

SENATE BILL NO. 222—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF NYE COUNTY)

MARCH 6, 2007

Referred to Committee on Government Affairs

SUMMARY—Creates the Nye County Water Authority.
(BDR S-317)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to water; creating the Nye County Water Authority; providing for the acquisition, storage, sale and distribution of water by the Authority; conferring other powers on the Authority; providing for the membership of the Governing Board of the Authority; setting forth the duties of the Board; authorizing the Board to levy and collect certain taxes; exempting the Authority from regulation by the Public Utilities Commission of Nevada; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada State Legislature has enacted several laws that create water districts. For example, in 1947, the Legislature created the Las Vegas Valley Water District by a special act. (Chapter 164, Statutes of Nevada 1947, p. 534) In 2003, the Legislature created the Lincoln County Water District by a special act. (Chapter 474, Statutes of Nevada 2003, p. 2985) A water district is generally created to provide for the storage, conservation, distribution and sale of water within or outside of the district. (Chapter 100, Statutes of Nevada 1993, p. 159)

Sections 1-12 of this bill create the Nye County Water Authority by a special act similar to that which created the Lincoln County Water District.

Section 6 of this bill specifies that the jurisdiction and service area of the Authority consists of all the land within the boundaries of Nye County, Nevada.

Section 7 of this bill states that the powers, duties and privileges of the Authority must be exercised by the Governing Board of the Authority, and that the membership of the Board must consist of certain members appointed by the Board of County Commissioners of Nye County.

Section 8 of this bill sets forth an extensive list of powers conferred upon the Authority, including, without limitation: (1) the power to incur indebtedness and



* S B 2 2 2 *

18 issue bonds; (2) the power to acquire land and water rights to carry out the purposes
19 of the Authority; (3) the power to construct any work for the development,
20 importation or distribution of the water of the Authority; and (4) the power to levy
21 and collect taxes to assist in the operational expenses of the Authority.

22 **Section 9** of this bill sets forth the duties of the Board, including, without
23 limitation: (1) the duty to choose a Chairman and prescribe the powers and duties
24 of the Chairman; (2) the duty to fix the principal place of business of the Authority;
25 (3) the duty to appoint a General Manager; and (4) the duty to prescribe the powers,
26 duties, compensation and benefits of all officers and employees of the Authority.
27 **Section 9** further states that, except as to the exercise of the power of eminent
28 domain for which a supermajority vote of the Board is required, a simple majority
29 of the members of the Board constitutes a quorum and a quorum may exercise all
30 the powers and duties of the Board.

31 **Section 10** of this bill authorizes the Board to levy and collect taxes on all
32 taxable property within the Authority to make payment of principal and interest on
33 its general obligations.

34 **Section 11** of this bill exempts the Authority from regulation by the Public
35 Utilities Commission of Nevada.

36 **Section 13** of this bill requires the Commission to stagger the initial terms of
37 the members of the Governing Board of the Authority.

1 WHEREAS, Adequate and efficient water service is vital to the
2 economic development and well-being of the residents of Nye
3 County; and

4 WHEREAS, Inhabited areas of Nye County are remote from any
5 established water system, thus dictating that indispensable activities
6 such as water service be administered by a governmental entity
7 created for the residents of Nye County; and

8 WHEREAS, Nye County could best be served water through a
9 single governmental entity; now, therefore,

10
11 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
12 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
13

14 **Section 1.** As used in sections 1 to 12, inclusive, of this act,
15 unless the context otherwise requires, the words and terms defined
16 in sections 2 to 5, inclusive, of this act have the meanings ascribed
17 to them in those sections.

18 **Sec. 2.** "Authority" means the Nye County Water Authority
19 created pursuant to section 6 of this act.

20 **Sec. 3.** "Board" means the Governing Board of the Authority.

21 **Sec. 4.** "Commission" means the Board of County
22 Commissioners of Nye County.

23 **Sec. 5.** "Service area" means the service area of the Authority
24 described in section 6 of this act.

25 **Sec. 6.** There is hereby created a political subdivision of this
26 State to be known as the Nye County Water Authority. The
27 jurisdiction and service area of the Authority are all that real



* S B 2 2 2 *

1 property within the boundaries of Nye County, Nevada, as described
2 in NRS 243.275 to 243.315, inclusive.

3 **Sec. 7.** 1. All powers, duties and privileges of the Authority
4 must be exercised and performed by the Board.

5 2. The Board must be composed of the following seven
6 members as appointed by the Commission:

7 (a) One member from Beatty or the Amargosa area;

8 (b) One member from the Tonopah area;

9 (c) One member from the Pahrump Valley;

10 (d) One member from northern Nye County;

11 (e) One member from a privately owned utility company
12 regulated by the Public Utilities Commission of Nevada and located
13 in the Pahrump Valley;

14 (f) One member from a nonprofit or municipal utility located in
15 Nye County; and

16 (g) One member of the Commission.

17 3. After the initial terms, each member of the Board serves for
18 a term of 2 years. A vacancy on the Board must be filled in the same
19 manner as the original appointment. A member may be reappointed.

20 **Sec. 8.** 1. The Authority has the following powers:

21 (a) To have perpetual succession.

22 (b) To sue and be sued in the name of the Authority in all courts
23 or tribunals of competent jurisdiction.

24 (c) To adopt a seal and alter it at the pleasure of the Authority.

25 (d) To enter into contracts, and employ and fix the
26 compensation of staff and professional advisers.

27 (e) To incur indebtedness pursuant to chapters 271 and 318 of
28 NRS and to issue bonds and provide for medium-term obligations
29 pursuant to chapter 350 of NRS, to pay, in whole or in part, the
30 costs of acquiring, constructing and operating any lands, easements,
31 water rights, water, waterworks or projects, conduits, pipelines,
32 wells, reservoirs, structures, machinery and other property or
33 equipment useful or necessary to store, convey, supply or otherwise
34 deal with water, and otherwise to carry out the powers set forth in
35 this section. For the purposes of NRS 350.572, sections 1 to 12,
36 inclusive, of this act do not expressly or impliedly require an
37 election before the issuance of a security or indebtedness pursuant to
38 NRS 350.500 to 350.720, inclusive, if the obligation is payable
39 solely from pledged revenues, but an election must be held before
40 incurring a general obligation.

41 (f) To acquire, by purchase, grant, gift, devise, lease,
42 construction, contract or otherwise, lands, rights-of-way, easements,
43 privileges, water and water rights, and property of every kind,
44 whether real or personal, to construct, maintain and operate, within
45 or without the Authority, all works and improvements necessary or



* S B 2 2 2 *

1 proper to carry out any of the objects or purposes of sections 1 to 12,
2 inclusive, of this act, and to complete, extend, add to, repair or
3 otherwise improve any works, improvements or property acquired
4 by the Authority as authorized by sections 1 to 12, inclusive, of this
5 act.

6 (g) To sell, lease, encumber, hypothecate or otherwise dispose
7 of property, whether real or personal, including, without limitation,
8 water and water rights, as is necessary or convenient to the full
9 exercise of the powers of the Authority.

10 (h) To develop and adopt, subject to approval by the
11 Commission, ordinances, rules, regulations and bylaws necessary
12 for the exercise of the powers and conduct of the affairs of the
13 Board and Authority. All bylaws adopted or amended must also be
14 approved by a supermajority vote of the members of the Board.

15 (i) Except as otherwise provided in this paragraph, to exercise
16 the power of eminent domain in the manner prescribed by law, if the
17 action is first approved by a supermajority vote of the Board and a
18 simple majority vote of the Commission. The Authority may
19 exercise the power of eminent domain within or without the service
20 area, to take any property, including, without limitation, the property
21 specified in paragraph (f) and any water or water right specified in
22 paragraph (o), necessary or convenient for the exercise of the
23 powers of the Authority or for the provision of adequate water
24 service to the service area. The Authority shall not exercise the
25 power of eminent domain to acquire any portion of water rights or
26 waterworks facilities owned or used by a public utility that has been
27 issued a certificate of public convenience and necessity pursuant to
28 NRS 704.330 to provide water in a service area unless it also
29 acquires all the real property, water rights, waterworks facilities,
30 equipment and any other private property owned or used by the
31 public utility in connection with providing water in a service area
32 located within or adjacent to the Authority.

33 (j) To enter upon any land, to make surveys and locate any
34 necessary improvements, including, without limitation, lines for
35 channels, conduits, canals, pipelines, roadways and other rights-of-
36 way, to acquire property necessary or convenient for the
37 construction, use, supply, maintenance, repair and improvement of
38 such improvements, including, without limitation, works
39 constructed and being constructed by private owners, lands for
40 reservoirs for the storage of necessary water, and all necessary
41 appurtenances, and, where necessary and for the purposes and uses
42 set forth in this section, to acquire and hold the stock of
43 corporations, domestic or foreign, owning water or water rights,
44 canals, waterworks, franchises, concessions or other rights.



* S B 2 2 2 *

1 (k) To enter into and do any acts necessary or proper for the
2 performance of any agreement with the United States, or any state,
3 county or district of any kind, public or private corporation,
4 association, firm or natural person, or any number of them, for the
5 joint acquisition, construction, leasing, ownership, disposition, use,
6 management, maintenance, repair or operation of any rights, works
7 or other property of a kind which may be lawfully acquired or
8 owned by the Authority.

9 (l) To acquire the right to store water in any reservoirs, or to
10 carry water through any canal, ditch or conduit not owned or
11 controlled by the Authority, and to grant to any owner or lessee the
12 right to the use of any water or right to store such water in any
13 reservoir of the Authority, or to carry such water through any tunnel,
14 canal, ditch or conduit of the Authority.

15 (m) To enter into and do any acts necessary or proper for the
16 performance of any agreement with any district of any kind, public
17 or private corporation, association, firm or natural person, or any
18 number of them, for the transfer or delivery to any district,
19 corporation, association, firm or natural person of any water right or
20 water pumped, stored, appropriated or otherwise acquired or secured
21 for the use of the Authority, or for the purpose of exchanging the
22 water or water right for any other water, water right or water supply
23 to be delivered to the Authority by the other party to the agreement.

24 (n) To cooperate and act in conjunction with the State of Nevada
25 or any of its engineers, officers, boards, commissions, departments
26 or agencies, with the Government of the United States or any of its
27 engineers, officers, boards, commissions, departments or agencies,
28 or with any public or private corporation, to construct any work for
29 the development, importation or distribution of water of the
30 Authority, for the protection of life or property therein, or for the
31 conservation of its water for beneficial use within the Authority, or
32 to carry out any other works, acts or purposes provided for in
33 sections 1 to 12, inclusive, of this act, and to adopt and carry out any
34 definite plan or system of work for any of the purposes described in
35 sections 1 to 12, inclusive, of this act.

36 (o) To store water in surface or underground reservoirs within or
37 without the Authority for the common benefit of the Authority, to
38 conserve and reclaim water for present and future use within the
39 Authority, to appropriate and acquire water and water rights and
40 import water into the Authority for any useful purpose to the
41 Authority, and to commence, maintain, intervene in and
42 compromise in the name of the Authority, or otherwise, and assume
43 the costs and expenses of any action or proceeding involving or
44 affecting:



(1) The ownership or use of water or water rights within or without the Authority used or useful for any purpose of the Authority or of common benefit to any land situated therein;

(2) The wasteful use of water within the Authority;

(3) The interference with or diminution of water or water rights within the Authority;

(4) The contamination or pollution of the surface or subsurface water used in the Authority or any other act that otherwise renders such water unfit for beneficial use; and

(5) The interference with this water that may endanger or damage the residents, lands or use of water in the Authority.

(p) To sell and distribute water under the control of the Authority, without preference, to any natural person, firm, corporation, association, district, agency or inhabitant, public or private, for use within the service area, to fix, establish and adjust rates, classes of rates, terms and conditions for the sale and use of such water, and to sell water for use outside the service area upon a finding by the Board that there is a surplus of water above that amount required to serve customers within the service area.

(q) To cause taxes to be levied and collected for the purposes prescribed in sections 1 to 12, inclusive, of this act, including, without limitation, the payment of any obligation of the Authority during its organizational state and thereafter, and necessary engineering costs, and to assist in the operational expenses of the Authority, until such taxes are no longer required.

(r) To supplement the surface and groundwater resources of Nye County by the importation and use of water from other sources for industrial, irrigation, municipal and domestic uses.

(s) To restrict the use of water of the Authority during any emergency caused by drought or other threatened or existing water shortage, and to prohibit the waste of water of the Authority at any time through the adoption of ordinances, rules or regulations and the imposition of fines for violations of those ordinances, rules and regulations.

(t) To supply water under a contract or agreement, or in any other manner, to the United States or any department or agency thereof, the State of Nevada, Nye County, and any city, town, corporation, association, partnership or natural person situated in Nye County, for an appropriate charge, consideration or exchange made thereof, when such supply is available or can be developed as an incident of or in connection with the primary functions and operations of the Authority.

(u) To create assessment districts to extend mains, improve distribution systems and acquire presently operating private water companies and mutual water distribution systems.



(v) To accept from the Government of the United States or any of its agencies financial assistance or participation in the form of grants-in-aid or any other form in connection with any of the functions of the Authority.

(w) To do all acts and things reasonably implied from and necessary for the full exercise of all powers of the Authority granted by sections 1 to 12, inclusive, of this act.

2. As used in this section, "supermajority" means an affirmative vote of not less than five of the seven members of the Board.

Sec. 9. 1. The Board shall:

(a) Choose one of its members to be Chairman, and prescribe the term of that office and the powers and duties thereof.

(b) Fix the time and place at which its regular meetings will be held and provide for the calling and conduct of special meetings.

(c) Fix the location of the principal place of business of the Authority.

(d) Elect a Secretary-Treasurer of the Board and the Authority, who may or may not be a member of the Board.

(e) Appoint a General Manager who must not be a member of the Board.

(f) Delegate and redelegate to officers of the Authority the power to employ necessary executives, clerical workers, engineering assistants and laborers, and to retain legal, accounting or engineering services, subject to such conditions and restrictions as may be imposed by the Board.

(g) Prescribe the powers, duties, compensation and benefits of all officers and employees of the Authority, and require all bonds necessary to protect the money and property of the Authority.

(h) Take all actions and do all things reasonably and lawfully necessary to conduct the business of the Authority and achieve the purposes of sections 1 to 12, inclusive, of this act.

2. A simple majority of the members of the Board constitutes a quorum. Except as otherwise provided in section 8 of this act, a quorum may exercise all the power and authority conferred on the Board.

3. Members of the Board are entitled to receive reasonable compensation and travel expenses, as set by the Commission, for their attendance at meetings and conduct of other business of the Authority.

Sec. 10. 1. The Board may levy and collect general ad valorem taxes on all taxable property within the Authority, but only for the payment of principal and interest on its general obligations. Such a levy and collection must be made in conjunction with Nye County in the manner prescribed in this section.



2. The Board shall determine the amount of money necessary to be raised by taxation for a particular year in addition to other sources of revenue of the Authority. The Board then shall fix a rate of levy which, when applied to the assessed valuation of all taxable property within the Authority, will produce an amount, when combined with other revenues of the Authority, sufficient to pay, when due, all principal of and interest on general obligations of the Authority and any defaults or deficiencies relating thereto.

3. In accordance with and in the same manner required by the law applicable to incorporated cities, the Board shall certify the rate of levy fixed pursuant to subsection 2 for levy upon all taxable property within the Authority in accordance with such rate at the time and in the manner required by law for levying of taxes for county purposes.

4. The proper officer or authority of Nye County, upon behalf of the Authority, shall levy and collect the tax for the Authority specified in subsection 3. Such a tax must be collected in the same manner, including, without limitation, interest and penalties, as other taxes collected by the County. When collected, the tax must be paid to the Authority in monthly installments for deposit in the appropriate depository of the Authority.

5. If the taxes levied are not paid, the property subject to the tax lien must be sold and the proceeds of the sale paid to the Authority in accordance with the law applicable to tax sales and redemptions.

Sec. 11. The Authority is exempt from regulation by the Public Utilities Commission of Nevada.

Sec. 12. If any provision of sections 1 to 12, inclusive, of this act or the application thereof to any person, thing or circumstance is held invalid, such invalidity does not affect the provisions or application of sections 1 to 12, inclusive, of this act that can be given effect without the invalid provision or application, and to this end the provisions of sections 1 to 12, inclusive, of this act are declared to be severable.

Sec. 13. As soon as practicable after July 1, 2007, the Board of County Commissioners of Nye County shall appoint the members of the Governing Board of the Nye County Water Authority created pursuant to section 6 of this act to initial terms as follows:

1. Three members to terms that expire on July 1, 2008; and
2. Four members to terms that expire on July 1, 2009.

Sec. 14. This act becomes effective on July 1, 2007.

