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EXEMPT

(Reprinted with amendments adopted on April 21, 2003)

FIRST

REPRINT

A.B. 431

ASSEMBLY BILL NO. 431-ASSEMBLYWOMAN GIUNCHIGLIANI

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Establishes program to provide incentives for installation of certain solar energy systems.
(BDR 53-723)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~{omitted material}~~ is material to be omitted.

Green numbers along left margin indicate location on the printed bill (e.g., 5-15 indicates page 5, line 15).

AN ACT relating to energy; revising the membership of the Task Force for Renewable Energy and Energy Conservation; requiring the Public Utilities Commission of Nevada to adopt a system of renewable energy credits; providing for the establishment of the Solar Energy Systems Demonstration Program; and providing other matters properly relating thereto.

WHEREAS, Distributed generation of electricity using solar technology, including photovoltaic cells, can play an important role in the future of energy production in Nevada; and

WHEREAS, Even though each individual solar energy system is small, the combination of a large number of systems on homes, businesses, schools and public buildings can reduce the demand for electricity at times of peak consumption; and

WHEREAS, A large demand for individual solar energy systems will have the effect of creating new, skilled jobs and lead to the location in this state of the manufacturing of these systems and research into and development of these systems; and

WHEREAS, The Nevada Legislature recently passed legislation creating a portfolio standard for renewable energy for producers of electricity and seeks to build upon that effort; and

WHEREAS, Legislative action is necessary to accelerate the development of a market for photovoltaic systems in schools, public

buildings, homes and small businesses and to encourage the use of trained and certified solar energy system installers; now, therefore,

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

- 1-1 Section 1. NRS 701.350 is hereby amended to read as follows:
1-2 701.350 1. The Task Force for Renewable Energy and
1-3 Energy Conservation is hereby created. The Task Force consists of
1-4 ~~nine~~ 10 members who are appointed as follows:
1-5 (a) Two members appointed by the Majority Leader of the
1-6 Senate, one of whom represents the interests of the renewable
1-7 energy industry in this state with respect to biomass and the other of
1-8 whom represents the interests of the mining industry in this state.
1-9 (b) Two members appointed by the Speaker of the Assembly,
1-10 one of whom represents the interests of the renewable energy
1-11 industry in this state with respect to geothermal energy and the other
1-12 of whom represents the interests of a nonprofit organization
1-13 dedicated to the protection of the environment or to the conservation
1-14 of energy or the efficient use of energy.
1-15 (c) One member appointed by the Minority Leader of the Senate
1-16 to represent the interests of the renewable energy industry in this
1-17 state with respect to solar energy.
1-18 (d) One member appointed by the Minority Leader of the
1-19 Assembly to represent the interests of the public utilities in this
1-20 state.
1-21 (e) Two members appointed by the Governor, one of whom
1-22 represents the interests of the renewable energy industry in this state
1-23 with respect to wind and the other of whom represents the interests
1-24 of the gaming industry in this state.
1-25 (f) One member appointed by the Consumer's Advocate to
1-26 represent the interests of the consumers in this state.
1-27 (g) *One member appointed by the governing board of the State*
1-28 *of Nevada AFL-CIO or, if the State of Nevada AFL-CIO ceases to*
1-29 *exist, by its successor organization or, if there is no successor*
1-30 *organization, by the Governor.*
1-31 2. A member of the Task Force:
1-32 (a) Must be a citizen of the United States and a resident of this
1-33 state.
1-34 (b) Must have training, education, experience or knowledge
1-35 concerning:
1-36 (1) The development or use of renewable energy;
1-37 (2) Financing, planning or constructing renewable energy
1-38 generation projects;

2-1 (3) Measures which conserve or reduce the demand for
2-2 energy or which result in more efficient use of energy;
2-3 (4) Weatherization;
2-4 (5) Building and energy codes and standards;
2-5 (6) Grants or incentives concerning energy;
2-6 (7) Public education or community relations; or
2-7 (8) Any other matter within the duties of the Task Force.
2-8 (c) Must not be an officer or employee of the Legislative or
2-9 Judicial Department of State Government.
2-10 3. After the initial terms, the term of each member of the Task
2-11 Force is 3 years. A vacancy on the Task Force must be filled for the
2-12 remainder of the unexpired term in the same manner as the original
2-13 appointment. A member may be reappointed to the Task Force.
2-14 4. A member of the Task Force who is an officer or employee
2-15 of this state or a political subdivision of this state must be relieved
2-16 from his duties without loss of his regular compensation so that he
2-17 may prepare for and attend meetings of the Task Force and perform
2-18 any work that is necessary to carry out the duties of the Task Force
2-19 in the most timely manner practicable. A state agency or political
2-20 subdivision of this state shall not require an officer or employee who
2-21 is a member of the Task Force to:
2-22 (a) Make up the time he is absent from work to carry out his
2-23 duties as a member of the Task Force; or
2-24 (b) Take annual leave or compensatory time for the absence.
2-25 Sec. 2. NRS 704.7815 is hereby amended to read as follows:
2-26 704.7815 "Renewable energy system" means:
2-27 1. A facility or energy system that:
2-28 (a) Uses renewable energy to generate electricity; and
2-29 (b) Transmits or distributes the electricity that it generates from
2-30 renewable energy via:
2-31 (1) A power line which is dedicated to the transmission or
2-32 distribution of electricity generated from renewable energy and
2-33 which is connected to a facility or system owned, operated or
2-34 controlled by a provider of electric service; or
2-35 (2) A power line which is shared with not more than one
2-36 facility or energy system generating electricity from nonrenewable
2-37 energy and which is connected to a facility or system owned,
2-38 operated or controlled by a provider of electric service.
2-39 2. A solar ~~{thermal}~~ energy system that reduces the
2-40 consumption of electricity.
2-41 3. A net metering system used by a customer-generator
2-42 pursuant to NRS 704.766 to 704.775, inclusive.
2-43 Sec. 3. NRS 704.7821 is hereby amended to read as follows:
2-44 704.7821 1. For each provider of electric service, the
2-45 Commission shall establish a portfolio standard for renewable

3-1 energy. The portfolio standard must require each provider to
3-2 generate or acquire electricity from renewable energy systems in an
3-3 amount that is:

3-4 (a) For calendar years 2003 and 2004, not less than 5 percent of
3-5 the total amount of electricity sold by the provider to its retail
3-6 customers in this state during that calendar year.

3-7 (b) For calendar years 2005 and 2006, not less than 7 percent of
3-8 the total amount of electricity sold by the provider to its retail
3-9 customers in this state during that calendar year.

3-10 (c) For calendar years 2007 and 2008, not less than 9 percent of
3-11 the total amount of electricity sold by the provider to its retail
3-12 customers in this state during that calendar year.

3-13 (d) For calendar years 2009 and 2010, not less than 11 percent
3-14 of the total amount of electricity sold by the provider to its retail
3-15 customers in this state during that calendar year.

3-16 (e) For calendar years 2011 and 2012, not less than 13 percent
3-17 of the total amount of electricity sold by the provider to its retail
3-18 customers in this state during that calendar year.

3-19 (f) For calendar year 2013 and for each calendar year thereafter,
3-20 not less than 15 percent of the total amount of electricity sold by the
3-21 provider to its retail customers in this state during that calendar year.

3-22 2. In addition to the requirements set forth in subsection 1, the
3-23 portfolio standard for each provider must require that:

3-24 (a) Of the total amount of electricity that the provider is required
3-25 to generate or acquire from renewable energy systems during each
3-26 calendar year, not less than 5 percent of that amount must be
3-27 generated or acquired from solar renewable energy systems.

3-28 (b) If the provider acquires electricity from a renewable energy
3-29 system pursuant to a renewable energy contract with another party:

3-30 (1) The term of the renewable energy contract must be not
3-31 less than 10 years, unless the other party agrees to a renewable
3-32 energy contract with a shorter term; and

3-33 (2) The terms and conditions of the renewable energy
3-34 contract must be just and reasonable, as determined by the
3-35 Commission. If the provider is a public utility and the Commission
3-36 approves the terms and conditions of the renewable energy contract
3-37 between the provider and the other party, the renewable energy
3-38 contract and its terms and conditions shall be deemed to be a
3-39 prudent investment and the provider may recover all just and
3-40 reasonable costs associated with the renewable energy contract.

3-41 3. If, for the benefit of one or more of its retail customers in
3-42 this state, the provider has subsidized, in whole or in part, the
3-43 acquisition or installation of a solar ~~thermal~~ energy system which
3-44 qualifies as a renewable energy system and which reduces the
3-45 consumption of electricity, the total reduction in the consumption of

4-1 electricity during each calendar year that results from the solar
4-2 ~~{thermal}~~ energy system shall be deemed to be electricity that the
4-3 provider generated or acquired from a renewable energy system for
4-4 the purposes of complying with its portfolio standard.

4-5 4. The Commission ~~{may}~~ *shall* adopt regulations that establish
4-6 a system of renewable energy credits that may be used by a provider
4-7 to comply with its portfolio standard.

4-8 5. Except as otherwise provided in subsection 6, each provider
4-9 shall comply with its portfolio standard during each calendar year.

4-10 6. If, for any calendar year, a provider is unable to comply with
4-11 its portfolio standard through the generation of electricity from its
4-12 own renewable energy systems or, if applicable, through the use of
4-13 renewable energy credits, the provider shall take actions to acquire
4-14 electricity pursuant to one or more renewable energy contracts. If
4-15 the Commission determines that, for a calendar year, there is not or
4-16 will not be a sufficient supply of electricity made available to the
4-17 provider pursuant to renewable energy contracts with just and
4-18 reasonable terms and conditions, the Commission shall exempt the
4-19 provider, for that calendar year, from the remaining requirements of
4-20 its portfolio standard or from any appropriate portion thereof, as
4-21 determined by the Commission.

4-22 7. The Commission shall adopt regulations for the
4-23 determination of just and reasonable terms and conditions for the
4-24 renewable energy contracts that a provider of electric service must
4-25 enter into to comply with its portfolio standard.

4-26 8. As used in this section:

4-27 (a) "Renewable energy contract" means a contract to acquire
4-28 electricity from one or more renewable energy systems owned,
4-29 operated or controlled by other parties.

4-30 (b) "Terms and conditions" includes, without limitation, the
4-31 price that a provider of electric service must pay to acquire
4-32 electricity pursuant to a renewable energy contract.

4-33 Sec. 4. As used in sections 4 to 21, inclusive, of this act,
4-34 unless the context otherwise requires, the words and terms defined
4-35 in sections 5 to 13, inclusive, of this act have the meaning ascribed
4-36 to them in those sections.

4-37 Sec. 5. "Applicant" means a person who is applying to
4-38 participate in the Demonstration Program.

4-39 Sec. 6. "Category" means one of the categories of participants
4-40 in the Demonstration Program as set forth in section 14 of this act.

4-41 Sec. 7. "Committee" means the Task Force for Renewable
4-42 Energy and Energy Conservation created by NRS 701.350.

4-43 Sec. 8. "Demonstration Program" means the Solar Energy
4-44 Systems Demonstration Program created by section 14 of this act.

5-1 Sec. 9. "Participant" means a person who has been approved
5-2 by the Public Utilities Commission of Nevada, pursuant to section
5-3 18 of this act, to participate in the Demonstration Program.
5-4 Sec. 10. "Person" includes a governmental entity.
5-5 Sec. 11. "Program year" means the period of July 1 to June 30
5-6 of the following year.
5-7 Sec. 12. "Solar energy system" means a facility or energy
5-8 system for the generation of electricity that uses photovoltaic cells
5-9 and solar energy to generate electricity.
5-10 Sec. 13. "Utility" means a public utility that supplies
5-11 electricity in this state.
5-12 Sec. 14. 1. The Solar Energy Systems Demonstration
5-13 Program is hereby created.
5-14 2. The Demonstration Program shall have three categories of
5-15 participants as follows:
5-16 (a) Schools;
5-17 (b) Other public buildings; and
5-18 (c) Private residences and small businesses.
5-19 3. A person is eligible to participate in the Demonstration
5-20 Program if the person:
5-21 (a) To install a solar energy system, uses an installer who has
5-22 been issued a classification C-2 license with the appropriate
5-23 subclassification by the State Contractors' Board pursuant to the
5-24 regulations adopted by the Board; and
5-25 (b) For a participant in the category of schools or a participant in
5-26 the category of public buildings, provides for the public display of
5-27 the solar energy system, including, without limitation, providing for
5-28 public demonstrations of the solar energy system and for hands-on
5-29 experience of the solar energy system by the public.
5-30 4. In addition to the requirements of subsection 3, to be eligible
5-31 to participate in the Demonstration Program, a person must be
5-32 approved by the Public Utilities Commission of Nevada.
5-33 5. The Public Utilities Commission of Nevada shall adopt
5-34 regulations providing for the qualifications an applicant must meet
5-35 to qualify to participate in the Demonstration Program in the
5-36 particular category of:
5-37 (a) Schools;
5-38 (b) Other public buildings; or
5-39 (c) Private residences or small businesses.
5-40 Sec. 15. 1. On or before November 1, 2003, the Committee
5-41 shall:
5-42 (a) Develop an application for the Demonstration Program; and
5-43 (b) Advertise for the submission of applications for the
5-44 Demonstration Program for the program year beginning July 1,
5-45 2004.

6-1 2. On or before November 1, 2004, and on or before
6-2 November 1 of each subsequent year, the Committee shall advertise
6-3 for the submission of applications for the Demonstration Program
6-4 for the following program year.

6-5 3. The advertisements of the Committee for application for the
6-6 Demonstration Program must include, without limitation:
6-7 (a) A description of the requirements for participation in the
6-8 Demonstration Program;
6-9 (b) A description of the incentives available to participants in
6-10 the Demonstration Program; and
6-11 (c) A description of the application process to participate in the
6-12 Demonstration Program.

6-13 Sec. 16. 1. On or before February 1, 2004, and on or before
6-14 February 1 of each subsequent year, an applicant desiring to
6-15 participate in the Demonstration Program for the following program
6-16 year must apply to the Committee, on an application form
6-17 prescribed by the Committee.

6-18 2. The applicant shall include in the application to the
6-19 Committee:
6-20 (a) A designation of the category of the applicant.
6-21 (b) The kilowatt capacity of the proposed solar energy system.
6-22 (c) For an applicant in the category of schools or an applicant in
6-23 the category of other public buildings, a description of the plan to
6-24 provide for the public display of the solar energy system.
6-25 (d) Any other information required by the Committee.

6-26 Sec. 17. 1. On or before March 1, 2004, the Committee
6-27 shall:
6-28 (a) Review the applications submitted for participation in the
6-29 Demonstration Program for the program year beginning July 1,
6-30 2004, to ensure that the requirements of subsection 3 of section 14
6-31 of this act are met; and
6-32 (b) Nominate qualified applicants for participation in the
6-33 Demonstration Program for the program year beginning July 1,
6-34 2004.

6-35 2. On or before February 1, 2005, and on or before February 1
6-36 of each subsequent year, the Committee shall:
6-37 (a) Review the applications submitted for participation in the
6-38 Demonstration Program for the following program year to ensure
6-39 that the requirements of subsection 3 of section 14 of this act are
6-40 met; and
6-41 (b) Nominate qualified applicants for participation in the
6-42 Demonstration Program for the following program year.

6-43 3. If the Committee nominates an applicant for participation in
6-44 the Demonstration Program, the Committee shall forward the

7-1 application to the Public Utilities Commission of Nevada within 15
7-2 days after making the decision to nominate the applicant.

7-3 **Sec. 18. 1.** On or before May 1 of each year, the Public
7-4 Utilities Commission of Nevada shall:

7-5 (a) Review each application nominated by the Committee to
7-6 ensure that the application meets the requirements of subsection 3 of
7-7 section 14 of this act; and

7-8 (b) From those nominees, select participants for the
7-9 Demonstration Program for the following program year.

7-10 **2.** The Public Utilities Commission of Nevada may approve,
7-11 from among the applications nominated by the Committee, solar
7-12 energy systems totaling:

7-13 (a) For the program year beginning July 1, 2004:

7-14 (1) 100 kilowatts of capacity for schools;
7-15 (2) 200 kilowatts of capacity for other public buildings; and
7-16 (3) 200 kilowatts of capacity for private residences and small
7-17 businesses.

7-18 (b) For the program year beginning July 1, 2005:

7-19 (1) An additional 450 kilowatts of capacity for schools;
7-20 (2) An additional 450 kilowatts of capacity for other public
7-21 buildings and
7-22 (3) An additional 600 kilowatts of capacity for private
7-23 residences and small businesses.

7-24 (c) For the program year beginning July 1, 2006:

7-25 (1) An additional 900 kilowatts of capacity for schools;
7-26 (2) An additional 900 kilowatts of capacity for other public
7-27 buildings; and
7-28 (3) An additional 1200 kilowatts of capacity for private
7-29 residences and small businesses.

7-30 **3.** The Public Utilities Commission of Nevada shall notify each
7-31 nominee of its selections no later than 10 days after the decision is
7-32 made.

7-33 **Sec. 19. 1.** After the participant installs the solar energy
7-34 system included in the Demonstration Program, the Public Utilities
7-35 Commission of Nevada shall issue to the participant the following
7-36 renewable energy credits for use within the system of renewable
7-37 energy credits adopted by the Commission pursuant to
7-38 NRS 704.7821:

7-39 (a) For a participant in the category of schools or a participant in
7-40 the category of other public buildings, the participant is entitled to
7-41 renewable energy credits equal to twice the actual or estimated
7-42 kilowatt-hour production of the solar energy system of the
7-43 participant for a period of not less than 10 years.

7-44 (b) For a participant in the category for private residences and
7-45 small businesses, the participant is entitled to renewable energy

8-1 credits equal to the actual or estimated kilowatt-hour production of
8-2 the solar energy system of the participant.

8-3 2. The Commission shall designate the renewable energy
8-4 credits issued to the participant pursuant to subsection 1 as
8-5 renewable energy credits generated or acquired from
8-6 solar renewable energy systems. The participant may transfer the
8-7 renewable energy credits to a utility if the participant complies with
8-8 the regulations adopted by the Commission to complete such a
8-9 transfer.

8-10 3. The Commission shall adopt regulations to provide for the
8-11 requirements and the procedures that a participant must follow to
8-12 transfer renewable energy credits from the participant to a utility.

8-13 Sec. 20. 1. A participant in the Demonstration Program is
8-14 entitled to participate in net metering pursuant to the provisions of
8-15 ~~8-15~~ NRS 704.766 to 704.775, inclusive provided the solar electric
8-16 system meets the specific statutory criteria contained in
8-17 NRS 704.766 to NRS 704.775.

8-18 ~~2. If the utility which provides service to the participant offers~~
8-19 ~~an optional pricing plan that allows the utility to charge a customer~~
8-20 ~~varying rates per kilowatt-hour of electricity depending on the time~~
8-21 ~~of day that the customer uses the electricity, the participant is also~~
8-22 ~~entitled to participate in net metering under that optional pricing~~
8-23 ~~plan.~~

8-24 Sec. 21. If the Public Utilities Commission of Nevada
8-25 determines that a participant did not comply with the requirements
8-26 for participation in the Demonstration Program, the Public Utilities
8-27 Commission of Nevada shall, after notice and an opportunity for a
8-28 hearing, withdraw the participant from the Demonstration Program.

8-29 Sec. 22. As soon as practicable after July 1, 2003, the
8-30 governing board of the State of Nevada AFL-CIO shall make the
8-31 appointment to the Task Force for Renewable Energy and Energy
8-32 Conservation required by the amendatory provisions of section 1 of
8-33 this act.

8-34 Sec. 23. This act becomes effective on July 1, 2003.

8-35 Sec. 24. The provisions of sections 4 to 21, inclusive, of this
8-36 act expire by limitation on June 30, 2007.