SENATE BILL NO. 421–SENATOR OHRENSCHALL

MARCH 27, 2023

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to energy. (BDR 58-891)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; revising provisions governing partial tax abatements for certain renewable energy facilities; revising provisions governing the integrated resource plan of an electric utility; revising provisions governing permits for the construction of utility facilities; establishing certain requirements for the boards of county commissioners of certain counties relating to commercial solar energy facilities; requiring the Joint Interim Standing Committee on Growth and Infrastructure to conduct a study concerning a statewide renewable energy plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy or a facility for the storage of energy from renewable generation or a hybrid renewable generation and energy storage facility to apply to the Director of the Office of Energy within the Office of the Governor for a partial abatement of certain sales and use taxes or property taxes. (NRS 701A.360) **Section 1** of this bill provides that, beginning January 1, 2030, a person may apply for such a partial abatement only if the facility will be located on previously disturbed lands or on or adjacent to farmland, mines or mine-scarred lands.

Existing law requires each electric utility to submit to the Public Utilities Commission of Nevada every 3 years an integrated resource plan to increase the utility's supply of electricity or decrease the demands made on its system by its customers. Existing law provides that the integrated resource plan must include certain components, including, without limitation, a distributed resources plan. Existing law requires a distributed resources plan to include an evaluation of the

locational benefits and costs of distributed resources which is based on certain factors. (NRS 704.741) **Section 2** of this bill requires the distributed resources plan to also include an evaluation of the locational benefits and costs of microgrids, off-grid systems and shared power generation and adds the impact on historically underserved communities and natural, cultural, historical and recreational resources and rural economic development to the list of factors on which the evaluation must be based.

Existing law requires the distributed resources plan to identify any additional spending necessary to integrate cost-effective distributed resources into distribution planning consistent with the goal of yielding a net benefit to customers. (NRS 704.741) **Section 2** requires the distributed resources plan to identify additional spending necessary to integrate cost-effective distributed resources, microgrids, off-grid systems and shared power generation into distribution planning consistent with the goal of yielding a net benefit to customers of the electric utility, including, without limitation, eligible customers, and minimizing impacts on natural, cultural, historical and recreational resources.

Existing law requires the Commission to convene a public hearing on the adequacy of the integrated resource plan filed by an electric utility and, following the hearing, to make certain determinations regarding the integrated resource plan, including, without limitation, whether the plan adequately demonstrates the economic, environmental and other benefits to the State associated with certain measures and sources of supply. Existing law requires the Commission to give preference to measures and sources of supply which meet certain criteria. (NRS 704.746) **Section 3** of this bill revises the list of measures and sources of supply.

Existing law requires the Commission to designate renewable energy zones and revise designated renewable energy zones as the Commission deems necessary. (NRS 704.741) Existing law requires the integrated resource plan filed by an electric utility to include a proposal for annual limits on the energy and capacity that certain eligible customers are authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted on or after May 16, 2019. (NRS 704.746) **Section 2** revises the definition of the term "renewable energy zones" to include certain mining lands, locations for agrivoltaics, brownfield sites and developed urban areas. **Section 3** requires the Commission, in considering whether to accept or modify a proposal by an electric utility for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources, to consider whether the proposed annual limits encourage the development and use of renewable energy resources in the renewable energy zones designated by the Commission. **Section 3** also requires the Commission, in considering whether the proposed annual limits further the public interest, to consider whether the proposed annual limits enable distributed generation and storage of renewable energy.

Existing law requires a person who wishes to obtain a permit for a utility facility to file an application with the Commission. (NRS 704.870) **Section 4** of this bill revises the information that is required to be included in the application.

Existing law prohibits the Commission from granting a permit for the construction, operation and maintenance of a utility facility unless the Commission first makes certain findings. (NRS 704.890) **Section 5** of this bill revises the findings which the Commission is required to make to take into account the effect of the utility facility on the natural, cultural, historical or recreational resources of this State.

Existing law requires each governing body of a county or city to establish a process for the issuance of a special use permit for the construction of a renewable energy generation project with a nameplate capacity of 10 megawatts or more. (NRS 278.26503) **Sections 7-15** of this bill establish various requirements for a

board of county commissioners in a county whose population is less than 700,000 (currently all counties except Clark County) if the board elects to adopt an ordinance establishing requirements for the construction, deconstruction, decommissioning or siting of a commercial solar energy facility.

Sections 8-11 of this bill define various terms relating to a commercial solar energy facility.

Section 12 of this bill limits the applicability of the provisions of **sections 7-15** to counties whose population is less than 700,000.

Section 13 of this bill: (1) authorizes such a board of county commissioners to adopt an ordinance establishing requirements for the construction, deconstruction, decommissioning or siting of a commercial solar energy facility; and (2) prohibits such a board of county commissioners from adopting requirements that are more stringent than the requirements set forth in **sections 7-15**. **Section 13** also provides that an ordinance or regulation adopted by a board of county commissioners that conflicts with or is more stringent than the provisions of **sections 7-15** is null and void.

Section 14 of this bill establishes certain requirements for such an ordinance relating to commercial solar energy facilities including, without limitation: (1) setback requirements for siting a commercial solar energy facility; (2) various requirements for a facility owner of a commercial solar energy facility; and (3) requirements for a facility owner to enter into a road use agreement under certain circumstances. **Section 14** further prohibits such an ordinance from: (1) establishing unreasonable application fees; (2) establishing commercially unreasonable requirements for the construction, deconstruction, decommissioning or siting of a commercial solar energy facility; (3) conditioning the approval of the board on a guarantee of property value; or (4) requiring a facility owner to compensate a neighboring property.

Section 15 of this bill requires a board of county commissioners to hold at least one public hearing not more than 45 days after an application for a special use permit for a commercial solar energy facility is filed with the board and to issue a decision on the application not more than 30 days after holding the public hearing.

Section 16 of this bill makes conforming changes to provide that: (1) any process established by such a governing body for a special use permit must be consistent with the requirements set forth in **sections 7-15**; and (2) the requirement to hold a public hearing not more than 45 days after receiving an application for a commercial solar energy facility is an exception to the existing requirement to hold a public hearing not more than 65 days after receiving an application for a special use permit for the construction of a renewable energy generation project with a nameplate capacity of 10 megawatts or more.

Section 17 of this bill requires the Joint Standing Interim Committee on Growth and Infrastructure to conduct an interim study concerning the development of a statewide renewable energy plan to provide for the efficient and coordinated placement of renewable energy generation projects and energy storage systems in locations that will have the fewest potential conflicts with adjacent land uses, historically underserved communities and the natural, cultural, historical and recreational resources of this State. **Section 17** also requires the Committee to submit, with the results of the study, a map and a written description of identified areas of this State where renewable energy generation projects and energy storage systems could be sited with the fewest potential conflicts with adjacent land uses, historically underserved communities and natural, cultural, historical and recreational resources.

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

Section 1. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy, a facility for the storage of energy from renewable generation or a hybrid renewable generation and energy storage facility in this State ***on previously disturbed lands, including, without limitation, mining lands that have been abandoned and brownfield sites, as defined in 42 U.S.C. § 9601, or on or adjacent to farmland, mines or mine-scarred lands*** may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS. An applicant may submit a copy of the application to the board of county commissioners at any time after the applicant has submitted the application to the Director.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall forward a copy of the application to:

(a) The Chief of the Budget Division of the Office of Finance;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Office of Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The Director shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

Sec. 2. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before June 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its

customers to the Commission. Two or more utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity shall submit a joint plan.

2. The Commission shall, by regulation:

(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility or utilities to:

(1) Forecast the future demands, except that a forecast of the future retail electric demands of the utility or utilities must not include the amount of energy and capacity proposed pursuant to subsection 5 as annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 on or after May 16, 2019; and

(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility or utilities to include in the plan:

(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources.

(b) A proposal for the expenditure of not less than 10 percent of the total expenditures related to energy efficiency and conservation programs on energy efficiency measures for customers of the electric utility in low-income households and residential customers and public schools in historically underserved communities, through both targeted programs and programs directed at residential customers and public schools in general.

(c) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon dioxide emissions that:

(1) Uses sources of supply that result in, by 2050, an amount of energy production from zero carbon dioxide emission resources that equals the forecasted demand for electricity by customers of the utility;

(2) Includes the deployment of distributed generation; and

(3) If the plan is submitted on or before June 1, 2027, uses sources of supply that result in, by the year 2030, an 80 percent reduction in carbon dioxide emissions from the generation of

electricity to meet the demands of customers of the utility as compared to the amount of such emissions in the year 2005.

(d) An analysis of the effects of the requirements of NRS 704.766 to 704.776, inclusive, on the reliability of the distribution system of the utility or utilities and the costs to the utility or utilities to provide electric service to all customers. The analysis must include an evaluation of the costs and benefits of addressing issues of reliability through investment in the distribution system.

(e) A list of the utility's or utilities' assets described in NRS 704.7338.

(f) A surplus asset retirement plan as required by NRS 704.734.

4. The Commission shall require the utility or utilities to include in the plan a distributed resources plan. The distributed resources plan must:

(a) Evaluate the locational benefits and costs of distributed resources ~~[.]~~ ***, microgrids, off-grid systems and shared power generation.*** This evaluation must be based on reductions or increases in local generation capacity needs, avoided or increased investments in distribution infrastructure, safety benefits, reliability benefits ***, the impact on historically underserved communities, the impact on natural, cultural, historical and recreational resources and rural economic development in this State*** and any other savings the distributed resources ***, microgrids, off-grid systems and shared power generation*** provide to the electricity grid for this State or costs to customers of the electric utility or utilities.

(b) Propose or identify standard tariffs, contracts or other mechanisms for the deployment of cost-effective distributed resources that satisfy the objectives for distribution planning.

(c) Propose cost-effective methods of effectively coordinating existing programs approved by the Commission, incentives and tariffs to maximize the locational benefits and minimize the incremental costs of distributed resources.

(d) Identify any additional spending necessary to integrate cost-effective distributed resources ***, microgrids, off-grid systems and shared power generation*** into distribution planning consistent with the goal of yielding a net benefit to the customers ***, including, without limitation, eligible customers,*** of the electric utility or utilities ~~[.]~~ ***, and minimizing impacts on natural, cultural, historical and recreational resources.***

(e) Identify barriers to the deployment of distributed resources, including, without limitation, safety standards related to technology or operation of the distribution system in a manner that ensures reliable service.

(f) Include a transportation electrification plan as required by NRS 704.7867.

5. The Commission shall require the utility or utilities to include in the plan a proposal for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 on or after May 16, 2019. In developing the proposal and the forecasts in the plan, the utility or utilities must use a sensitivity analysis that, at a minimum, addresses load growth, import capacity, system constraints and the effect of eligible customers purchasing less energy and capacity than authorized by the proposed annual limit. The proposal in the plan must include, without limitation:

(a) A forecast of the load growth of the utility or utilities;

(b) The number of eligible customers that are currently being served by or anticipated to be served by the utility or utilities;

(c) Information concerning the infrastructure of the utility or utilities that is available to accommodate market-based new electric resources;

(d) Proposals to ensure the stability of rates and the availability and reliability of electric service; and

(e) For each year of the plan, impact fees applicable to each megawatt or each megawatt hour to account for costs reflected in the base tariff general rate and base tariff energy rate paid by end-use customers of the electric utility.

6. The annual limits proposed pursuant to subsection 5 shall not apply to energy and capacity sales to an eligible customer if the eligible customer:

(a) Was not an end-use customer of the electric utility at any time before June 12, 2019; and

(b) Would have a peak load of 10 megawatts or more in the service territory of an electric utility within 2 years of initially taking electric service.

7. As used in this section:

(a) ***"Agrivoltaics" means the use of land for both agriculture and the generation of electricity by a solar photovoltaic system.***

(b) "Distributed generation system" has the meaning ascribed to it in NRS 701.380.

~~[(b)]~~ ***(c)*** "Distributed resources" means distributed generation systems, energy efficiency, energy storage, electric vehicles and demand-response technologies.

~~[(c)]~~ ***(d)*** "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

~~[(d)]~~ ***(e)*** "Energy" has the meaning ascribed to it in NRS 704B.090.

~~[(e)]~~ ***(f)*** "Historically underserved community" has the meaning ascribed to it in NRS 704.78343.

~~[(f)]~~ ***(g)*** "Low-income household" has the meaning ascribed to it in NRS 704.78347.

~~[(g)]~~ ***(h) "Microgrid" means a small network of users of electricity with a local source of supply that is attached to the electricity grid but is able to function independently.***

(i) "New electric resource" has the meaning ascribed to it in NRS 704B.110.

~~[(h)]~~ ***(j) "Off-grid system" means a system for the supply of electricity that is not connected to the system or facilities of an electric utility.***

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

~~[(i)]~~ ***(l)*** "Renewable energy zones" means specific geographic zones ***, including, without limitation, mining lands that have been abandoned, locations for agrivoltaics, brownfield sites as defined in 42 U.S.C. § 9601 and developed urban areas,*** where renewable energy resources ~~[are sufficient to develop generation capacity]~~ ***could be most efficiently developed to meet demand for electricity*** and where transmission ~~[constrains the delivery of electricity from those resources to customers.~~

~~(j)]~~ ***, generation and storage infrastructure can be built with the least impact on natural, cultural, historical and recreational resources.***

(m) "Sensitivity analysis" means a set of methods or procedures which results in a determination or estimation of the sensitivity of a result to a change in given data or a given assumption.

Sec. 3. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. The Commission shall determine the parties to the public hearing on the adequacy of the plan. A person or governmental entity may petition the Commission for leave to intervene as a party. The Commission must grant a petition to intervene as a party in the hearing if the person or entity has relevant material evidence to provide concerning the adequacy of the plan. The Commission may limit participation of an intervener in the hearing to avoid duplication and may prohibit continued participation in the hearing by an intervener if the Commission determines that continued participation will unduly broaden the issues, will not provide additional relevant material evidence or is not necessary to further the public interest.

3. In addition to any party to the hearing, any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

4. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility or utilities are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers ***including, without limitation, eligible customers,*** of the utility or utilities associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from ~~[neighboring]~~ ***other*** states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration;

(6) ***Facilities that operate on mining lands that have been abandoned, brownfield sites and other previously disturbed spaces;***

(7) Facilities that operate within renewable energy zones, as designated pursuant to subsection 2 of NRS 704.741;

(8) Agrivoltaics, as defined in NRS 704.741;

(9) Other generation facilities; and

~~[(7)]~~ ***(10)*** Other transmission facilities.

5. The Commission shall give preference to the measures and sources of supply set forth in paragraph (c) of subsection 4 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section;

(c) Provide levels of service that are adequate and reliable;

(d) Provide the greatest opportunity for the creation of new jobs in this State; and

(e) Provide for diverse electricity supply portfolios and which reduce customer exposure to the price volatility of fossil fuels and the potential costs of carbon.

➥ In considering the measures and sources of supply set forth in paragraph (c) of subsection 4 and determining the preference given to such measures and sources of supply, the Commission shall consider the cost of those measures and sources of supply to the customers ***, including, without limitation, eligible customers,*** of the electric utility or utilities.

6. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

7. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

8. The Commission shall, after a hearing, review and accept or modify an emissions reduction and capacity replacement plan which includes each element required by NRS 704.7316. In considering whether to accept or modify an emissions reduction and capacity replacement plan, the Commission shall consider:

(a) The cost to the customers of the electric utility or utilities to implement the plan;

(b) Whether the plan provides the greatest economic benefit to this State;

(c) Whether the plan provides the greatest opportunities for the creation of new jobs in this State; and

(d) Whether the plan represents the best value to the customers of the electric utility or utilities.

9. In considering whether to accept or modify a proposal for annual limits on the total amount of energy and capacity that eligible customers may be authorized to purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to NRS 704B.310 after May 16, 2019, which is included in the plan pursuant to subsection 5 of NRS 704.741, the Commission shall consider whether the proposed annual limits:

(a) Further the public interest, including, without limitation, whether the proposed annual limits promote safe, economic, efficient and reliable electric service to all customers ***, including, without limitation, eligible customers,*** of electric service in this

State ~~[;]~~ ***and enables distributed generation and storage of renewable energy;***

(b) Align an economically viable utility model with state public policy goals; and

(c) Encourage the development and use of renewable energy resources located in this State ***in renewable energy zones, as designated pursuant to subsection 2 of NRS 704.741,*** and, in particular, renewable energy resources that are coupled with energy storage.

10. In considering whether to accept or modify a plan to accelerate transportation electrification submitted pursuant to NRS 704.7867, the Commission shall consider:

(a) Whether the proposed investments, incentives, rate designs, systems and programs are reasonably expected to achieve one or more of the following:

(1) Improve the efficiency of the electric utility's electrical system, operational flexibility or system utilization during off-peak hours;

(2) Improve the ability of the electric utility to integrate renewable energy resources which generate electricity on an intermittent basis into the transmission and distribution grid;

(3) Reduce greenhouse gas emissions and air pollution;

(4) Improve air quality in communities most affected by air pollution from the transportation sector;

(5) Support increased consumer choice in electric vehicle charging and related infrastructure and services;

(6) Increase access to the use of electricity as a transportation fuel by low-income users by including investments, incentives or programs for those users, or for entities operating in communities or at locations that will benefit low-income users;

(7) Foster the investment of private capital in transportation electrification, as defined in NRS 704.7867, and the demand for skilled jobs in related services; and

(8) Provide information and education on the benefits of transportation electrification to customers.

(b) Whether the proposed investments, incentives, rate designs, systems and programs provide electric services and pricing that customers value.

(c) Whether the proposed investments, incentives, systems and programs incorporate public reporting requirements which will serve to inform program design and Commission policy.

(d) The cost to the customers of the electric utility to implement the plan.

11. As used in this section:

(a) "Brownfield site" has the meaning ascribed to it in 42 U.S.C. § 9601.

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

Sec. 4. NRS 704.870 is hereby amended to read as follows:

704.870 1. Except as otherwise provided in subsection 2, a person who wishes to obtain a permit for a utility facility must file with the Commission an application, in such form as the Commission prescribes, containing:

(a) A description of the location ***, including, without limitation, digitally-supplied coordinates and a map,*** and of the ***type of*** utility facility to be built thereon;

(b) A summary of any studies which have been made of the environmental impact of the facility;

(c) A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility; and

(d) A surplus asset retirement plan as described in subsection 2 of NRS 704.734 for the decommissioning, removal, remediation and disposition of the utility facility after it ceases to operate, including a description of the manner in which the plan will be funded.

➥ A copy or copies of the studies referred to in paragraph (b) must be filed with the Commission and be available for public inspection.

2. If a person wishes to obtain a permit for a utility facility and a federal agency is required to conduct an environmental analysis of the proposed utility facility, the person must:

(a) Not later than the date on which the person files with the appropriate federal agency an application for approval for the construction of the utility facility, file with the Commission and each other permitting entity a notice, in such a form as the Commission or other permitting entity prescribes; and

(b) Not later than 30 days after the issuance by the appropriate federal agency of either the final environmental assessment or final environmental impact statement, but not the record of decision or similar document, relating to the construction of the utility facility:

(1) File with the Commission an application that complies with the provisions of subsection 1; and

(2) File with each other permitting entity an application for a permit, license or other approval for the construction of the utility facility.

3. A copy of each application filed with the Commission must be filed with the Administrator of the Division of Environmental

Protection of the State Department of Conservation and Natural Resources.

4. Each application filed with the Commission must be accompanied by:

(a) Proof of service of a copy of the application on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and

(b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice pursuant to paragraph (a) by the publication of a summary of the application in newspapers published and distributed in the area in which the utility facility is proposed to be located.

5. Not later than 5 business days after the Commission receives an application pursuant to this section, the Commission shall issue a notice concerning the application. Any person who wishes to become a party to a permit proceeding pursuant to NRS 704.885 must file with the Commission the appropriate document required by NRS 704.885 within the time frame set forth in the notice issued by the Commission pursuant to this subsection.

Sec. 5. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

(a) The nature of the probable effect on the environment ~~[;]~~ ***and any natural, cultural, historical or recreational resources in this State;***

(b) If the utility facility emits greenhouse gases and does not use renewable energy as its primary source of energy to generate electricity, the extent to which the facility is needed to ensure reliable utility service to customers in this State;

(c) That the need for ***, and location of,*** the facility balances any adverse effect on the environment ~~[;]~~ ***and the natural, cultural, historical and recreational resources in this State;***

(d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;

(e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and ***that*** the applicant has obtained, or is in the process of obtaining, all other permits, licenses, registrations and approvals required by federal, state and local statutes, regulations and ordinances;

(f) That the surplus asset retirement plan filed pursuant to NRS 704.870:

(1) Complies with federal, state and local laws;

(2) Provides for the remediation and reuse of the facility within a reasonable period; and

(3) Is able to be reasonably completed under the funding plan contained in the application; and

(g) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification. If the applicant has not obtained all the other permits, licenses, registrations and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph (g) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

4. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7715.

Sec. 6. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 15, inclusive, of this act.

Sec. 7. ***As used in sections 7 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 8 to 11, inclusive, of this act, have the meanings ascribed to them in those sections.***

Sec. 8. ***"Commercial solar energy facility" means a facility for the conversion of photovoltaic solar energy with a nameplate capacity of 500 kilowatts or more.***

Sec. 9. ***"Facility owner" means:***

1. A person with a direct ownership interest in a commercial solar energy facility; or

2. A person acting as a developer of a commercial solar energy facility by acquiring the necessary rights, permits or planning for the construction and operation of the facility.

Sec. 10. ***"Participating property" means real property that is owned by a facility owner or is the subject of a written agreement between a facility owner and the owner of the real property for the purpose of constructing a commercial solar energy facility or supporting facilities for a commercial solar energy facility.***

Sec. 11. ***"Supporting facilities" means any transmission lines, substations, access roads, meteorological towers, storage***

facilities and equipment associated with the generation and storage of a commercial solar energy facility.

Sec. 12. *The provisions of sections 7 to 15, inclusive, of this act apply only to a county whose population is less than 700,000.*

Sec. 13. *1. Notwithstanding any other existing provision of state law or the existence of any zoning commission or regional planning commission and except as otherwise provided in federal law, a board of county commissioners may establish requirements for:*

(a) The construction, deconstruction or decommissioning of a commercial solar energy facility in accordance with the provisions of sections 7 to 15, inclusive, of this act; and

(b) Siting a commercial solar energy facility in accordance with the provisions of sections 7 to 15, inclusive, of this act on previously disturbed lands, including, without limitation, mining lands that have been abandoned and brownfield sites, as defined in 42 U.S.C. § 9601, or on or adjacent to farmland, mines or mine-scarred lands in unincorporated areas of the county.

2. The requirements established by the board of county commissioners pursuant to subsection 1 may not be more stringent than the requirements set forth in sections 7 to 15, inclusive, of this act.

3. Any ordinance or regulation that conflicts with or is more stringent than the provisions of sections 7 to 15, inclusive, of this act, is null and void and the board of county commissioners shall repeal any such ordinance or regulation.

Sec. 14. *1. An ordinance adopted by a board of county commissioners establishing requirements for the construction, deconstruction, decommissioning or siting of a commercial solar energy facility:*

(a) Must establish the following setback requirements for siting a commercial solar energy facility:

(1) For a community building, including, without limitation, a school, place of worship, day care center, public library, senior center or community center, a setback of 540 feet;

(2) For a residence located on a participating property, a setback of 360 feet;

(3) For a residence located on a nonparticipating property, a setback of 540 feet;

(4) From the boundary line of a participating property, no setback is required;

(5) From the boundary line of a nonparticipating property, a setback of 360 feet;

(6) For an overhead communication and electric transmission and distribution facility not including an overhead way, a setback of 360 feet;

(7) For a utility service line to an individual house or outbuilding, a setback of 360 feet;

(8) For an overhead utility service line to an individual house or outbuilding, a setback of 360 feet; and

(9) For a fish and wildlife area, real property that is subject to a permanent conservation right or real property that is registered or designated as a nature preserve, buffer or land and water reserve under federal, state or local law, a setback of 500 feet.

(b) May allow the setback requirements set forth in paragraph (a) to be waived by the written consent of the owner of an affected nonparticipating property.

(c) May require a commercial solar energy facility to be sited in such a way that:

(1) The perimeter of the commercial solar energy facility is defined by a method that does not impede the ingress and egress of wildlife from the site; and

(2) No component of a solar photovoltaic panel has a height of more than 20 feet above the ground.

(d) May require vegetative or other non-living screening around portions of a commercial solar energy facility that are adjacent to community properties, but may not require earthen berms or other similar structures.

(e) May require a facility owner to provide evidence of consultation with the Office of Historic Preservation of the State Department of Conservation and Natural Resources to assess potential impacts on any historic sites in this State.

(f) May require a facility owner to:

(1) Minimize the clearing and any damage to native vegetation;

(2) Allow wildlife access to the commercial solar energy facility;

(3) Encourage the production of agricultural products between the solar photovoltaic panels; and

(4) Demonstrate the commercial solar energy facility has obtained an operating permit in accordance with the provisions of chapter 445B of NRS.

(g) If the facility owner will use roads maintained by the county, may require the facility owner to enter into a road use agreement with the county or other subdivision of the county. Such a road use agreement:

(1) Must require the facility owner to be responsible for the reasonable costs of improving and repairing the roads used by the facility owner during the construction of the commercial solar energy facility; and

(2) Must not preserve access to areas of public lands traditionally utilized by residents within the county, regardless of whether such areas are formally recognized as a public right-of-way.

2. For the purposes of subsection 1, the setback distance must be measured from the solar photovoltaic panel closest to the edge of the applicable setback property line.

3. Any ordinance adopted by a board of county commissioners establishing requirements for the siting of a commercial solar energy facility must not:

(a) Require unreasonable application fees for a special use permit for a commercial solar energy facility. For the purposes of this paragraph, an application fee will be deemed unreasonable if the fee is not consistent with the fees charged by the county for permits that require a similar amount of staff time and resources.

(b) Establish requirements for the construction, deconstruction, decommissioning or siting of a commercial solar energy facility or related financial assurances that are not commercially reasonable. For the purposes of this paragraph, such requirements will be deemed commercially unreasonable if the requirements are more restrictive than the requirements for facilities of a similar size and scope that are located or planned to be located in other states, counties or cities.

(c) Condition the approval of a commercial solar energy facility on a guarantee of property value.

(d) Require the facility owner to pay or otherwise compensate a neighboring property.

4. The provisions of this section are in addition to any other setback or clearance approved or required by the National Electrical Code, National Electrical Safety Code, Public Utilities Commission of Nevada or the Federal Energy Regulatory Commission.

Sec. 15. ***1. Before a board of county commissioners may approve an application for the issuance of or modification to a special use permit for a commercial solar energy facility, the board shall hold at least one public hearing not more than 45 days after the application for the special use permit is filed with the board of county commissioners. In addition to the requirements of NRS 241.020, notice of the public hearing must be published in a newspaper of general circulation in the county.***

2. At the public hearing held pursuant to subsection 1, the board of county commissioners shall allow interested parties the opportunity to present evidence regarding the special use permit.

3. The board of county commissioners shall issue a decision on the special use permit not more than 30 days after the public hearing held pursuant to subsection 1.

Sec. 16. NRS 278.26503 is hereby amended to read as follows:

278.26503 Each governing body:

1. Shall establish a process for the issuance of a permit for the construction of an aboveground utility project which is located in a corridor for the construction of aboveground utility projects identified in the master plan adopted by the planning commission or governing body.

2. Shall establish a process for the issuance of a special use permit for the construction of an aboveground utility project which is not located in a corridor for the construction of aboveground utility projects identified in the master plan adopted by the planning commission or governing body. The process adopted by the governing body must include, without limitation, provisions:

(a) Requiring the planning commission or the governing body to review each completed application at a public hearing;

(b) Requiring the applicant to provide proof satisfactory to the planning commission or the governing body that the construction of the aboveground utility project does not conflict with any existing or planned infrastructure or other utility projects; and

(c) Authorizing the planning commission or the governing body to issue or deny the issuance of a special use permit for the construction of an aboveground utility project based on the proximity of the proposed site of the aboveground utility project to any school, hospital or urban residential area with a dwelling density greater than 2 units per gross acre.

3. Shall establish a process for the issuance of a special use permit for the construction of a renewable energy generation project with a nameplate capacity of 10 megawatts or more which must include, without limitation, provisions:

(a) Establishing the required contents of an application;

(b) Establishing the criteria by which the planning commission or the governing body will evaluate an application; ~~[and]~~

(c) ~~[Requiring]~~ ***Except as otherwise provided in section 15 of this act, requiring*** the planning commission or the governing body to review each completed application at a public hearing not later than 65 days after receiving the complete application ~~[.]~~ ***; and***

(d) Consistent with the provisions of sections 7 to 15, inclusive, of this act, if applicable.

4. May establish an expedited process for the issuance of a permit or special use permit described in subsections 1, 2 and 3 if the governing body determines that:

(a) The project will be located in an isolated or rural area; and

(b) There is minimal risk of disturbance to residents as a result of the construction of the project.

Sec. 17. 1. The Joint Interim Standing Committee on Growth and Infrastructure shall conduct a study during the 2023-2024 interim concerning the development of a statewide renewable energy plan. The study must, without limitation:

(a) Examine the efficient and coordinated placement of renewable energy generation projects and energy storage systems;

(b) Identify the locations where a renewable energy generation project or energy storage system will have the most efficient access to existing or planned electrical transmission and the fewest potential conflicts with adjacent land uses, historically underserved communities and the natural, cultural, historical and recreational resources of this State;

(c) Determine best management practices for siting renewable energy generation projects and energy storage systems; and

(d) Consider any other recommendations for a statewide renewable energy plan that are based on the best available science for minimizing potential conflicts of renewable energy generation projects and energy storage systems with adjacent land uses, historically underserved communities and the natural, cultural, historical and recreational resources of this State.

2. In preparing the study, the Joint Interim Standing Committee on Growth and Infrastructure shall consult with relevant state and federal agencies, Indian tribes, electric utilities and local governments.

3. The Committee shall, pursuant to subsection 4 of NRS 218E.330, submit a report of the study, a map and written description of any locations identified pursuant to paragraph (b) of subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 83rd Session of the Nevada Legislature.

4. As used in this section:

(a) "Energy storage system" has the meaning ascribed to it in NRS 701B.057.

(b) "Historically underserved community" has the meaning ascribed to it in NRS 704.78343.

(c) "Renewable energy generation project" has the meaning ascribed to it in NRS 701.080.

Sec. 18. 1. This section becomes effective upon passage and approval.

2. Sections 2 to 17, inclusive, of this act become effective on July 1, 2023.

3. Section 1 of this act becomes effective on January 1, 2030.

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