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ASSEMBLY BILL NO. 236—ASSEMBLYMAN HARDY

MARCH 21, 2005

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Referred to Committee on Commerce and Labor

**SUMMARY**—Makes various changes relating to energy systems that use certain types of renewable energy. (BDR 58-248)

**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.

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AN ACT relating to energy; revising provisions governing net metering systems; exempting certain types of renewable energy systems from the requirements of the Utility Environmental Protection Act; prohibiting certain restrictions on the location and use of wind energy systems; requiring local building codes to allow the use of certain types of renewable energy systems under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Under existing law, customers of certain electric utilities may use net metering
- 2 systems on their property to generate electricity from certain types of renewable
- 3 energy. (NRS 704.766-704.775) The electricity generated from a net metering
- 4 system is used to offset the customer’s demand for electricity from the utility. (NRS
- 5 704.771, 704.775) A net metering system used by a customer may not have a
- 6 generating capacity of more than 30 kilowatts. (NRS 704.771)
- 7 This bill authorizes a customer to use a net metering system that has generating
- 8 capacity of not more than 150 kilowatts.
- 9 Under existing law, a person must obtain a permit from the Public Utilities
- 10 Commission of Nevada before constructing certain electric generating plants and
- 11 their associated facilities. (NRS 704.820-704.900) However, such permitting
- 12 requirements do not apply to electric generating plants and their associated facilities
- 13 located entirely within the boundaries of a county whose population is 100,000 or
- 14 more. (NRS 704.860)
- 15 This bill creates an exception from the permitting requirements for electric
- 16 generating plants and their associated facilities if they use certain types of
- 17 renewable energy or energy from a qualified energy recovery process as their



18 primary source of energy to generate electricity and have a generating capacity of  
19 not more than 150 kilowatts.

20 Under existing law, deeds and other legal instruments affecting real property  
21 and local ordinances, regulations and plans governing real property may not  
22 prohibit or unreasonably restrict an owner from using a solar energy system on his  
23 property. (NRS 111.239, 278.0208)

24 This bill amends existing law to provide that an owner may not be prohibited or  
25 unreasonably restricted from using a wind energy system on his property.

26 Under existing law, a homeowners' association may not unreasonably restrict,  
27 prohibit or withhold approval for an owner of a unit to make certain improvements  
28 to his unit, such as adding shutters to aid in reducing the energy costs for the unit.  
29 (NRS 116.2111)

30 This bill extends such protections to an owner who wants to improve his unit  
31 by adding a wind energy system that reduces the energy costs for the unit if the  
32 property where the wind energy system is located is at least 1 acre in size.

33 Existing law requires a local government to amend its building codes to permit  
34 a person to use solar energy to heat a structure to the extent the local climate  
35 allows. (NRS 278.580)

36 This bill requires a local government to amend its building codes to permit a  
37 person to use solar energy systems and wind energy systems to reduce the energy  
38 costs for a structure to the extent the local climate allows for the use of such  
39 systems.

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

1 **Section 1.** NRS 704.771 is hereby amended to read as follows:  
2 704.771 "Net metering system" means a facility or energy  
3 system for the generation of electricity that:

- 4 1. Uses renewable energy as its primary source of energy to  
5 generate electricity;
- 6 2. Has a generating capacity of not more than ~~{30}~~ 150  
7 kilowatts;
- 8 3. Is located on the customer-generator's premises;
- 9 4. Operates in parallel with the utility's transmission and  
10 distribution facilities; and
- 11 5. Is intended primarily to offset part or all of the customer-  
12 generator's requirements for electricity.

13 **Sec. 2.** NRS 704.860 is hereby amended to read as follows:

14 704.860 "Utility facility" means:

- 15 1. Electric generating plants and their associated facilities,  
16 ~~{other than}~~ **except:**

17 (a) **Electric generating** plants and their associated facilities that  
18 are or will be located entirely within the boundaries of a county  
19 whose population is 100,000 or more ~~{3}~~; **or**

20 (b) **Electric generating plants and their associated facilities**  
21 **which use or will use renewable energy, as defined in NRS**  
22 **704.7811, or energy from a qualified energy recovery process, as**



1 *defined in NRS 704.7809, as their primary source of energy to*  
2 *generate electricity and which have or will have a generating*  
3 *capacity of not more than 150 kilowatts, including, without*  
4 *limitation, a net metering system, as defined in NRS 704.771.*

5 ↳ As used in this subsection, “associated facilities” includes,  
6 without limitation, any facilities for the storage, transmission or  
7 treatment of water, including, without limitation, facilities to supply  
8 water or for the treatment or disposal of wastewater, which support  
9 or service an electric generating plant.

10 2. Electric transmission lines and transmission substations that:

11 (a) Are designed to operate at 200 kilovolts or more;

12 (b) Are not required by local ordinance to be placed  
13 underground; and

14 (c) Are constructed outside any incorporated city.

15 3. Gas transmission lines, storage plants, compressor stations  
16 and their associated facilities when constructed outside:

17 (a) Any incorporated city; and

18 (b) Any county whose population is 100,000 or more.

19 4. Water storage, transmission and treatment facilities, other  
20 than facilities for the storage, transmission or treatment of water  
21 from mining operations.

22 5. Sewer transmission and treatment facilities.

23 **Sec. 3.** NRS 111.239 is hereby amended to read as follows:

24 111.239 1. Any covenant, restriction or condition contained  
25 in a deed, contract or other legal instrument which affects the  
26 transfer, sale or any other interest in real property that prohibits or  
27 unreasonably restricts the owner of the property from using a system  
28 for obtaining solar *or wind* energy on his property is void and  
29 unenforceable.

30 2. For the purposes of this section, “unreasonably restricts the  
31 use of a system for obtaining solar *or wind* energy” means placing a  
32 restriction or requirement on the use of such a system which  
33 significantly decreases the efficiency or performance of the system  
34 and does not allow for the use of an alternative system at a  
35 comparable cost and with comparable efficiency and performance.

36 **Sec. 4.** NRS 116.2111 is hereby amended to read as follows:

37 116.2111 1. Except as otherwise provided in this section and  
38 subject to the provisions of the declaration and other provisions of  
39 law, a unit’s owner:

40 (a) May make any improvements or alterations to his unit that  
41 do not impair the structural integrity or mechanical systems or  
42 lessen the support of any portion of the common-interest  
43 community;



1 (b) May not change the appearance of the common elements, or  
2 the exterior appearance of a unit or any other portion of the  
3 common-interest community, without permission of the association;  
4 and

5 (c) After acquiring an adjoining unit or an adjoining part of an  
6 adjoining unit, may remove or alter any intervening partition or  
7 create apertures therein, even if the partition in whole or in part is a  
8 common element, if those acts do not impair the structural integrity  
9 or mechanical systems or lessen the support of any portion of the  
10 common-interest community. Removal of partitions or creation of  
11 apertures under this paragraph is not an alteration of boundaries.

12 2. An association may not:

13 (a) Unreasonably restrict, prohibit or otherwise impede the  
14 lawful rights of a unit's owner to have reasonable access to his unit.

15 (b) Unreasonably restrict, prohibit or withhold approval for a  
16 unit's owner to add to a unit:

17 (1) Improvements such as ramps, railings or elevators that  
18 are necessary to improve access to the unit for any occupant of the  
19 unit who has a disability;

20 (2) Additional locks to improve the security of the unit; ~~[or]~~

21 (3) Shutters to improve the security of the unit or to ~~[aid in]~~  
22 ~~reducing]~~ *reduce* the costs of energy for the unit ~~[; or]~~;

23 (4) *Systems which use wind energy to reduce the costs of*  
24 *energy for the unit if the boundaries of the unit encompass one*  
25 *acre or more within the common-interest community.*

26 (c) With regard to approving or disapproving any improvement  
27 or alteration made to a unit, act in violation of any state or federal  
28 law.

29 3. Any improvement or alteration made pursuant to subsection  
30 2 that is visible from any other portion of the common-interest  
31 community must be installed, constructed or added in accordance  
32 with the procedures set forth in the governing documents of the  
33 association and must be selected or designed to the maximum extent  
34 practicable to be compatible with the style of the common-interest  
35 community.

36 **Sec. 5.** NRS 278.0208 is hereby amended to read as follows:

37 278.0208 1. A governing body shall not adopt an ordinance,  
38 regulation or plan or take any other action that prohibits or  
39 unreasonably restricts the owner of real property from using a  
40 system for obtaining solar *or wind* energy on his property.

41 2. Any covenant, restriction or condition contained in a deed,  
42 contract or other legal instrument which affects the transfer, sale or  
43 any other interest in real property that prohibits or unreasonably  
44 restricts the owner of the property from using a system for obtaining  
45 solar *or wind* energy on his property is void and unenforceable.



1 3. For the purposes of this section, “unreasonably restricting  
2 the use of a system for obtaining solar *or wind* energy” means  
3 placing a restriction or requirement on the use of such a system  
4 which significantly decreases the efficiency or performance of the  
5 system and does not allow for the use of an alternative system at a  
6 comparable cost and with comparable efficiency and performance.

7 **Sec. 6.** NRS 278.580 is hereby amended to read as follows:

8 278.580 1. Subject to the limitation set forth in NRS 244.368,  
9 the governing body of any city or county may adopt a building code,  
10 specifying the design, soundness and materials of structures, and  
11 may adopt rules, ordinances and regulations for the enforcement of  
12 the building code.

13 2. The governing body may also fix a reasonable schedule of  
14 fees for the issuance of building permits. A schedule of fees so fixed  
15 does not apply to the State of Nevada, the University and  
16 Community College System of Nevada or any school district, except  
17 that such entities may contract with the governing body to pay such  
18 fees for the issuance of building permits, the review of plans and the  
19 inspection of construction. Except as it may agree to in such a  
20 contract, a governing body is not required to provide for the review  
21 of plans or the inspection of construction with respect to a structure  
22 of the State of Nevada, the University and Community College  
23 System of Nevada or any school district.

24 3. Notwithstanding any other provision of law, the State and its  
25 political subdivisions shall comply with all zoning regulations  
26 adopted pursuant to this chapter, except for the expansion of any  
27 activity existing on April 23, 1971.

28 4. A governing body shall amend its building codes to permit  
29 the use of ~~straw~~:

30 (a) *Straw* or other materials and technologies which conserve  
31 scarce natural resources or resources that are renewable in the  
32 construction of a structure ; and ~~the use of~~

33 (b) *Systems which use solar or wind energy to reduce the costs*  
34 *of energy* for ~~the heating of~~ a structure,  
35 *to the extent the local climate allows ~~it~~ for the use of such*  
36 *materials, technologies, resources and systems.*

37 5. A governing body shall amend its building codes to include:

38 (a) The seismic provisions of the International Building Code  
39 published by the International Code Council; and

40 (b) Standards for the investigation of hazards relating to seismic  
41 activity, including, without limitation, potential surface ruptures and  
42 liquefaction.







