



Nevada Association of Counties  
304 South Minnesota Street  
Carson City, NV 89703  
(775) 883-7863  
[www.nvnaco.org](http://www.nvnaco.org)

December 2, 2013

Director Paul Thomsen  
Nevada Governor's Office of Energy  
755 North Roop Street, Ste 202  
Carson City, NV 89701

RE: Revised Proposed Regulation of the Director of the Office of Energy, LCB File No.  
R065-13

Dear Director Thomsen:

We are writing to voice our concerns with the proposed language in Section 3.2 of the proposed regulation, R065-13. The proposed regulation would allow any renewable energy project that has already commenced operations but had been denied a tax abatement by a board of county commissioners prior to June 30, 2013, to reapply for the abatement.

Specifically, page 2 of the draft regulation reads:

***If an application for a partial abatement was denied by a board of county commissioners pursuant to the former provisions of subsection 2 of NRS 701A.365 on or before June 30, 2013, the applicant whose application for a partial abatement was denied may reapply for a partial abatement pursuant to NRS 701A.360 after June 30, 2013, without regard to whether the facility has commenced commercial operation.***

Our opposition to this language rests mainly upon the fact that allowing retroactive application for abatements for projects already in operation is a substantial policy change, and should not be carried out through a regulation or rulemaking process. The purpose of implementing regulations is to carry out or implement the policy changes that are created and vetted by our legislators during the legislative session. We understand the proposed language would apply to two geothermal energy facilities that are already on-line. As far as we are aware, the policy of allowing retroactive application for abatements for projects already in operation was not something that was either considered or requested during the 2013 Legislative Session, or, during any of the discussions regarding AB 239. We would welcome an opportunity to discuss any merits or shortcomings of this policy change; however, we don't believe that it is within the spirit of the negotiations that took place during the crafting of AB 239 to create substantial changes to statute and to the Bill, after it has been passed by the Legislature.



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We also question whether granting abatements for projects that are already constructed follows the intent of our abatement program here in Nevada – if tax abatements are meant to incentivize investors and developers to locate and commence operations in our state, what is the purpose of granting tax incentives to companies who have already located, invested, and are successfully operating in Nevada? It is our understanding that the goal of AB 239 was to help attract renewable investment to Nevada, not to subsidize current operations.

Our understanding is based on NRS 701A.360.1 which states:

A person who *intends to locate* a facility for the generation of process heat from solar renewable energy or a wholesale facility for the generation of electricity from renewable energy in this State 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. [italics added]

Finally, we want to make you aware that the suggested change may also create a fiscal impact to counties, as granting tax abatements to projects already in operation would reduce current as well as future tax revenues.

NACO appreciates your consideration of these comments. Thank you for your willingness to work with us on the content of these regulations.

Sincerely,

Dagny Stapleton  
Deputy Director  
Nevada Association of Counties