

Amendment No. 307

Senate Amendment to Senate Bill No. 222

(BDR S-317)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: Yes Title: Yes Preamble: Amend Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN a 2/3s majority vote requirement for final passage of S.B. 222 (§§ 8, 10).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

EGO



Date: 4/22/2007

S.B. No. 222—Creates the Nye County Water Authority. (BDR S-317)



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,]~~ **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 ~~[Authority,]~~ **District**; providing for the acquisition, storage, sale and distribution of water by the ~~[Authority,]~~ **District**; conferring other powers on the ~~[Authority,]~~ **District**; providing for the membership of the Governing Board of the ~~[Authority,]~~ **District**; setting forth the duties of the Board; authorizing the Board to levy and collect certain taxes; exempting the ~~[Authority,]~~ **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 ~~[Authority,]~~ **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 ~~[Authority,]~~ **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 ~~[Authority,]~~ **District** must be exercised by the Governing Board of the ~~[Authority,]~~ **District**, and that the membership of the Board must consist of ~~[certain]~~ **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 ~~[Authority,]~~ **District**, including, without limitation: (1) the power to incur indebtedness and issue bonds; (2) the power to acquire land and water rights to carry out the purposes of the ~~[Authority,]~~ **District**; (3) the power to construct any work for the development, importation or distribution of the water of the ~~[Authority,]~~ **District**; and (4) the power to levy and collect taxes to assist in the operational expenses of the ~~[Authority,]~~ **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 ~~[Authority,]~~ **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 ~~[Authority.]~~ **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 ~~[Authority.]~~ **District** to make payment of principal and interest on its general obligations.

Section 11 of this bill exempts the ~~[Authority.]~~ **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 ~~[Authority.]~~ **District.**

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

WHEREAS, ~~[Inhabited areas of Nye County are remote from any established water system, thus dictating that indispensable activities such as water service be administered by a governmental entity created for.]~~ **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** ~~[could best be served water through a single governmental entity.]~~ **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. ~~["Authority" means the Nye County Water Authority created pursuant to section 6 of this act.]~~ **(Deleted by amendment.)**

Sec. 3. "Board" means the Governing Board of the ~~[Authority.]~~ **District.**

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

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

Sec. 5. "Service area" means the service area of the ~~[Authority.]~~ **District** described in section 6 of this act.

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

Sec. 7. 1. All powers, duties and privileges of the ~~[Authority.]~~ **District** must be exercised and performed by the Board.

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

(a) One member ~~from~~ **who is a resident of** Beatty or the Amargosa area;
(b) One member ~~from~~ **who is a resident of** the Tonopah area;
(c) ~~One member from~~ **Three members who are residents of** the Pahrump Valley;

(d) One member ~~from northern Nye County;~~
~~(e) One member from a privately owned utility company regulated by the Public Utilities Commission of Nevada and located in the Pahrump Valley;~~
~~(f) One~~ **who is a resident of the area in Nye County known as Currant Creek or the area known as Smoky Valley; and**

(e) **In addition to the members appointed pursuant to paragraphs (a), (b) and (d), one member** ~~from a nonprofit or municipal utility located~~ **who is a resident of an area in Nye County, and**
~~(g) One member of the Commission;~~ **other than the Pahrump Valley.**

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

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

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

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

(a) To have perpetual succession.
(b) To sue and be sued in the name of the ~~Authority~~ **District** in all courts or tribunals of competent jurisdiction.

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

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

(e) To incur indebtedness pursuant to chapters 271 and 318 of NRS and to issue bonds 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 12, 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 payable solely from pledged revenues, but an election must be held before incurring a general obligation.

(f) 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 ~~Authority~~ **District**, all works and improvements necessary or proper to carry out any of the objects or purposes of sections 1 to 12, inclusive, of this act, and to complete, extend, add to, repair or otherwise improve any works, improvements or property acquired by the ~~Authority~~ **District** as authorized by sections 1 to 12, inclusive, of this act.

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

District. Any sale, lease, encumbrance, hypothecation or other disposal of water rights pursuant to this paragraph must be first approved by a supermajority vote of the Board and a simple majority vote of all the members of the Commission.

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

(i) Except as otherwise provided in this paragraph, to exercise the power of eminent domain in the manner prescribed by law, if the action is first approved by a supermajority vote of the Board and a simple majority vote of **all the members of** the Commission. The ~~[Authority.]~~ **District** may exercise the power of eminent domain within or without the service area, to take any property, including, without limitation, the property specified in paragraph (f) and any water or water right specified in paragraph (o), necessary ~~for convenient~~ for the exercise of the powers of the ~~[Authority.]~~ **District** or for the provision of adequate water service to the service area. The ~~[Authority.]~~ **District** shall not exercise the power of eminent domain to acquire any portion of water rights or waterworks facilities owned or used by a public utility that has been issued a certificate of public convenience and necessity pursuant to NRS 704.330 to provide water in a service area unless it also acquires all the real property, water rights, waterworks facilities, equipment and any other private property owned or used by the public utility in connection with providing ~~[water]~~ **a service regulated by the Public Utilities Commission of Nevada** in a service ~~[area]~~ **territory** located within or adjacent to the ~~[Authority.]~~ **District**.

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

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

(l) To acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the ~~[Authority.]~~ **District**, and to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the ~~[Authority.]~~ **District**, or to carry such water through any tunnel, canal, ditch or conduit of the ~~[Authority.]~~ **District**.

(m) To enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the transfer or delivery to any district, corporation, association, firm or natural person of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the

1 use of the ~~[Authority,]~~ **District**, or for the purpose of exchanging the water or water
2 right for any other water, water right or water supply to be delivered to the
3 ~~[Authority,]~~ **District** by the other party to the agreement.

4 (n) To cooperate and act in conjunction with the State of Nevada or any of its
5 engineers, officers, boards, commissions, departments or agencies, with the
6 Government of the United States or any of its engineers, officers, boards,
7 commissions, departments or agencies, or with any public or private corporation, to
8 construct any work for the development, importation or distribution of water of the
9 ~~[Authority,]~~ **District**, for the protection of life or property therein, or for the
10 conservation of its water for beneficial use within the ~~[Authority,]~~ **District**, or to
11 carry out any other works, acts or purposes provided for in sections 1 to 12,
12 inclusive, of this act, and to adopt and carry out any definite plan or system of work
13 for any of the purposes described in sections 1 to 12, inclusive, of this act.

14 (o) To store water in surface or underground reservoirs within or without the
15 ~~[Authority,]~~ **District** for the common benefit of the ~~[Authority,]~~ **District**, to
16 conserve and reclaim water for present and future use within the ~~[Authority,]~~
17 **District**, to appropriate and acquire water and water rights and import water into
18 the ~~[Authority,]~~ **District** for any useful purpose to the ~~[Authority,]~~ **District**, and to
19 commence, maintain, intervene in and compromise in the name of the ~~[Authority,]~~
20 **District**, or otherwise, and assume the costs and expenses of any action or
21 proceeding involving or affecting:

22 (1) The ownership or use of water or water rights within or without the
23 ~~[Authority,]~~ **District** used or useful for any purpose of the ~~[Authority,]~~ **District** or of
24 common benefit to any land situated therein. ~~..~~ **A supermajority vote of the**
25 **Board and a simple majority vote of all the members of the Commission is**
26 **required before the District may apply to the State Engineer for a permit to:**

27 (I) **Appropriate water where the point of diversion is within a**
28 **hydrographic basin located in Nye County and the place of use is a location**
29 **outside of the same hydrographic basin; or**

30 (II) **Change the place of use of water already appropriated from**
31 **any point within a hydrographic basin located in Nye County to a location**
32 **outside the same hydrographic basin.**

33 (2) The wasteful use of water within the ~~[Authority,]~~ **District.**

34 (3) The interference with or diminution of water or water rights within the
35 ~~[Authority,]~~ **District.**

36 (4) The contamination or pollution of the surface or subsurface water used
37 in the ~~[Authority,]~~ **District** or any other act that otherwise renders such water unfit
38 for beneficial use. ~~..and~~

39 (5) The interference with this water that may endanger or damage the
40 residents, lands or use of water in the ~~[Authority,]~~ **District.**

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

48 (q) To cause taxes to be levied and collected for the purposes prescribed in
49 sections 1 to 12, inclusive, of this act, including, without limitation, the payment of
50 any obligation of the ~~[Authority,]~~ **District** during its organizational state and
51 thereafter, and necessary engineering costs, and to assist in the operational expenses
52 of the ~~[Authority,]~~ **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 ~~[Authority]~~ District during any emergency caused by drought or other threatened or existing water shortage, and to prohibit the waste of water of the ~~[Authority]~~ 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 ~~[Authority]~~ 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 ~~[Authority]~~ District.

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

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

(h) Take all actions and do all things reasonably and lawfully necessary to conduct the business of the ~~[Authority]~~ 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.

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

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

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

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

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

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

30 **Sec. 11.** The ~~Authority~~ **District** is exempt from regulation by the Public
31 Utilities Commission of Nevada.

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

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

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

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