

SENATE BILL NO. 498—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 26, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises the authority of certain water and improvement districts to borrow money and incur indebtedness. (BDR 25-964)

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 special districts; revising the authority of certain local improvement districts to borrow money and incur indebtedness; revising the authority of the Virgin Valley Water District to borrow money and incur indebtedness; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Pursuant to the Nevada Improvement District Act (Chapter 309 of NRS), local improvement districts organized under the provisions of that Act on or before May 1, 1967, may incur general obligation indebtedness for the acquisition, construction, installation or completion of works or other improvements or facilities. (NRS 309.331-309.339) **Sections 1-6** of this bill allow the board of such a district, in issuing general obligation bonds or other general obligation securities, to opt to carry out such activities pursuant to NRS 350.020 to 350.070, inclusive, instead of pursuant to the applicable provisions of chapter 309 of NRS.

Existing law provides that, in the event of a conflict between the provisions of NRS 309.332 to 309.339, inclusive, and the provisions of the Local Government Securities Law (NRS 350.500-350.720), the provisions of NRS 309.332 to 309.339, inclusive, control. (NRS 309.337) **Section 7** of this bill provides instead that, in the event of such a conflict, the provisions of the Local Government Securities Law control.

Under existing law, the Virgin Valley Water District is authorized to incur indebtedness, issue bonds and provide for medium-term obligations to carry out its powers. (Chapter 100, Statutes of Nevada 1993, p. 160, as last amended by chapter 203, Statutes of Nevada 1997, p. 560) **Sections 8 and 9** of this bill expand and clarify that authority to allow the District to borrow money and incur indebtedness in any manner permitted by law for such a district and, subject to monitoring and oversight by the Clark County Debt Management Commission, to issue and retire bonds, warrants, notes and other securities in the same manner as a municipality.



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This bill also clarifies the authority of the District to provide for medium-term obligations and installment-purchase agreements in accordance with current statutes.

Under existing law, the Virgin Valley Water District is required to hold an election before incurring any general obligations. **Sections 8 and 9** of this bill specify various types of securities which may be issued by the District without an election, including a general obligation only if the payment of that obligation is additionally secured by a pledge of and lien on the revenues of the District.

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

Section 1. Chapter 309 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the board of a district organized pursuant to the provisions of this chapter proposes to issue general obligation bonds or other general obligation securities that are payable from general ad valorem taxes, the board may do so, at its option, pursuant to:

(a) NRS 309.332 to 309.339, inclusive; or

(b) NRS 350.020 to 350.070, inclusive.

2. If the board of a district organized pursuant to the provisions of this chapter elects to exercise the option described in paragraph (b) of subsection 1:

(a) The general obligation bonds or other general obligation securities must be secured additionally by a pledge of and lien on net revenues;

(b) The general obligation bonds or other general obligation securities must be issued in compliance with NRS 350.020 to 350.070, inclusive; and

(c) The provisions of NRS 309.333 to 309.336, inclusive, do not apply to the issuance or authorization of those general obligation bonds or other general obligation securities.

Sec. 2. NRS 309.331 is hereby amended to read as follows:

309.331 **1.** Any district heretofore or hereafter organized pursuant to the provisions of this chapter ~~{shall have}~~ **has** the power to borrow money either as a general obligation of the district or as a special obligation of the district, to evidence the same and to apply the proceeds thereof as hereinafter provided in NRS 309.332 to 309.339, inclusive. NRS 309.332 to 309.339, inclusive, without reference to other parts of this chapter, ~~{H}~~ except as otherwise expressly provided in NRS 309.332 to 309.339, inclusive, ~~{, shall}~~ constitute full authority for the exercise of the powers therein granted and shall be deemed to constitute a mode of financing and making improvements additional to and separate from all other methods and procedures. Without limiting the generality of the



foregoing, such financing ~~shall~~ **must** take place without adherence to the following provisions: NRS 309.050 to 309.110, inclusive, ~~§~~ subsection 3 of NRS 309.130 ~~§~~ and NRS 309.170 to 309.330, inclusive.

2. The provisions of this section do not prohibit the board of a district organized pursuant to the provisions of this chapter from exercising the option to issue general obligation bonds or other general obligation securities in accordance with NRS 350.020 to 350.070, inclusive, as described in section 1 of this act.

Sec. 3. NRS 309.333 is hereby amended to read as follows:

309.333 Except as otherwise provided in section 1 of this act:

1. Whenever any board determines, by resolution, that the interest of the district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, to carry out the objects or purposes hereof, requiring the creation of a general obligation indebtedness of \$5,000 or more, the board shall submit the proposition of issuing general obligation bonds to the electors of the district at an election held for that purpose or at the next district election or primary state election.

2. As used in this section, "elector" means any person entitled to vote as described in NRS 309.110 and includes a person who is obligated to pay general taxes under a contract to purchase real property within the district. Registration pursuant to the general election ~~§~~ **statutes** or any other ~~§~~ statutes is not required. Residence in the county is not required. The election officials may in their discretion require the execution of voter affidavits in determining qualifications to vote at such bond elections.

3. Any such election may be held separately, or may be consolidated or held concurrently with any other election authorized by this chapter.

4. There must be no absentee voting at any such election.

5. The resolution required by subsection 1 must include:

(a) A declaration of public interest or necessity;

(b) The objects and purposes for which the indebtedness is proposed to be incurred;

(c) The estimated cost of the works or improvements, including interest on the general obligation bonds for **a period** not exceeding 12 months after their date and including the total of all estimated expenses incidental to their issuance;

(d) The amount of principal of the indebtedness to be incurred therefor;

(e) The maximum rate of interest to be paid on the indebtedness; and



(f) The date of the special election or the next district election or primary state election at which the proposition of issuing general obligation bonds will be submitted to the electors of the district.

Sec. 4. NRS 309.334 is hereby amended to read as follows:

309.334 ~~[(The)]~~ *Except as otherwise provided in section 1 of this act, the* board shall prescribe the form of the notice of election, and direct the publication of the same for 3 weeks, the first of the three publications of ~~[(the notice to)]~~ *which must* be not less than 20 days ~~[(prior to)]~~ *before* the election.

Sec. 5. NRS 309.335 is hereby amended to read as follows:

309.335 ~~[(At)]~~ *Except as otherwise provided in section 1 of this act, at* any regular or special meeting of the board held within 5 days following the date of such election, the returns thereof ~~[(shall)]~~ *must* be canvassed and the results thereof declared.

Sec. 6. NRS 309.336 is hereby amended to read as follows:

309.336 *Except as otherwise provided in section 1 of this act:*

1. If it appears from the returns that a majority of the electors of the district who have voted on any proposition submitted pursuant to the provisions of NRS 309.332 to 309.339, inclusive, at the election voted in favor of the proposition, the district may issue and sell general obligation bonds of the district for the purpose or purposes and object or objects provided for in the proposition submitted and in the resolution therefor, and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in the resolution.

2. Submission of the proposition of incurring the general obligation indebtedness at a special election, district election or primary state election does not prohibit the submission of the same proposition or other propositions at a subsequent special election, district election or primary state election.

Sec. 7. NRS 309.337 is hereby amended to read as follows:

309.337 The provisions of the Local Government Securities Law apply to any securities authorized to be issued under NRS 309.332 to 309.339, inclusive, ~~[(but)]~~ *and* in the event of conflict, the provisions of ~~[(NRS 309.332 to 309.339, inclusive,)]~~ *the Local Government Securities Law* control.

Sec. 8. The Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, at page 159, is hereby amended by adding thereto a new section to be designated as section 10.5, immediately following section 10, to read as follows:

Sec. 10.5. 1. The District may, subject to the provisions of NRS 350.011 to 350.0165, inclusive:

(a) Issue and retire bonds, warrants, notes and other securities, as if the District was a municipality, in



accordance with and by the exercise of the powers conferred by:

- (1) Chapter 271 of NRS;
- (2) NRS 350.020 to 350.070, inclusive;
- (3) NRS 350.350 to 350.490, inclusive;
- (4) NRS 350.500 to 350.720, inclusive; and
- (5) Any other applicable law;

(b) Provide for medium-term obligations and installment-purchase agreements in accordance with and by the exercise of the powers conferred by NRS 350.087 to 350.095, inclusive; and

(c) Conduct any transaction described in NRS 350.800, as if the District was a municipality, in accordance with and by the exercise of the powers conferred by that section,

↳ to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in section 3 of this act.

2. For the purposes of:

(a) NRS 350.011 to 350.0165, inclusive, the District shall be deemed to be a municipality within the meaning of those provisions.

(b) NRS 350.572, sections 1 to 15, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.720, inclusive, if the obligation is:

- (1) Payable solely from pledged revenues;
- (2) A general obligation payable from general ad valorem taxes, the payment of which obligation is additionally secured by a pledge of and lien on designated revenues;
- (3) A medium-term obligation; or
- (4) Any combination of the obligations described in subparagraphs (1), (2) and (3),

↳ but an election must be held before incurring a general obligation payable solely from general ad valorem taxes.

Sec. 9. Section 3 of the Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, as last amended by chapter 203, Statutes of Nevada 1997, at page 560, is hereby amended to read as follows:

Sec. 3. The District has the following powers:

1. To have perpetual succession.



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2. To sue and be sued in the name of the District in all courts or tribunals of competent jurisdiction.

3. To adopt a seal and alter it at the District's pleasure.

4. To enter into contracts, and employ and fix the compensation of staff and professional advisers.

5. To **borrow money and** incur indebtedness ~~[pursuant to chapter 271 of NRS, issue bonds pursuant to chapter 350 of NRS and provide for medium term obligations pursuant to chapter 350 of NRS to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in this section. For the purposes of NRS 350.572, sections 1 to 15, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.572, inclusive, if the obligation is payable solely from pledged revenues, but an election must be held before incurring a general obligation.]~~ **to the extent permitted by law.**

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

7. To sell, lease, encumber, hypothecate or otherwise dispose of property, whether real or personal, including water and water rights, as is necessary or convenient to the full exercise of the district's powers.

8. To adopt ordinances, rules, regulations and bylaws necessary for the exercise of the powers and conduct of the affairs of the Board and District.

9. Except as otherwise provided in this subsection, to exercise the power of eminent domain in the manner prescribed by law, within or without the service area of the District, to take any property, including, without limitation, the property specified in subsections 6 and 15, necessary or convenient for the exercise of the powers of the District or for



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1 the provision of adequate water service to the service area.
2 The District shall not exercise the power of eminent domain
3 to acquire the water rights or waterworks facilities of any
4 nonprofit purveyor delivering water for domestic use whose
5 service area is adjacent to the district without first obtaining
6 the consent of the purveyor.

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

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

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

36 13. To enter into and do any acts necessary or proper for
37 the performance of any agreement with any district of any
38 kind, public or private corporation, association, firm or
39 natural person, or any number of them, for the transfer
40 or delivery to any district, corporation, association, firm or
41 natural person of any water right or water pumped, stored,
42 appropriated or otherwise acquired or secured for the use of
43 the District, or for the purpose of exchanging the water or
44 water right for any other water, water right or water supply to



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be delivered to the district by the other party to the agreement.

14. To cooperate and act in conjunction with the State of Nevada or any of its engineers, officers, boards, commissions, departments or agencies, with the government of the United States or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, to construct any work for the development, importation or distribution of water of the District, for the protection of life or property therein, or for the conservation of its water for beneficial use within the district, or to carry out any other works, acts or purposes provided for in sections 1 to 15, inclusive, of this act, and to adopt and carry out any definite plan or system of work for any of the purposes described in sections 1 to 15, inclusive, of this act.

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

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

(b) The wasteful use of water within the District;

(c) The interference with or diminution of water or water rights within the District;

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

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

16. To sell and distribute water under the control of the District, 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.



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1 17. To cause taxes to be levied and collected for the
2 purposes prescribed in sections 1 to 15, inclusive, of this act,
3 including the payment of any obligation of the District during
4 its organizational state and thereafter, and necessary
5 engineering costs, and to assist in the operational expenses of
6 the District, until such taxes are no longer required.

7 18. To supplement the surface and groundwater
8 resources of Virgin Valley by the importation and use of
9 water from other sources for industrial, irrigation, municipal
10 and domestic uses.

11 19. To restrict the use of district water during any
12 emergency caused by drought or other threatened or existing
13 water shortage, and to prohibit the waste of district water at
14 any time through the adoption of ordinances, rules or
15 regulations and the imposition of fines for violations of those
16 ordinances, rules and regulations.

17 20. To annex area into the District in the manner
18 prescribed for cities in chapter 268 of NRS.

19 21. To supply water under contract or agreement, or in
20 any other manner, to the United States or any department or
21 agency thereof, the State of Nevada, Clark County, Nevada,
22 and any city, town, corporation, association, partnership or
23 natural person situated in Clark County, Nevada, and to
24 deliver water to those users in Mohave County, Arizona, who
25 are located in the Virgin Valley in accordance with the
26 provisions of NRS 533.515 and 533.520, for an appropriate
27 charge, consideration or exchange made therefor, when such
28 supply is available or can be developed as an incident of or in
29 connection with the primary functions and operations of the
30 District.

31 22. To create assessment districts to extend mains,
32 improve distribution systems and acquire presently operating
33 private water companies and mutual water distribution
34 systems.

35 23. To accept from the Government of the United States
36 or any of its agencies financial assistance or participation in
37 the form of grants-in-aid or any other form in connection with
38 any of the functions of the District.

39 24. To assume the obligations of the Bunkerville Water
40 User's Association, a nonprofit corporation, in providing
41 water service to users in the District's service area.

42 25. To assume the obligations of the Mesquite
43 Farmstead Water Association, a nonprofit corporation, in
44 providing water service to users in the District's service area
45 and in its certificated service area in Mohave County,



1 Arizona, pursuant to the certificate of public convenience and
2 necessity granted to the Mesquite Farmstead Water
3 Association by the State of Arizona.

4 26. To conduct business in Mohave County, Arizona,
5 upon qualifying to do so pursuant to the laws of that state.

6 27. To do all acts and things reasonably implied from
7 and necessary for the full exercise of all powers of the district
8 granted by sections 1 to 15, inclusive, of this act.

9 **Sec. 10.** This act becomes effective on July 1, 2007.

