

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 District.
(BDR S-317)

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

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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 water; creating the Nye County Water District; providing for the acquisition, storage, sale and distribution of water by the District; conferring other powers on the District; providing for the membership of the Governing Board of the District; setting forth the duties of the Board; authorizing the Board to levy and collect certain taxes; exempting the District 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 District 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 District 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 District must be exercised by the Governing Board of the District, and that the membership of the Board must consist of seven 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 District, including, without limitation: (1) the power to incur indebtedness and issue



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

Section 9 of this bill sets forth the duties of the Board, including, without limitation: (1) the duty to choose a Chairman and prescribe the powers and duties of the Chairman; (2) the duty to fix the principal place of business of the District; (3) the duty to appoint a General Manager; and (4) the duty to prescribe the powers, duties, compensation and benefits of all officers and employees of the District. **Section 9** further states that, except as to the exercise of the power of eminent domain, the disposal of water rights, applications to the State Engineer for certain permits and the adoption and amendment of bylaws for which a supermajority vote of the Board is required, a simple majority of the members of the Board constitutes a quorum and a quorum may exercise all the powers and duties of the Board.

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

Section 11 of this bill exempts the District from regulation by the Public Utilities Commission of Nevada.

Section 13 of this bill requires the Commission to stagger the initial terms of the members of the Governing Board of the District.

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

WHEREAS, The well-being of the residents of Nye County, the long-term economic development of Nye County and the protection of the environment of Nye County could best be served by the creation of a single governmental entity, the purpose of which is to secure and develop sustainable sources of water; and

WHEREAS, The provisions of this act do not express any preference for whether water service is provided to the residents of Nye County by a governmental entity or by a private utility regulated by the Public Utilities Commission of Nevada; now, therefore,

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

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

Sec. 2. (Deleted by amendment.)

Sec. 3. "Board" means the Governing Board of the District.

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



1 **Sec. 4.5.** "District" means the Nye County Water District
2 created pursuant to section 6 of this act.

3 **Sec. 5.** "Service area" means the service area of the District
4 described in section 6 of this act.

5 **Sec. 6.** There is hereby created a political subdivision of this
6 State to be known as the Nye County Water District. The
7 jurisdiction and service area of the District are all that real property
8 within the boundaries of Nye County, Nevada, as described in NRS
9 243.275 to 243.315, inclusive.

10 **Sec. 7.** 1. All powers, duties and privileges of the District
11 must be exercised and performed by the Board.

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

14 (a) One member who is a resident of Beatty or the Amargosa
15 area;

16 (b) One member who is a resident of the Tonopah area;

17 (c) Three members who are residents of the Pahrump Valley;

18 (d) One member who is a resident of the area in Nye County
19 known as Currant Creek or the area known as Smoky Valley; and

20 (e) In addition to the members appointed pursuant to paragraphs
21 (a), (b) and (d), one member who is a resident of an area in Nye
22 County other than the Pahrump Valley.

23 3. A member of the Board or any person related to a member
24 of the Board within the first degree of consanguinity or affinity must
25 not be affiliated with a private utility that is regulated by the Public
26 Utilities Commission of Nevada.

27 4. Except as otherwise provided in subsection 5, after the initial
28 terms, each member of the Board serves for a term of 2 years. A
29 vacancy on the Board must be filled in the same manner as the
30 original appointment. A member may be reappointed.

31 5. Members of the Board serve at the pleasure of the
32 Commission and may be recalled by a simple majority vote of all
33 the members of the Commission.

34 **Sec. 8.** 1. The District has the following powers:

35 (a) To have perpetual succession.

36 (b) To sue and be sued in the name of the District in all courts or
37 tribunals of competent jurisdiction.

38 (c) To adopt a seal and alter it at the pleasure of the District.

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

41 (e) To incur indebtedness pursuant to chapters 271 and 318 of
42 NRS and to issue bonds and provide for medium-term obligations
43 pursuant to chapter 350 of NRS, to pay, in whole or in part, the
44 costs of acquiring, constructing and operating any lands, easements,
45 water rights, water, waterworks or projects, conduits, pipelines,



1 wells, reservoirs, structures, machinery and other property or
2 equipment useful or necessary to store, convey, supply or otherwise
3 deal with water, and otherwise to carry out the powers set forth in
4 this section. For the purposes of NRS 350.572, sections 1 to 12,
5 inclusive, of this act do not expressly or impliedly require an
6 election before the issuance of a security or indebtedness pursuant to
7 NRS 350.500 to 350.720, inclusive, if the obligation is payable
8 solely from pledged revenues, but an election must be held before
9 incurring a general obligation.

10 (f) To acquire, by purchase, grant, gift, devise, lease,
11 construction, contract or otherwise, lands, rights-of-way, easements,
12 privileges, water and water rights, and property of every kind,
13 whether real or personal, to construct, maintain and operate, within
14 or without the District, all works and improvements necessary or
15 proper to carry out any of the objects or purposes of sections 1 to 12,
16 inclusive, of this act, and to complete, extend, add to, repair or
17 otherwise improve any works, improvements or property acquired
18 by the District as authorized by sections 1 to 12, inclusive, of this
19 act.

20 (g) To sell, lease, encumber, hypothecate or otherwise dispose
21 of property, whether real or personal, including, without limitation,
22 water and water rights, as is necessary or convenient to the full
23 exercise of the powers of the District. Any sale, lease, encumbrance,
24 hypothecation or other disposal of water rights pursuant to this
25 paragraph must be first approved by a supermajority vote of the
26 Board and a simple majority vote of all the members of the
27 Commission.

28 (h) To develop and adopt, subject to approval by the
29 Commission, ordinances, rules, regulations and bylaws necessary
30 for the exercise of the powers and conduct of the affairs of the
31 Board and District. All bylaws adopted or amended must also be
32 approved by a supermajority vote of the members of the Board.

33 (i) Except as otherwise provided in this paragraph, to exercise
34 the power of eminent domain in the manner prescribed by law, if the
35 action is first approved by a supermajority vote of the Board and a
36 simple majority vote of all the members of the Commission. The
37 District may exercise the power of eminent domain within or
38 without the service area, to take any property, including, without
39 limitation, the property specified in paragraph (f) and any water or
40 water right specified in paragraph (o), necessary for the exercise of
41 the powers of the District or for the provision of adequate water
42 service to the service area. The District shall not exercise the power
43 of eminent domain to acquire any portion of water rights or
44 waterworks facilities owned or used by a public utility that has been
45 issued a certificate of public convenience and necessity pursuant to



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1 NRS 704.330 to provide water in a service area unless it also
2 acquires all the real property, water rights, waterworks facilities,
3 equipment and any other private property owned or used by the
4 public utility in connection with providing a service regulated by the
5 Public Utilities Commission of Nevada in a service territory located
6 within or adjacent to the District.

7 (j) To enter upon any land, to make surveys and locate any
8 necessary improvements, including, without limitation, lines for
9 channels, conduits, canals, pipelines, roadways and other rights-of-
10 way, to acquire property necessary or convenient for the
11 construction, use, supply, maintenance, repair and improvement of
12 such improvements, including, without limitation, works
13 constructed and being constructed by private owners, lands for
14 reservoirs for the storage of necessary water, and all necessary
15 appurtenances, and, where necessary and for the purposes and uses
16 set forth in this section, to acquire and hold the stock of
17 corporations, domestic or foreign, owning water or water rights,
18 canals, waterworks, franchises, concessions or other rights.

19 (k) To enter into and do any acts necessary or proper for the
20 performance of any agreement with the United States, or any state,
21 county or district of any kind, public or private corporation,
22 association, firm or natural person, or any number of them, for the
23 joint acquisition, construction, leasing, ownership, disposition, use,
24 management, maintenance, repair or operation of any rights, works
25 or other property of a kind which may be lawfully acquired or
26 owned by the District.

27 (l) To acquire the right to store water in any reservoirs, or to
28 carry water through any canal, ditch or conduit not owned or
29 controlled by the District, and to grant to any owner or lessee the
30 right to the use of any water or right to store such water in any
31 reservoir of the District, or to carry such water through any tunnel,
32 canal, ditch or conduit of the District.

33 (m) To enter into and do any acts necessary or proper for the
34 performance of any agreement with any district of any kind, public
35 or private corporation, association, firm or natural person, or any
36 number of them, for the transfer or delivery to any district,
37 corporation, association, firm or natural person of any water right or
38 water pumped, stored, appropriated or otherwise acquired or secured
39 for the use of the District, or for the purpose of exchanging the
40 water or water right for any other water, water right or water supply
41 to be delivered to the District by the other party to the agreement.

42 (n) To cooperate and act in conjunction with the State of Nevada
43 or any of its engineers, officers, boards, commissions, departments
44 or agencies, with the Government of the United States or any of its
45 engineers, officers, boards, commissions, departments or agencies,



1 or with any public or private corporation, to construct any work for
2 the development, importation or distribution of water of the District,
3 for the protection of life or property therein, or for the conservation
4 of its water for beneficial use within the District, or to carry out any
5 other works, acts or purposes provided for in sections 1 to 12,
6 inclusive, of this act, and to adopt and carry out any definite plan or
7 system of work for any of the purposes described in sections 1 to 12,
8 inclusive, of this act.

9 (o) To store water in surface or underground reservoirs within or
10 without the District for the common benefit of the District, to
11 conserve and reclaim water for present and future use within the
12 District, to appropriate and acquire water and water rights and
13 import water into the District for any useful purpose to the District,
14 and to commence, maintain, intervene in and compromise in the
15 name of the District, or otherwise, and assume the costs and
16 expenses of any action or proceeding involving or affecting:

17 (1) The ownership or use of water or water rights within or
18 without the District used or useful for any purpose of the District or
19 of common benefit to any land situated therein. A supermajority
20 vote of the Board and a simple majority vote of all the members of
21 the Commission is required before the District may apply to the
22 State Engineer for a permit to:

23 (I) Appropriate water where the point of diversion is
24 within a hydrographic basin located in Nye County and the place of
25 use is a location outside of the same hydrographic basin; or

26 (II) Change the place of use of water already appropriated
27 from any point within a hydrographic basin located in Nye County
28 to a location outside the same hydrographic basin.

29 (2) The wasteful use of water within the District.

30 (3) The interference with or diminution of water or water
31 rights within the District.

32 (4) The contamination or pollution of the surface or
33 subsurface water used in the District or any other act that otherwise
34 renders such water unfit for beneficial use.

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

37 (p) To sell and distribute water under the control of the District,
38 without preference, to any natural person, firm, corporation,
39 association, district, agency or inhabitant, public or private, for use
40 within the service area, to fix, establish and adjust rates, classes of
41 rates, terms and conditions for the sale and use of such water, and to
42 sell water for use outside the service area upon a finding by the
43 Board that there is a surplus of water above that amount required to
44 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 District during its organizational state and thereafter, and necessary engineering costs, and to assist in the operational expenses of the District, 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 District during any emergency caused by drought or other threatened or existing water shortage, and to prohibit the waste of water of the District 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 District.

(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 District.

(w) To do all acts and things reasonably implied from and necessary for the full exercise of all powers of the District 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 District.

(d) Elect a Secretary-Treasurer of the Board and the District, 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 District 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 District, and require all bonds necessary to protect the money and property of the District.

(h) Take all actions and do all things reasonably and lawfully necessary to conduct the business of the District 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. Any person who is aggrieved by any decision of the Board pursuant to sections 1 to 12, inclusive, of this act, other than a decision by the Board not to exercise the power of eminent domain, may appeal to the Commission within 30 days after the decision of the Board. The Commission may affirm, modify or reverse the decision of the Board.

4. 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 District.

Sec. 10. 1. The Board may levy and collect general ad valorem taxes on all taxable property within the District, 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 District. The Board then shall fix a rate of levy which, when applied to the assessed valuation of all taxable property within the District, will produce an amount, when combined with other revenues of the District, sufficient to pay, when due, all principal of and interest on general obligations of the District 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 District in accordance with such rate at the time



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1 and in the manner required by law for levying of taxes for county
2 purposes.

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

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

13 **Sec. 11.** The District is exempt from regulation by the Public
14 Utilities Commission of Nevada.

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

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

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

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

