than one portfolio energy credit for each kilowatt-hour of~~
11 ~~electricity saved by the provider during its peak load period from~~
12 ~~energy efficiency measures.}~~

13 **Sec. 9.** NRS 704.7822 is hereby amended to read as follows:

14 704.7822 For the purpose of complying with a portfolio
15 standard established pursuant to NRS 704.7821 or 704.78213, a
16 provider shall be deemed to have generated or acquired 2.4 kilowatt-
17 hours of electricity from a renewable energy system for each 1.0
18 kilowatt-hour of actual electricity generated or acquired from a solar
19 photovoltaic system, if:

20 1. The system is installed on the premises of a retail customer;

21 ~~{and}~~

22 2. *The system was placed into operation before July 1, 2013;*
23 *and*

24 3. On an annual basis, at least 50 percent of the electricity
25 generated by the system is utilized by the retail customer on that
26 premises.

27 **Sec. 10.** NRS 704.7825 is hereby amended to read as follows:

28 704.7825 1. Each provider of electric service shall submit to
29 the Commission an annual report that provides information relating
30 to the actions taken by the provider to comply with its portfolio
31 standard.

32 2. Each provider shall submit the annual report to the
33 Commission after the end of each calendar year and within the time
34 prescribed by the Commission. The report must be submitted in a
35 format approved by the Commission.

36 3. The Commission may adopt regulations that require
37 providers to submit to the Commission additional reports during
38 each calendar year.

39 4. Each annual report and each additional report must include
40 clear and concise information that sets forth:

41 (a) The amount of electricity which the provider generated ~~{}~~ or
42 acquired ~~{or saved}~~ from portfolio energy systems ~~{or efficiency~~
43 ~~measures}~~ during the reporting period and, if applicable, the amount
44 of portfolio energy credits that the provider acquired, sold or traded
45 during the reporting period to comply with its portfolio standard;



1 (b) The capacity of each renewable energy system owned,
2 operated or controlled by the provider, the total amount of electricity
3 generated by each such system during the reporting period and the
4 percentage of that total amount which was generated directly from
5 renewable energy;

6 (c) Whether, during the reporting period, the provider began
7 construction on, acquired or placed into operation any renewable
8 energy system and, if so, the date of any such event; *and*

9 ~~(d) Whether, during the reporting period, the provider~~
10 ~~participated in the acquisition or installation of any energy~~
11 ~~efficiency measures and, if so, the date of any such event; and~~

12 ~~(e)~~ Any other information that the Commission by regulation
13 may deem relevant.

14 5. ~~{Based on the reports submitted by providers pursuant to this~~
15 ~~section, the Commission shall compile information that sets forth~~
16 ~~whether any provider has used energy efficiency measures to~~
17 ~~comply with its portfolio standard and, if so, the type of energy~~
18 ~~efficiency measures used and the amount of energy savings~~
19 ~~attributable to each such energy efficiency measure.}~~ The
20 Commission *shall compile the information contained in the*
21 *reports submitted by providers pursuant to this section and* shall
22 report such information to:

23 (a) The Legislature, not later than the first day of each regular
24 session; and

25 (b) The Legislative Commission, if requested by the Chair of the
26 Commission.

27 **Sec. 11.** NRS 704.7828 is hereby amended to read as follows:

28 704.7828 1. The Commission shall adopt regulations to carry
29 out and enforce the provisions of NRS 704.7801 to 704.7828,
30 inclusive. The regulations adopted by the Commission may include
31 any enforcement mechanisms which are necessary and reasonable to
32 ensure that each provider of electric service complies with its
33 portfolio standard. Such enforcement mechanisms may include,
34 without limitation, the imposition of administrative fines.

35 2. If a provider exceeds the portfolio standard for any calendar
36 year, the Commission shall authorize the provider to carry forward
37 to subsequent calendar years for the purpose of complying with the
38 portfolio standard for those subsequent calendar years ~~{any}~~ *not*
39 *more than 10 percent of the* excess kilowatt-hours of electricity that
40 the provider generates ~~{}~~ *or* acquires ~~{or saves}~~ from portfolio
41 energy systems. ~~{or efficiency measures.}~~

42 3. If a provider does not comply with its portfolio standard for
43 any calendar year and the Commission has not exempted the
44 provider from the requirements of its portfolio standard pursuant to
45 NRS 704.7821 or 704.78213, the Commission:



1 (a) Shall require the provider to carry forward to subsequent
2 calendar years the amount of the deficiency in kilowatt-hours of
3 electricity that the provider does not generate ~~+~~ or acquire ~~for save~~
4 from portfolio energy systems ~~for efficiency measures~~ during a
5 calendar year in violation of its portfolio standard; and

6 (b) May impose an administrative fine against the provider or
7 take other administrative action against the provider, or do both.

8 4. The Commission may impose an administrative fine against
9 a provider based upon:

10 (a) Each kilowatt-hour of electricity that the provider does not
11 generate ~~+~~ or acquire ~~for save~~ from portfolio energy systems ~~for~~
12 ~~efficiency measures~~ during a calendar year in violation of its
13 portfolio standard; or

14 (b) Any other reasonable formula adopted by the Commission.

15 5. In the aggregate, the administrative fines imposed against a
16 provider for all violations of its portfolio standard for a single
17 calendar year must not exceed the amount which is necessary and
18 reasonable to ensure that the provider complies with its portfolio
19 standard, as determined by the Commission.

20 6. If the Commission imposes an administrative fine against a
21 utility provider:

22 (a) The administrative fine is not a cost of service of the utility
23 provider;

24 (b) The utility provider shall not include any portion of the
25 administrative fine in any application for a rate adjustment or rate
26 increase; and

27 (c) The Commission shall not allow the utility provider to
28 recover any portion of the administrative fine from its retail
29 customers.

30 7. All administrative fines imposed and collected pursuant to
31 this section must be deposited in the State General Fund.

32 **Sec. 12.** NRS 704.7802 is hereby repealed.

33 **Sec. 13.** Section 1 of this act expires by limitation on
34 December 31, 2021.

TEXT OF REPEALED SECTION

704.7802 “Energy efficiency measure” defined.

1. “Energy efficiency measure” means any measure designed,
invented or used to improve energy efficiency:

(a) If:



(1) The measure is installed or implemented on or after January 1, 2005, at the service location of or for a retail customer of a provider of electric service in this State;

(2) The measure reduces the consumption of energy by one or more retail customers; and

(3) The costs of the acquisition, installation or implementation of the measure are directly reimbursed, in whole or in part, by the provider of electric service, or by a customer of a provider of new electric resources pursuant to chapter 704B of NRS; or

(b) Which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, regardless of when constructed.

2. The term does not include any demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.



