

Notice of Public Meeting
Humboldt County Board of Commissioners Special Meeting
Monday, May 22, 2023
8:30 AM

50 W. Fifth Street, Room 201
Winnemucca, Nevada 89445

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PUBLIC COMMENT
General public comment is designated for discussion only. The public has the opportunity to address the Commission on any matter not appearing on this agenda; however, no action may be taken on a matter raised until the matter itself has been specifically included on the agenda as an item upon which action may be taken.
4. INTRODUCTION AND SET FOR PUBLIC HEARING THE PROPOSED ORDINANCE AUTHORIZING THE ISSUANCE OF WATER REVENUE BONDS IN THE COMBINED MAXIMUM AGGEGRATE PRINCIPAL AMOUNT OF \$2,400,000 (FOR POSSIBLE ACTION)

Consideration, discussion and possible action to set for public hearing an ordinance authorizing the issuance by Humboldt County, Nevada, of its Water Revenue Bonds, Series 2023A, Series 2023B and Series 2023C in the combined maximum aggregate principal amount of \$2,400,000 for the purpose of financing water projects; providing the form, terms and conditions thereof and covenants relating to the payment of the bonds; and providing the effective date hereof. Discussion and possible action.

4.A) Agenda Request - Gold Country Ordinance

[Agenda Request Revenue Bond Ordinance Gold Country Water 5-2023 GC edits clean.pdf](#)
[Bond Ordinance Humboldt SRF _05222023.pdf](#)

5. REVIEW OF LEGISLATIVE BILLS AND BILL DRAFT REQUESTS (BDR) BEING CONSIDERED BY THE 2023 NEVADA LEGISLATURE (FOR POSSIBLE ACTION)

Consideration, discussion and possible action regarding Senate and Assembly Bills as well as Bill Draft Requests (BDR's) being or to be considered by the Nevada Legislature, including taking positions in support of or against bills, and authorizing letters to legislators and/or the governor regarding Humboldt County's position on a bill, the County's thoughts and/or concerns on legislation, as well as a request to the governor to veto any bill the County opposes. Discussion and possible action will include, but is not limited to, the following bills:

SB 226 – Revises provisions governing public works

SB 233 - Revises provisions governing taxes imposed on certain heavy equipment

AB 387 – Revises provision relating to water

5.A) Support Documents

[Elko County__wages_ltr.pdf](#)

[NRHA__wages_ltr2.pdf](#)

[NV Policy Research Inst._wages_testimony.pdf](#)

[A_SB226_477_wages.pdf](#)

[AB387_R1.pdf](#)

6. PUBLIC COMMENT

General public comment is designated for discussion only. The public has the opportunity to address the Commission on any matter not appearing on this agenda; however, no action may be taken on a matter raised until the matter itself has been specifically included on the agenda as an item upon which action may be taken.

7. ADJOURNMENT



HUMBOLDT COUNTY

50 W. 5th Street
Winnemucca, Nevada 89445
www.humboldtcountynev.gov

AGENDA REQUEST FORM

DATE: May 16, 2023
TO: County Commission
FROM: Dave Mendiola, County Manager
SUBJECT: Revenue Bond Ordinance for Gold Country Water Refinance

REQUESTED AGENDA DATE: May 22, 2023 (Special Meeting)

SUMMARY AND BACKGROUND:

Humboldt County is planning to acquire the Gold Country water system with proceeds of a principal forgiveness loan from the State Revolving Fund (SRF). As part of the acquisition agreement between Gold Country and the county, Humboldt County will be refinancing \$550,000 of existing SRF debt that Gold Country is servicing currently. The new rates will be well under the current rates being paid by users as part of their debt surcharge each month. This rate cannot be locked in until the Ordinance is passed, thus the rate could change between now and the adoption of the ordinance. The consolidation of the Gold Country and Star City water systems will be funded through principal forgiveness loan funds through the Nevada SRF which are immediately forgiven upon issuance as part of the financing sources for the project. The loan refinance provides the best overall cost of funds in the current market and permits the County to accumulate cash from rates and charges to build reserves for capital improvements, maintenance and debt service.

Per the acquisition agreement, Gold Country will transfer customer funded surcharge account balances that have been previously collected from customers (for debt service, etc.) to Humboldt County upon closing. Humboldt County will use these transferred customer funded account proceeds exclusively to meet the SRF and State requirements (for reserves and debt service) related to the Revenue Bond.

WHY ARE YOU BRINGING THIS BEFORE THE BOARD NOW:

This is the first of two readings of the Ordinance required by NRS.

PREVIOUS ACTION:

The County Commission approved the acquisition of Gold Country Water system assets at their November 21, 2022 meeting and later approved exercise of an option (at the County Commission meeting on January 30, 2023) within the associated Water Banking and Dedication Agreement (approved by the County Commission on December 29, 2022) to acquire the additional 1470.9 acre feet of water rights from Gold Country Water.

HAS DISTRICT ATTORNEY REVIEWED AGREEMENT/CONTRACT IF APPLICABLE:

Yes

FISCAL IMPACT IF APPLICABLE:

The County will re-finance the debt currently held by Gold Country water system and service the debt with proceeds of this water revenue bond (Ordinance) in the maximum principal amount of \$550,000. The debt service will be paid through surcharge fees to the users of the water system, as is currently the case.

RECOMMENDATION:

Set the Ordinance to a Public Hearing at a time to be determined by the District Attorney, Clerk and County Manager.

LIST SUPPORTING DOCUMENTS IF APPLICABLE:

Agenda Request Form for Revenue Bond

POSSIBLE MOTION:

Motion to Set to Public Hearing of the Revenue Bond Ordinance at a time to be determined by the District Attorney, Clerk and County Manager.

Summary - An ordinance authorizing the issuance by Humboldt County, Nevada, of its Water Revenue Bonds, Series 2023A, Series 2023B (principal forgiveness) and Series 2023C (principal forgiveness) in the combined maximum aggregate principal amount of \$2,400,000, and providing other matters relating thereto.

BILL NO.
ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE BY HUMBOLDT COUNTY, NEVADA, OF ITS WATER REVENUE BONDS, SERIES 2023A, SERIES 2023B AND SERIES 2023C IN THE COMBINED MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$2,400,000 FOR THE PURPOSE OF FINANCING WATER PROJECTS; PROVIDING THE FORM, TERMS AND CONDITIONS THEREOF AND COVENANTS RELATING TO THE PAYMENT OF THE BONDS; AND PROVIDING THE EFFECTIVE DATE HEREOF.

WHEREAS, Humboldt County, in the State of Nevada (the "County" and the "State," respectively), was created as a county pursuant to Nevada Revised Statutes ("NRS") 243.045 and is operating as a county and a political subdivision under the laws of the State; and

WHEREAS, the County ^{now} owns and operates a municipal water system for the Gold Country area of the County (as more fully described herein, the "Water System"); and

WHEREAS, the Board of County Commissioners of the County (the "Board") has determined and hereby declares that the public interest, health and welfare necessitates financing the acquisition, construction, improvement and equipment of water projects, as defined in NRS 244A.056 (the "Project"), including the acquisition of a private water system in the County primarily located within the Gold Country Estates subdivision, Thomas Canyon Acres and the Airport Industrial Park (the "Water System"); and

WHEREAS, pursuant to ^{NRS} 244A.011 through 244A.065 (the "County Bond Law") and NRS chapter 350 and all laws amendatory thereof, which includes the Local Government Securities Laws, being NRS 350.500 through 350.720, and all laws amendatory thereof (the "Bond Act"), the County is authorized to borrow money and to issue special revenue bonds of the County for the purpose of defraying wholly or in part the cost of the Project; and

WHEREAS, the County has requested the Administrator of the Division of Environmental Protection of the Department of Conservation and Natural Resources as

Administrator of the State of Nevada Account for the Revolving Fund (the "Administrator," the "Division" and "Revolving Fund," respectively), under NRS 445A.200 to 445A.295, inclusive (the "Project Act"), to make loans to the County by purchasing the "Humboldt County, Nevada, Water Revenue Bond, Series 2023A" (the "2023A Bond") in the maximum aggregate principal amount of \$550,000, the "Humboldt County, Nevada, Water Revenue Bond, Series 2023B" (the "2023B Bond") in the maximum aggregate principal amount of \$500,000 and the "Humboldt County, Nevada, Water Revenue Bond, Series 2023C" (the "2023C Bond" and together with the 2023A Bond and the 2023B Bond, the "Bonds") in the maximum aggregate principal amount of \$1,350,000; and

WHEREAS, the Board for Financing Water Projects has authorized the Administrator to make loans to the County from the Revolving Fund to defray the cost of the Project; and

WHEREAS, the County intends to hereby authorize the issuance of the Bonds in the combined principal amounts as set forth in the Loan Contracts (hereinafter defined) in the maximum aggregate principal amount of \$2,400,000 to evidence the obligations to repay the loans from the Revolving Fund provided the 2023B Bond and the 2023C Bond shall be principal forgiveness loans; and

WHEREAS, the Bond Act and the Project Act permit the Bonds to be sold at private sale to the State; and

WHEREAS, pursuant to the Bond Act and the Project Act, the Board has determined to sell its Bonds to the State for a price equal to the principal amount of the Bonds as set forth in the Loan Contracts (as defined herein) and otherwise upon the terms provided below and in the Loan Contracts; and

WHEREAS, the effective interest rate on the Bonds shall not exceed by more than 3% the "Index of Revenue Bonds" which was most recently published in The Bond Buyer before a negotiated offer is accepted for the Bonds; and

WHEREAS, the Board has determined and hereby declares:

- (a) It is necessary and for the best interests of the County to effect the Project and to issue the Bonds; and
- (b) Each of the limitations and other conditions to the issuance of the Bonds in the County Bond Law, the Bond Act and in

any other relevant act of the State or the Federal Government, has been met; and pursuant to NRS 350.708, this determination of the Board that the limitations in the Bond Act have been met shall be conclusive in the absence of fraud or arbitrary or gross abuse of discretion.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF HUMBOLDT, IN THE STATE OF NEVADA, DO ORDAIN:

SECTION 1. **Short Title**. This Ordinance shall be known and may be cited as the "2023 Water Revenue Bond Ordinance."

SECTION 2. **Definitions**. The terms in this Section and in the preambles hereof and elsewhere in this Ordinance are defined for all purposes of this Ordinance and of any instrument amendatory hereof or supplemental hereto, and of any other instrument or any other document relating hereto, except where the context by clear implication otherwise requires, shall have the meanings in this Section and in said preambles specified:

"2023A Bond" means the "Humboldt County, Nevada, Water Revenue Bonds, Series 2023A," authorized to be issued as a single bond pursuant to this Ordinance in the maximum principal amount of \$550,000.

"2023B Bond" means the "Humboldt County, Nevada, Water Revenue Bonds, Series 2023B," authorized to be issued as a single bond pursuant to this Ordinance in the maximum principal amount of \$500,000 which shall be a principal forgiveness bond.

"2023C Bond" means the "Humboldt County, Nevada, Water Revenue Bonds, Series 2023C," authorized to be issued as a single bond pursuant to this Ordinance in the maximum principal amount of \$1,350,000 which shall be a principal forgiveness bond.

"Administrator" means the Administrator of the Division of Environmental Protection of the State of Nevada Department of Conservation and Natural Resources.

"Bonds" means the 2023A Bond, the 2023B Bond and the 2023C Bond.

"Bond Requirements" means the principal of, the interest on and any prior redemption premiums due in connection with the Bonds, any Superior Securities, or any Parity Securities, as appropriate, as such principal, interest and premiums become due at maturity or on a Redemption Date, or otherwise.

"Bond Year" means the 12 month period commencing on July 1 of a calendar year and ending on June 30 of the following calendar year.

"Commercial Bank" means a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation.

"Cost of the Project" means all or any part designated by the Board for the cost of the Project, or interest therein, which cost, at the option of the Board, except as limited by law, may include all or any part of the incidental costs relating to the Project, including, without limitation:

(a) Preliminary expenses advanced by the County from money available for use therefor, or advanced by the Federal Government, or from any other source, with the approval of the Board;

(b) The costs in the making of surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;

(c) The costs of premiums on builders' risk insurance and performance bonds, or a reasonably allocable share thereof;

(d) The costs of appraising, printing, estimates, advice, services of engineers, architects, accountants, financial consultants, attorneys at law, clerical help or other agents or employees;

(e) The costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the Project, the filing or recordation of instruments, the taking of options, the issuance of the Bonds and any other securities relating to the Project, and bank fees and expenses;

(f) The costs of contingencies;

(g) The costs of the capitalization with the proceeds of the Bonds or other securities relating to the Project of any operation and maintenance expenses appertaining to the Project and of any interest on the Bonds or other securities relating to the Project for any period not exceeding the period estimated by the Board to effect the Project

plus one year, of any discount on the Bonds or such other securities, and of any reserves for the payment of the principal of and interest on the Bonds or such other securities, of any replacement expenses, and of any other cost of the issuance of the Bonds or such other securities;

(h) The costs of amending any ordinance or other instrument authorizing the issuance of or otherwise appertaining to outstanding bonds or other securities of the County;

(i) The costs of funding any medium-term obligations, construction loans and other temporary loans of not exceeding ten years appertaining to the Project and of the incidental expenses incurred in connection with such loans;

(j) The costs of any properties, rights, easements or other interests in properties, or any licenses, privileges, agreements and franchises or any hook-up fees;

(k) The costs of demolishing, removing or relocating any buildings, structures or other facilities on land acquired for the Project, and of acquiring lands to which such buildings, structures or other facilities may be moved or relocated;

(l) The administrative expenses and issuance costs of the State Treasurer through the Department of Conservation and Natural Resources; and

(m) All other expenses necessary or desirable and appertaining to the Project, as estimated or otherwise ascertained by the Board including rebates to the United States under Section 148 of the Tax Code.

"County Clerk" means the de jure or de facto county clerk of the County and designated as such by the County, presently the County Clerk, or such officer's successor in functions, if any.

"County Treasurer" means the de jure or de facto treasurer of the County and designated as such by the County, presently the County Clerk, or such officer's successor in

functions, if any.

"Department" means the State of Nevada Department of Conservation and Natural Resources.

"Federal Government" means the United States, or any agency, instrumentality or corporation thereof.

"Federal Securities" means bills, certificates of indebtedness, notes, bonds or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by, the United States.

"Fiscal Year" means the 12 months commencing on July 1 of any calendar year and ending on June 30 of the next succeeding calendar year; but if the Nevada Legislature changes the statutory fiscal year relating to the County, the Fiscal Year shall conform to such modified statutory fiscal year from the time of each such notification, if any.

"Gross Revenues" means all income and revenues derived directly or indirectly by the County from the operation and use and otherwise pertaining to the Water System or any part thereof.

"Net Revenues" means the Gross Revenues remaining after the deduction of Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the County, paid or accrued, for operating, maintaining and repairing the Water System, including, without limitation:

(a) engineering, auditing, reporting, legal and other overhead expenses relating to the administration, operation and maintenance of the Water System;

(b) fidelity bond and property and liability insurance premiums pertaining to the Water System or a reasonably allocable share of a premium of any blanket bond or policy pertaining to the Water System;

(c) payments to pension, retirement, health and hospitalization funds, and other insurance and to any self-insurance

fund as insurance premiums not in excess of such premiums which would otherwise be required for such insurance;

(d) any general taxes, assessments, excise taxes or other charges which may be lawfully imposed upon the County, the Water System, revenues therefrom or the County's income from or operations of any properties under its control and pertaining to the Water System, or any privilege in connection with the Water System or its operations;

(e) the reasonable charges of any Paying Agent or Registrar and any depository bank pertaining to the Bonds or any other securities payable from Gross Revenues or otherwise pertaining to the Water System;

(f) contractual services, professional services, salaries, other administrative expenses and costs of materials, supplies, repairs and labor pertaining to the Water System or to the issuance of the Bonds, or any other securities relating to the Water System, including, without limitation, the expenses and compensation of any receiver or other fiduciary under the Bond Act;

(g) the costs incurred by the Board in the collection and any refunds of all or any part of Gross Revenues;

(h) any costs of utility services furnished to the Water System;

(i) any lawful refunds of any Gross Revenues; and

(j) all other administrative, general and commercial expenses pertaining to the Water System;

but excluding:

(i) any allowance for depreciation;

(ii) any costs of extensions, enlargements, betterments and other improvements, or any combination thereof;

(iii) any accumulation of reserves for major capital replacements, other than normal repairs;

(iv) any reserves for operation, maintenance or repair of the Water System;

(v) any allowance for the redemption of any bond or other municipal security evidencing a loan or other obligation or for the payment of any interest thereon or any prior redemption premium due in connection therewith;

(vi) any liabilities incurred in the acquisition or improvement of any properties comprising any project or of any existing facilities, or any combination thereof, pertaining to the Water System, or otherwise; and

(vii) any liabilities imposed on the County for any grounds of legal liability not based on contract, including, without limitation, negligence in the operation of the Water System.

"Outstanding" when used with reference to the Bonds or any other designated securities payable from Net Revenues and as of any particular date means the Bonds or other securities in any manner theretofore and thereupon being executed and delivered:

(a) Except any bond or other security canceled by the County, the Paying Agent or otherwise on the County's behalf, at or before such date;

(b) Except any bond or other security for the payment or the redemption of which moneys at least equal to its Bond Requirements to the date of maturity or to any Redemption Date shall have theretofore been deposited with a Trust Bank in escrow or in trust for that purpose, as provided in Section 56 hereof; and

(c) Except any bond or other security in lieu of or in substitution for which another Bond or other security shall have been executed and delivered.

"Parity Securities" means bonds or securities of the County pertaining to the Water System which have a lien on the Net Revenues that is on a parity with the lien thereon of the Bonds, and any bonds or securities hereafter issued on a parity with the lien of the Bonds, to the extent issued in accordance with the terms, conditions and limitations hereof. Parity Securities may be issued as general obligations of the County additionally secured by the Net Revenues or as special obligations of the County secured by the Net Revenues.

"Paying Agent" means the County Comptroller or any successor thereto as paying agent for the Bonds.

"Person" means a corporation, firm, other body corporate (including, without limitation, the Federal Government, the State or any other body corporate and politic other than the County), partnership, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

"Redemption Date" means a date fixed for the redemption prior to their respective maturities of any Bonds (or installments in the case of a single bond) or other designated securities payable from any Net Revenues in any notice of prior redemption or otherwise fixed and designated by the County.

"Redemption Price" means, when used with respect to a Bond or other designated security payable from any Net Revenues, the principal amount thereof plus accrued interest thereon to the Redemption Date plus the applicable premium, if any, payable upon the redemption thereof prior to the stated maturity date of such Bond (or installment due date in the case of a single bond) or other security on a Redemption Date in the manner contemplated in accordance with the security's terms.

"Registrar" means the County Comptroller or any successor thereto as registrar for the Bonds.

"2023A Reserve Account" means the "Humboldt County, Nevada, Water Revenue Bond, Series 2023A, Reserve Account" created herein.

"Revolving Fund" means the Account for the Revolving Fund as defined in NRS 445A.203 to finance the construction of projects as defined in NRS 445A.230 of the State of Nevada created by NRS 445A.255.

"Safe Drinking Water Act" means the "Safe Drinking Water Act," 42 U.S.C. Sections 300f et seq., as amended.

"Subordinate Securities" means bonds or securities of the County pertaining to the Water System which have a lien on the Net Revenues that is subordinate and junior to the lien thereon of the Bonds and any Parity Securities, to the extent issued in accordance with the terms, conditions and limitations hereof.

"Superior Securities" means bonds or securities of the County pertaining to the Water System which have a lien on the Net Revenues that is superior and senior to the lien thereon of the Bonds and any Parity Securities, to the extent issued in accordance with the terms, conditions and limitations hereof.

"Tax Code" means the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds.

"Trust Bank" means a "Commercial Bank", as defined herein, which bank is authorized to exercise and is exercising trust powers, and also means any branch of the Federal Reserve Bank.

"Water System" means the municipal water system for the Gold Country area of the County, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the County through purchase, construction or otherwise, and used in connection with such systems of the County, and in any way pertaining thereto, whether or not located within or without or both within and without the boundaries of the County, including, without limitation, machinery, apparatus, structures, buildings and related or appurtenant furniture, fixtures and other equipment, as such systems are from time to time extended, bettered or otherwise improved, or any combination thereof.

Other capitalized terms used herein shall have the meanings given to such terms in the text hereof, except where the context by clear implication otherwise requires.

SECTION 3. Sale of the Bonds; Approval of Loan Contracts. The sale of the 2023A Bond to the State, as evidenced by and in accordance with the terms of the loan contract between the State acting by and through the Division and the County, titled State of Nevada Drinking Water State Revolving Fund Loan Contract, Contract No. DW _____ (the "2023A Loan Contract"), to be executed by the County Manager, or in such officer's absence, the County Comptroller, is

hereby approved. The sale of the 2023B Bond to the State, as evidenced by and in accordance with the terms of the loan contract between the State acting by and through the Division and the County, titled State of Nevada Drinking Water State Revolving Fund Loan Contract, Contract No. DW_____ (the "2023B Loan Contract")), to be executed by the County Manager, or in such officer's absence, the County Comptroller, is hereby approved. The sale of the 2023C Bond to the State, as evidenced by and in accordance with the terms of the loan contract between the State acting by and through the Division and the County, titled State of Nevada Drinking Water State Revolving Fund Loan Contract, Contract No. DW_____ (the "2023C Loan Contract" and together with the 2023A Loan Contract and the 2023B Loan Contract, the "Loan Contracts"), to be executed by the County Manager, or in such officer's absence, the County Comptroller, is hereby approved. The forms, terms and provisions of the Loan Contracts substantially in the forms as are currently on file with the County Manager, with such amendments agreed to by the County Manager, or in such officer's absence, the County Comptroller, whose execution thereof shall be conclusive evidence of such agreements, not inconsistent with the provisions of this Ordinance are hereby ratified, approved and confirmed.

SECTION 4. **Ratification.** All action heretofore taken by the Board and the officers of the County directed toward the Project and toward the issuance, sale and delivery of the Bonds is hereby ratified, approved and confirmed.

SECTION 5. **Estimated Life of Facilities.** The Board, on behalf of the County, has determined and does hereby declare that the estimated life or estimated period of usefulness of the Project to be acquired with the Bonds is not less than average maturity of the Bonds.

SECTION 6. **Necessity of the Project and the Bonds.** It is necessary and in the best interests of the Board, its officers, and the inhabitants of the County, that the County effect the Project and defray wholly or in part the cost thereof by the issuance of the Bonds therefor; and it is hereby so determined and declared.

SECTION 7. **Authorization of Project.** The Board hereby authorizes the Project.

SECTION 8. **Ordinance to Constitute Contract.** In consideration of the purchase and the acceptance of the Bonds by those who shall own the same from time to time, the provisions hereof shall be deemed to be and shall constitute a contract between the County and the registered owners from time to time of the Bonds.

SECTION 9. **Bonds Equally Secured.** The covenants and agreements herein set forth to be performed shall be for the equal benefit, protection and security of the owners of the Outstanding Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction except as otherwise expressly provided in or pursuant to this Ordinance.

SECTION 10. **Special Obligations.** The Bonds, as to the Bond Requirements, shall constitute special revenue obligations of the County. So far as possible, Bond Requirements shall be paid from Net Revenues of the Water System (the "Pledged Revenues").

SECTION 11. **Limitations upon Security.** The payment of the Bonds is not secured by an encumbrance, mortgage or other pledge of property of the County, except for the Net Revenues pledged for the payment of the Bonds. No property of the County, subject to such exception, shall be liable to be forfeited or taken in payment of the Bonds.

SECTION 12. **No Recourse Against Officers and Agents.** No recourse shall be had for the payment of the Bond Requirements of the Bonds or for any claim based thereon or otherwise upon this Ordinance or any other instrument relating thereto, against any individual member of the Board or any officer or other agent of the Board or County, past, present or future, either directly or indirectly through the Board or the County, or otherwise, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any penalty or otherwise, all such liability, if any, being by the acceptance of the Bonds and as a part of the consideration of its issuance specially waived and released.

SECTION 13. **Authorization of Bonds.** For the purpose of providing funds to pay all or a portion of the Cost of the Project, the County shall issue its "Humboldt County, Nevada, Water Revenue Bonds, Series 2023A," in the maximum principal amount of \$550,000, its "Humboldt County, Nevada, Water Revenue Bonds, Series 2023B," in the maximum principal amount of \$500,000 in principal forgiveness and its "Humboldt County, Nevada, Water Revenue Bonds, Series 2023C," in the maximum principal amount of \$1,350,000 in principal forgiveness. The obligations of the County hereunder shall be represented in the form of three registered, negotiable bonds. The Bonds shall be issued in the form substantially set forth in Section 23 hereof.

SECTION 14. **Bond Details.**

A. The Bonds shall be issued in fully registered form, i.e., registered as to both principal and interest, in compliance with Section 149 of the Tax Code, and the regulations of the Secretary of the Treasury thereunder. The Bonds shall be dated initially as of the date of delivery thereof to the State, and shall be issued in three series, each initially evidenced by a single registered bond, in the combined maximum aggregate principal amount of \$2,400,000. The 2023A Bond shall be issued in the maximum principal amount set forth in the 2023A Loan Contract (not to exceed \$550,000) or such lesser amount as is advanced under the 2023A Loan Contract for the 2023A Bond, as shown on the principal advance panel appended to the 2023A Bond.

The 2023B Bond shall be issued in the maximum principal amount set forth in the 2023B Loan Contract (not to exceed \$500,000) or such lesser amount as is advanced under the 2023B Loan Contract for the 2023B Bond, as shown on the principal advance panel appended to the 2023B Bond. Pursuant to the 2023B Loan Contract, 100 percent of the principal amount of the 2023B Bond advanced under the 2023B Loan Contract shall be forgiven by the Division pursuant to the Division's loan forgiveness program on the date of issue of the 2023B Bond.

The 2023C Bond shall be issued in the maximum principal amount set forth in the 2023C Loan Contract (not to exceed \$1,350,000) or such lesser amount as is advanced under the 2023C Loan Contract for the 2023C Bond, as shown on the principal advance panel appended to the 2023C Bond. Pursuant to the 2023C Loan Contract, 100 percent of the principal amount of the 2023C Bond advanced under the 2023C Loan Contract shall be forgiven by the Division pursuant to the Division's loan forgiveness program on the date of issue of the 2023C Bond.

The 2023A Bond shall bear interest (calculated on the basis of a 360 day year of twelve 30 day months) from its date until its maturity date (or, if redeemed prior to maturity as provided below, its redemption date) at the rate per annum set forth in the 2023A Loan Contract on the unpaid principal amount advanced from the date or dates of each advance until the principal thereof is paid in full. Interest payments shall be payable semiannually on January 1 and July 1 of each year commencing on the January 1 or July 1 which is at least 30 days immediately succeeding the date of the first principal advance made to the County under the 2023A Loan Contract. Principal payments shall be payable semiannually on January 1 and July 1, commencing on the first January 1 or July 1, which is at least 30 days immediately following the earlier of: (i) the date the County draws the maximum principal amount as set forth in the 2023A Loan Contract for the 2023A Bond,

(ii) the date the County completes the Project, or (iii) three years from the date of the 2023A Loan Contract. The principal and interest payments shall be structured so as to produce payments substantially consistent in amount from payment date to payment date and which shall amortize the Outstanding principal amount of the 2023A Bond within 20 years of the date of delivery of the 2023A Bond.

B. The installments of principal and interest on the 2023A Bond shall be paid, as long as the State is the registered owner of the 2023A Bond by electronic funds transfer to the State, and otherwise by check or warrant made to the order of the registered owner of the 2023A Bond and mailed to the address of the registered owner shown on the registration records kept by the County Comptroller, acting in the capacity as the Registrar and Paying Agent for the 2023A Bond, as of the close of business on the day immediately prior to such payment date, or if such date is not a business day, on or before the next succeeding business day. So long as the State is the registered owner, such payment shall be made by depositing with the State Treasurer, not later than the principal or interest payment date, the amount coming due on the 2023A Bond on such date, or if such payment date is not a business day, on or before the next succeeding business day, immediately available funds in an amount sufficient to make the payment then due. The final installment of principal on the 2023A Bond whether at maturity or prior redemption, shall be made only on presentation and surrender of the 2023A Bond at the office of the Paying Agent. If any installment of principal or any accrued interest shall not be paid on or ten days after maturity or the interest payment date, as applicable, interest shall continue to accrue at the applicable interest rate until the principal or unpaid accrued interest thereof is paid in full, plus a penalty in the amount of one-tenth of one percent (0.1%) will be due for each day of nonpayment commencing 10 days after the maturity date for the principal installment and 10 days after the interest payment date for unpaid accrued interest. The Paying Agent may make payments of interest on the 2023A Bond by such alternative means as may be mutually agreed to between the owner of such 2023A Bond and the Paying Agent. All such payments shall be made in lawful money of the United States of America without deduction for any service charges of the Paying Agent or Registrar.

SECTION 15. **Prepayment Option**. Installments of principal on the Bonds shall be subject to prepayment prior to maturity, at the option of the County, in whole or in part on any January 1 or July 1 from any installments of principal selected by the County, at a price equal to the

principal amount of the Bonds, or portion thereof, so prepaid, and the accrued interest thereon to the Redemption Date; provided that (i) the State consents in writing to such prepayment or (ii) a change in use of the facilities financed by the Bonds occurs which change in use necessitates remedial action under Treas. Reg. Section 1.141-12 in order to comply with the covenant in Section 55 hereof. If all or a portion of the principal of the Bonds is so called for prior redemption, no payment of the principal of or interest on the Bonds due on or after the date fixed for redemption shall be made unless the applicable Bond is presented to the Paying Agent and notation of the installments of principal redeemed is made on such Bond.

SECTION 16. **Compliance with Federal and State Laws**. The County agrees that it will, at all times that the Bonds are outstanding, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations and requirements. The County covenants that it will comply with the requirements of the Safe Drinking Water Act and 40 CFR Part 31 and comply with, implement and fulfill all environmental mitigation measures committed to by the County as a part of its request to the Administrator for financing from the Revolving Fund.

SECTION 17. **Negotiability**. The Bonds shall be fully negotiable within the meaning of and for the purpose of the Uniform Commercial Code - Investment Securities and each owner shall possess all rights enjoyed by holders of negotiable instruments under the Uniform Commercial Code - Investment Securities.

SECTION 18. **Registration, Transfer and Exchange of Bonds**. The Bonds shall be subject to the following provisions relating to their registration, transfer and exchange:

A. Records for the registration of the Bond shall be kept by the Registrar. The person in whose name any Bond shall be registered, on the registration records kept by the Registrar, shall be deemed and regarded as the absolute owner thereof for the purpose of payment and for all other purposes; and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the owner thereof or such owner's legal representative. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

B. If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it or the County

may reasonably require, and upon payment of all expenses in connection therewith, authenticate and deliver a replacement Bond. If such lost, stolen, destroyed or mutilated Bond shall have matured or shall have been called for prepayment, the Registrar may direct that such Bond be paid by the Paying Agent in lieu of replacement.

C. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Registrar for replacement as provided herein, such Bond shall be promptly canceled by the Paying Agent or Registrar, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or Registrar to the City.

D. The Registrar shall maintain at his office registration records for the Bonds showing the name and address of the registered owners and the amounts and dates of any principal prepayments on the Bonds.

SECTION 19. Execution and Authentication.

A. Prior to the execution of the Bonds by facsimile signature, and pursuant to NRS 350.638, to the act known as the Uniform Facsimile Signatures of Public Officials Act, cited as Chapter 351, NRS, the Chair of the Board of County Commissioners (the "Chair"), the County Treasurer and the County Clerk shall each file with the Secretary of State of Nevada such officer's manual signature certified by him or her under oath.

B. The Bonds shall be approved, signed and executed in the name of and on behalf of the County with the electronic, manual or facsimile signature of the Chair, shall be countersigned and executed with the electronic, manual or facsimile signature of the County Treasurer, and shall bear an electronic or manual impression or a facsimile of an impression of the official seal of the County attested with the electronic, manual or facsimile signature of the County Clerk.

C. The Bonds shall not be valid or obligatory for any purpose unless the registration panel thereon, substantially in the form hereinafter provided, has been duly manually executed by the Registrar. By executing the registration panel, the Registrar shall be deemed to have assented to all of the provisions of this Ordinance.

D. The Chair, the County Treasurer and the County Clerk are hereby authorized and directed to prepare and to execute the Bonds as herein provided.

SECTION 20. **Use of Predecessor's Signature.** The Bonds bearing the signatures of the officers in office at the time of the execution of the Bonds shall be valid and binding obligations of the County, notwithstanding that before their delivery any or all of the persons who executed them shall have ceased to fill their respective offices. The Chair, the County Treasurer, and the County Clerk at the time of the execution of a signature certificate relating to the Bonds, may each adopt as and for his own facsimile signature the facsimile signature of his predecessor in office if such facsimile signature appears upon the Bonds.

SECTION 21. **Incontestable Recital.** Pursuant to NRS 350.628, the Bonds shall contain a recital that they are issued pursuant to the Bond Act, which recital shall be conclusive evidence of the validity of the Bonds and the regularity of their issuance.

SECTION 22. **State Tax Exemption.** Pursuant to NRS 350.710, the Bonds, their transfer and the income therefrom shall forever be and remain free and exempt from taxation by the State or any subdivision thereof, except for the tax on estates imposed pursuant to the provisions of Chapter 375A of NRS and the tax on generation-skipping transfers imposed pursuant to the provisions of Chapter 375B of NRS.

SECTION 23. **Bond Form.** Subject to the provisions of this Ordinance, the Bonds shall be in substantially the following form, with such omissions, insertions, endorsements and variations as may be required by the circumstances, be required or permitted by this Ordinance, or be consistent with this Ordinance or necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

(Form of Bond)

TRANSFER OF THIS BOND OTHER THAN BY REGISTRATION IS NOT EFFECTIVE

**HUMBOLDT COUNTY, NEVADA
WATER REVENUE BOND
SERIES 2023[A][B][C]**

No. R-1

Maximum Principal Amount: \$ _____

Loan Contract No. DW# _____

Humboldt County in the State of Nevada (the "County" and the "State", respectively) for value received hereby acknowledges itself to be indebted and promises to pay to the State of Nevada, c/o the State Treasurer, for deposit to the Account for the Revolving Fund (the "Revolving Fund"), the principal sum of

_____ and No/100----Dollars (\$ _____)

or such lesser amount as is set forth on the Principal Advance Panel appended to this Bond, in installments of principal in the amounts and years listed in the ordinance duly adopted by the Board of County Commissioners (the "Board") of the County on [date of adoption], 2023 and designated in Section 1 by the short title "2023 Water Bond Ordinance" (the "Ordinance") and the State of Nevada Drinking Water State Revolving Fund Loan Contract, Contract No. DW# ____ (the "Loan Contract") (unless prepaid as provided herein and noted on the Prepayment Panel appended hereto) in lawful money of the United States of America, together with interest on the unpaid installments of principal from the date of delivery of this Bond appearing below until payment of such installments of principal shall have been discharged as provided in the Ordinance, said interest being payable on January 1 and July 1 of each year commencing on the January 1 or July 1 which is at least 30 days immediately succeeding the date of the first principal advance made to the County under the Loan Contract, and said installments of principal bearing interest at the rate of _____% per annum, and being payable on January 1 and July 1 of the years and in the amounts and at the times designated in the Ordinance and the Loan Contract, not to exceed __ years from the date of the delivery of the Bond.

[For 2023B and 2023C Bond: This Bond is issued in the principal amount of \$_____.00 and the principal amount shall be forgiven by the Department pursuant to the Department's loan forgiveness program on the date of issue of this Bond under the 2023[B][C] Loan Contract and this Bond shall bear no interest.]

The principal of and interest on this Bond (the "Bond Requirements") are payable by check, draft or warrant made to the order of the registered owner hereof and mailed by the County Treasurer or any successor thereto as paying agent for this Bond (the "Paying Agent") to the address shown for the registered owner on the registration records of the County Treasurer or any successor thereto as registrar for the Bond (the "Registrar"). If the State is the registered owner hereof, payment of the Bond Requirements shall be made by depositing with the State Treasurer, on or

before any principal or interest payment date or prior redemption date, the amount coming due on such payment date, by electronic transfer in immediately available funds. If any payment date is not a business day, payment may be made on or before the next succeeding business day. If any installment of principal or any accrued interest shall not be paid on or ten days after maturity or the interest payment date, as applicable, interest shall continue to accrue at the applicable interest rate until the principal or unpaid accrued interest thereof is paid in full, plus a penalty in the amount of one-tenth of one percent (0.1%) will be due for each day of nonpayment commencing 10 days after the maturity date for the principal installment and 10 days after the interest payment date for unpaid accrued interest. The final installment of principal on this Bond is payable only on presentation and surrender of this Bond at the office of the Paying Agent.

This single bond is a duly authorized bond of the County (the "Bond") to defray, in part, the cost of the acquisition, construction, improvement and equipment of water projects, as defined in Nevada Revised Statutes ("NRS") 244A.056, including the acquisition of a private water system (the "Water System") in the County primarily located within the Gold Country Estates subdivision, Thomas Canyon Acres and the Airport Industrial Park (the "Project") under the authority of and in full compliance with the constitution and laws of the State.

This Bond is issued pursuant to NRS 350.500 through 350.720, and all laws amendatory thereof designated in NRS 350.500 thereof as the Local Government Securities Law (the "Bond Act"); pursuant to NRS 244A.011 through 244A.065, inclusive; pursuant to NRS 350.628, this recital is conclusive evidence of the validity of the Bond and the regularity of its issuance; and pursuant to NRS 350.710, the Bond, its transfer, and the income therefrom shall forever be and remain free and exempt from taxation by the State or any subdivision thereof, except for the tax on estates imposed pursuant to the provisions of Chapter 375A of NRS and the tax on generation-skipping transfers pursuant to the provisions of Chapter 375B of NRS.

Installments of principal of the Bond are subject to prepayment as provided in the Ordinance. If a prepayment is made on this Bond as specified in the Ordinance, interest shall cease to accrue on the amount prepaid from and after the date fixed for prepayment. If a portion of the principal of this Bond is called for prepayment, no payment of the principal of and interest due in connection with this Bond due on and after the prepayment date shall be made unless this Bond is presented to the Paying Agent and notation of the installments of principal so called for prepayment is made on the Prepayment Panel appended hereto.

Payment of the principal of and interest on this Bond is secured by a pledge of the net revenues (herein called the "Net Revenues") derived by the County from the operation and use of, and otherwise pertaining to, the Water System, after provision is made for the payment of all necessary and reasonable operation and maintenance expenses of the Water System, which Net Revenues are so pledged as more specifically provided in the Ordinance.

This Bond is equally and ratably secured by such pledge of the Net Revenues, and such pledge constitutes an irrevocable lien (but not necessarily an exclusive lien) upon the Net Revenues on a parity with the lien thereon of any Parity Securities (as defined in the Ordinance) outstanding or hereafter issued and subordinate and junior to the lien thereon of any Superior

Securities (as defined in the Ordinance) hereafter issued. Additional securities may be issued and made payable from the Net Revenues having a lien thereon superior to, on a parity with, or subordinate to such pledge, in each case subject to the conditions of and in accordance with the provisions of the Ordinance. This 2023A Bond is also secured by the 2023A Reserve Account (as defined in the Ordinance).

Reference is made to the Ordinance and to the Bond Act for an additional description of the nature and extent of the security for this Bond, the accounts, funds, or revenues pledged, the nature and extent and manner of enforcement of the pledge, the rights and remedies of the registered owner of this Bond with respect thereto, the terms and conditions upon which this Bond is issued, and a statement of rights, duties, immunities, and obligations of the County, and other rights and remedies of the owner of this Bond.

To the extent and in the respects permitted by the Ordinance, the provisions of the Ordinance may be amended or otherwise modified by action of the County taken in the manner and subject to the conditions and exceptions prescribed in the Ordinance. The pledge of Net Revenues under the Ordinance may be discharged at or prior to the respective maturities or prepayment of the Bond upon the making of provision for the payment thereof on the terms and conditions set forth in the Ordinance.

This Bond shall not be entitled to any benefits under the Ordinance, or be valid or obligatory for any purpose until the registration panel hereon shall have been manually signed on behalf of the Registrar.

No recourse shall be had for the payment of the Bond Requirements of this Bond or for any claim based thereon or otherwise in respect to the Ordinance or any other instrument pertaining thereto, against any individual member of the Board, any individual member of the County, or any officer or other agent of the County, past, present or future, either directly or indirectly through the Board or the County, or otherwise, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any penalty or otherwise, all such liability, if any, being by the acceptance of this Bond and as a part of the consideration of its issuance specially waived and released.

IN WITNESS WHEREOF, Humboldt County, Nevada, has caused this Bond to be executed in its name with the electronic, manual or facsimile signature of the Chair of its Board of County Commissioners, to be attested with the electronic, manual or facsimile signature of the County Clerk, has caused an electronic, manual or facsimile impression of the seal of the County to be affixed hereon, and has caused this Bond to be countersigned with the electronic, manual or facsimile signature of the County Clerk, all as of date hereof.

HUMBOLDT COUNTY, NEVADA

By: (Electronic, Manual or Facsimile
Signature)

Chair
Board of County Commissioners
Humboldt County, Nevada

Countersigned:

 (Electronic, Manual or Facsimile
Signature)

County Treasurer
Humboldt County, Nevada

(ELECTRONIC, MANUAL OR FACSIMILE SEAL)

Attest:

 (Electronic, Manual or Facsimile Signature)

County Clerk
Humboldt County, Nevada

(End of Form of Bond)

(Form of Registration and Authentication Panel)

**AUTHENTICATION AND MANDATORY REGISTRATION FOR PAYMENT
AS TO PRINCIPAL AND INTEREST**

The within bond is registered in the office of the County Comptroller of Humboldt County, Nevada, as Registrar in the name of the last owner listed below, and the principal amount of the bond and interest thereon shall be payable only to such owner, all in accordance with the within-mentioned Ordinance.

<u>Date of Authentication and Registration</u>	<u>Name of Owner</u>	<u>Address of Owner</u>	<u>Signature of Registrar</u>
_____	State of Nevada, Treasurer, as Custodian of the Revolving Fund of the State of Nevada	State Treasurer 101 North Carson #4 Carson City, Nevada 89701	_____
_____	_____	_____	_____
_____	_____	_____	_____

(End of Form of Registration and Authentication Panel)

(Form of Principal Prepayment Panel on Bond)

PREPAYMENT PANEL
HUMBOLDT COUNTY, NEVADA
WATER REVENUE BOND
SERIES 2023A

Maximum Principal Amount of \$ _____,000

Loan Contract No. _____

The following installments of principal (or portions thereof) of this Bond have been prepaid by Humboldt County, Nevada, in accordance with the terms of the within-mentioned Ordinance.

<u>Date of Prepayment</u>	<u>Due Date of Installments (or portions thereof) Prepaid</u>	<u>Principal Amount Prepaid</u>	<u>Signature of County Comptroller, as Paying Agent</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(End of Form of Principal Prepayment Panel)

SECTION 24. **Delivery of the Bonds for Each Series; Deposit of Proceeds.** When the Bonds have been duly executed, the County Treasurer shall deliver them to the State upon receipt of the agreed purchase price, as stated in the Loan Contracts for the Bonds, and shall authenticate and register them in the name of the State on the Bond registration records of the Registrar and make notation of such registration on the registration panel appended to the Bonds. The County Comptroller shall cause the proceeds of the Bonds to be deposited into a special account hereby created and designated as the "Humboldt County, Nevada, Water Revenue Bonds, Series 2023, Acquisition Account" (the "Acquisition Account") to be held by the County. Moneys in the Acquisition Account shall be used solely to defray wholly or in part the Cost of the Project including, without limitation, as provided in NRS 350.516, all costs of issuing the Bonds and the costs of rebates to the United States under Section 148 of the Tax Code, which the Board hereby determines are necessary and desirable and appertain to the Project. After the Project is complete and after all expenses have been paid or adequate provision therefor is made, pursuant to NRS 350.650, any unexpended balance of Bond proceeds (or, unless otherwise required by law, any other moneys) remaining in the Acquisition Account shall be deposited into the Bond Fund hereinafter created to be used to pay the principal of and interest on the Bonds.

Upon the date of issuance of the 2023A Bond, the County shall deposit to the Reserve Account from legally available funds of the County, if necessary to meet the Minimum Reserve Requirement (as defined below), an amount not greater than 10 percent of each principal advance under the 2023A Loan Contract, into a separate account hereby created to be known as the "Humboldt County, Nevada, Water Revenue Bond, Series 2023A, Reserve Account" (the "Reserve Account"). The Reserve Account shall be maintained in an amount equal to 10 percent of the maximum principal amount of the 2023A Bond, the average annual debt service on the 2023A Bond or the maximum annual debt service on the 2023A Bond, whichever is less (the "Minimum Reserve Requirement"), which Minimum Reserve Requirement may be based on estimates determined by the County with the consent of the State Treasurer until the earlier of the completion of the Project or the advance of the maximum principal amount of the 2023A Bond. The Reserve Account shall be evaluated, held and maintained as provided in Section 35 hereof.

SECTION 25. **Completion of Project.** The County, with the proceeds derived from the sale of the Bonds, shall proceed to complete the Project with due diligence.

SECTION 26. **Use of Investment Gain.** Pursuant to NRS 350.658, and except as may otherwise be required herein, any gain from any investment and any reinvestment of any proceeds of the Bonds (except gain from any investment and any reinvestment of any proceeds of the Bonds deposited into the Rebate Account hereinafter defined) shall be deposited promptly upon the receipt of such gain at any time or from time to time into the Acquisition Account to defray, in part, the Cost of the Project or, if adequate provision has been made for the Project, into the Bond Fund hereinafter created, for the respective payment of the principal of or interest on the Bonds or any combination thereof.

SECTION 27. **Prevention of Bond Default.** Subject to the provisions of this Ordinance, the County Treasurer shall use any Bond proceeds credited to the Acquisition Account, without further order or warrant, to pay the Bond Requirements of the Bonds as the same become due whenever and to the extent moneys otherwise available therefor are insufficient for that purpose, unless such Bond proceeds shall be needed to defray obligations accrued and to accrue under any contracts then existing and relating to the Project. The County Treasurer shall promptly notify the Board of any such use.

SECTION 28. **Purchaser Not Responsible.** The validity of the Bonds shall not be dependent on nor be affected by the validity or regularity of any proceedings relating to the Project, or any part thereof, or to the completion of the Project. Neither the State, nor any subsequent owner of the Bonds shall in any manner be responsible for the application or disposal by the County or by any of its officers, agents and employees of the moneys derived from the sale of the Bonds or of any other moneys referred to in this Ordinance.

SECTION 29. **Pledge of Net Revenues.** Subject only to the provisions of this Ordinance permitting the application thereof for or to the purposes and on the terms and conditions set forth herein, there are hereby pledged to secure the payment of the principal of and interest on the Bonds in accordance with its terms and the provisions of this Ordinance, all of the Net Revenues of the Water System. This pledge shall be valid and binding from and after the date of the delivery to the State of the Bonds, and the Net Revenues, as received by the County shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the County (except as herein otherwise provided) irrespective of

whether such parties have notice thereof. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall be subordinate and junior to the lien thereon of any Superior Securities hereafter issued but shall have priority over any and all other obligations and liabilities of the County payable from the Net Revenues, except as herein otherwise provided. The lien of this pledge for the Bonds is on a parity with the pledge of the Net Revenues for the Parity Securities. The Bonds and the Parity Securities shall be equitably and ratably secured by the pledge of Net Revenues hereunder, and the Bonds and the Parity Securities are not entitled to any priority one over the other in the application of Net Revenues.

SECTION 30. **Revenue Fund.** So long as the Bonds hereby authorized shall be Outstanding as to any Bond Requirements, the entire Gross Revenues of the Water System upon their receipt from time to time by the County shall be set aside and credited immediately to a special account heretofore created designated as the "Humboldt County, Nevada, Water System Gross Revenues Fund" (the "Revenue Fund"). So long as the Bonds hereby authorized shall be Outstanding as to any Bond Requirements each Fiscal Year, the Revenue Fund shall be administered and the moneys on deposit in each account shall be applied in the order of priority specified in Sections 38 through 44 hereof.

SECTION 31. **Operation and Maintenance Fund.** First as a first charge on the Revenue Fund so long as the Bonds hereby authorized shall be Outstanding as to any Bond Requirements, there shall be set aside in and credited to a separate account from time to time (such account heretofore created) and known as the "Humboldt County, Nevada Water System Operation and Maintenance Fund" (the "Operation and Maintenance Fund") money sufficient to pay Operation and Maintenance Expenses of the Water System, such Operation and Maintenance Expenses of the Water System are to be as budgeted and approved in accordance with the law and as such expenses become due and payable thereupon they shall be promptly paid. Any surplus remaining at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses of the Water System shall be transferred to the Revenue Fund and shall be used for the purposes thereof as herein provided.

SECTION 32. **Superior Securities.** Second, from any moneys thereafter remaining in the Revenue Fund, i.e., from the Net Revenues, there shall be transferred and credited to the funds and accounts established for the Superior Securities such transfers and credits as are required by the

bond ordinances authorizing the Superior Securities prior to the application of Net Revenues for securities that are subordinate to the Superior Securities.

SECTION 33. **Reserve Account for Superior Securities.** Third, after the aforementioned deposits, and from the Net Revenues there shall be transferred and credited to any debt service reserve accounts established for any Superior Securities hereafter issued, such amounts as are required to be deposited to such reserve funds to maintain the reasonably required reserve requirements as defined in the bond ordinances authorizing such Superior Securities.

SECTION 34. **Bond Funds.** Fourth, from any moneys thereafter remaining in the Revenue Fund and concurrent with transfers to the bond funds created with respect to any Parity Securities, there shall be concurrently transferred and credited to the Bond Fund as follows:

A. Monthly, commencing on the first day of the month immediately succeeding the delivery date of the Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, to pay the next maturing installment of interest on the Outstanding Bonds, and monthly thereafter, commencing on each interest payment date, one-sixth of the amount necessary, together with any other moneys from time to time available therefor and on deposit therein from whatever source, to pay the next maturing installment of interest on the Outstanding Bonds.

B. Monthly, commencing on the first day of the month immediately succeeding the delivery date of the Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, to pay the next maturing installment of principal on the Outstanding Bonds, and monthly thereafter, commencing on each principal payment date, one twelfth of the amount necessary to pay the next maturing installments of principal of the Outstanding Bonds. The money credited to the Bond Fund shall be used to pay the Bond Requirements of the Bonds as such Bond Requirements become due.

SECTION 35. **2023A Reserve Account.** Fifth, from any moneys thereafter remaining in the Revenue Fund After the aforementioned deposits in the immediately preceding paragraph, and from the Net Revenues there shall be transferred and credited to a special and separate account hereby created and designated as the "Humboldt County, Nevada, Water Revenue Bond, Series 2023A, Reserve Account" (the "2023A Reserve Account"), concurrently with any transfers required to be made to any other debt service reserve funds established for any Parity

Securities hereafter issued, such amounts as are required to be deposited to the 2023 Reserve Account to maintain, so long as the 2023A Bonds are Outstanding, the Minimum Reserve Requirement, or such other minimum reserve requirement that may hereafter be reasonably required in an ordinance authorizing the issuance of Parity Securities.

After the earlier of completion of the Project or advance of the maximum principal amount of the 2023A Bond, amounts shall be deposited annually from the Revenue Fund or other legally available monies of the County into the 2023A Reserve Account sufficient to maintain the Reserve Account in an amount not less than the Minimum Reserve Requirement. [The Reserve Account shall be held for the account of the County by the State Treasurer in the Local Government Investment Pool.] Amounts on deposit in the 2023A Reserve Account shall be evaluated for compliance with the Minimum Reserve Requirement:

(i) on the delivery date of the 2023A Bond based on estimates of the Minimum Reserve Requirement determined by the County with the consent of the State Treasurer,

(ii) on the date that 75% of the maximum principal amount of the 2023A Bond has been advanced based on estimates of the Minimum Reserve Requirement determined by the County with the consent of the State Treasurer,

(iii) upon completion of the Project or the advance of the maximum principal amount of the 2023A Bond, whichever is earlier, and

(iv) after the earliest to occur of completion of the Project or the advance of the maximum principal amount of the 2023A Bond, annually on the anniversary of the date of delivery of the 2023A Bond.

In the event that, on any principal or interest payment date for the 2023A Bond, the amount on deposit in the Bond Fund shall be less than the amount coming due on the 2023A Bond on such payment date, an amount equal to such deficiency shall be transferred by the County from the 2023A Reserve Account to the Bond Fund and applied solely for the purpose of paying the principal and interest then coming due on the 2023A Bond. Investment income or gain on moneys in the 2023A Reserve Account shall be retained in the 2023A Reserve Account to the extent necessary to restore the total amount on deposit in the 2023A Reserve Account to the Minimum Reserve Requirement; otherwise such investment income or gain on moneys in the 2023A Reserve Account shall be deposited into the Bond Fund.

SECTION 36. **Rebate Accounts.** Sixth, after the aforementioned deposits, and from the Net Revenues there shall be concurrently transferred to any fund or account established for payment of amounts due the United States under Section 148(f) of the Tax Code in connection with any Parity Securities the amounts required to be deposited therein and to a special and separate account hereby created and designated as the "Humboldt County, Nevada Water Revenue Bonds, Series 2023, Rebate Account" (the "Rebate Account") such amounts as are required to be deposited therein to meet the County's obligations under the covenant contained in Section 55 hereof, in accordance with Section 148(f) of the Tax Code. Such deposits shall be made at such times as are required by Section 148(f) of the Tax Code and such covenant and amounts in the Rebate Account shall be used for the purpose of making the payments to the United States required by such covenant and Section 148(f) of the Tax Code. Any amounts in the Rebate Account in excess of those required to be on deposit therein may be withdrawn therefrom and deposited into the Revenue Fund, as directed by the County Comptroller.

SECTION 37. **Payment of Subordinate Securities.** Seventh, any moneys thereafter remaining in the Revenue Fund may be used by the County for the payment of the principal of and interest on, and payments to the United States required by Section 148(f) of the Tax Code with respect to, Subordinate Securities; and may be used to create reasonable reserves for such securities.

SECTION 38. **Surplus Revenues.** Eighth, any moneys thereafter remaining in the Revenue Fund may be used by the County at the end of any Fiscal Year of the County, or whenever there shall have been credited all amounts required to be deposited in the respective foregoing separate accounts for all of that Fiscal Year, for any lawful purposes of the County, as the Board may from time to time determine, including, without limitation, for the creation of operation and maintenance reserves and capital reserves, the payment of capital costs and major maintenance costs of the Water System, to pay any other obligations pertaining to the Water System or otherwise.

SECTION 39. **Termination of Deposits.** No payment need be made into the Bond Fund if the amounts in that fund total a sum at least equal to the entire amount of the Outstanding Bonds as to all Bond Requirements to their respective maturities both accrued and not accrued, in which case moneys in such fund in an amount, except for any interest or other gain to accrue from any investment of moneys in Federal Securities from the time of any such investment to the time or respective times the proceeds of any such investment or deposit shall be needed for such payment, at

least equal to such Bond Requirements, shall be used, together with any such gain from such investments, solely to pay such Bond Requirements as the same become due.

SECTION 40. **Equal Security.** The Bonds and any Parity Securities from time to time Outstanding shall be equally and ratably secured by the pledge of Net Revenues hereunder and shall not be entitled to any priority one over the other in the application of the Net Revenues regardless of the time or times of the issuance of the Bonds and any Parity Securities.

SECTION 41. **Defraying Delinquencies.** If at any time the County shall for any reason fail to pay into the Bond Fund or the Rebate Account the full amount above stipulated from the Net Revenues, then an amount shall be paid first into the Bond Fund and second into the Rebate Account at such time equal to the difference between that paid from the Net Revenues and the full amount so stipulated. If Parity Securities are Outstanding, and if the proceedings authorizing issuance of those securities require the replacement of moneys in a bond fund, reserve fund or rebate account therefor, then the moneys replaced in such funds shall be replaced on a pro rata basis related to the principal amount of the then Outstanding Bonds and the then Outstanding Parity Securities, as moneys become available therefor, first into all of such bond funds and reserve funds and second into all such rebate accounts.

SECTION 42. **Conditions to Superior Securities and Parity Securities.**

A. Nothing herein, except as expressly hereinafter provided, shall prevent the issuance by the County of Superior Securities and Parity Securities payable from Net Revenues and constituting a lien thereon superior to or on a parity with, the lien thereon of the Bonds, provided, however, that the following are express conditions to the authorization and issuance of any such Superior Securities or Parity Securities:

(1) At the time of adoption of the instrument authorizing the issuance of the Superior Securities or Parity Securities, the County shall not be in default in the payment of principal of or interest on the Bonds.

(2) The Net Revenues (subject to adjustments as hereinafter provided) projected by the County Manager, the County Comptroller or an independent accountant or consulting engineer to be derived in the later of (a) the Fiscal Year immediately following the Fiscal Year in which the facilities to be financed with the proceeds of the Superior Securities or Parity Securities are projected to be completed or (b) the first Fiscal Year for which no interest has been

capitalized for the payment of any Superior Securities or Parity Securities, as the case may be, including the Superior Securities or Parity Securities proposed to be issued, will be sufficient to pay at least an amount equal to 125% of the Bond Requirements (to be paid during that Fiscal Year) of the Outstanding Bonds, and any other Outstanding Superior Securities or Parity Securities of the County and the Superior Securities or the Parity Securities proposed to be issued (excluding any reserves therefor).

B. In any determination of whether Superior Securities or Parity Securities may be issued in accordance with the foregoing earnings test, consideration shall be given to any probable estimated increase or reduction in Operation and Maintenance expenses that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the Superior Securities or Parity Securities.

C. In any determination of whether Superior Securities or Parity Securities may be issued in accordance with the foregoing earnings test, the respective annual principal (or redemption price) and interest requirements shall be reduced to the extent such requirements are scheduled to be paid with moneys held in trust or in escrow for that purpose by any Trust Bank within or without the State, including the known minimum yield from any investment in Federal Securities.

D. A written certificate or written opinion by the County Manager, County Comptroller or an independent accountant or consulting engineer that the foregoing earnings test is met, shall be conclusively presumed to be accurate in determining the right of the County to authorize, issue, sell and deliver Superior Securities or Parity Securities.

E. In connection with the authorization of any such Superior Securities or Parity Securities, the Board may on behalf of the County adopt any additional covenants or agreements with the holders of such Superior Securities or Parity Securities; provided, however, that no such covenant or agreement may be in conflict with the covenants and agreements of the County herein and no such covenant or agreement may be materially adverse to the interests of the holder of the Bonds. Any finding of the County to the effect that the foregoing requirements are met shall, if made in good faith, conclusively establish that the foregoing requirements have been met for purposes of this Ordinance.

F. Nothing herein prevents the issuance of Superior Securities payable from the Pledged Revenues having a lien thereon prior and superior to the lien thereon of the Bonds; however, such Superior Securities shall not be issued as general obligations of the County. Parity Securities may be issued as general obligations or special obligations.

SECTION 43. **Subordinate Securities.** Nothing herein, except as expressly hereinafter provided, shall prevent the County from issuing Subordinate Securities payable from Net Revenues and constituting a lien thereon subordinate to the lien thereon of the Bonds and any Parity Securities.

SECTION 44. **Issuance of Refunding Bonds.**

A. At any time after the Bonds, or any part thereof, is issued and remains Outstanding, if the County shall find it desirable to refund the Outstanding Bonds or other Outstanding Superior, Parity or Subordinate Securities, such Bonds or other securities, or any part thereof, may be refunded only if the Bonds or other securities at the time or times of their required surrender for payment shall then mature or shall be then callable for prior redemption for the purpose of refunding them at the County's option upon proper call, unless the owner or owners of all such Outstanding securities consent to such surrender and payment, regardless of whether the priority of the lien for the payment of the refunding securities on the Pledged Revenues is changed (except as provided in Subsection D of this Section).

B. The refunding bonds or other refunding securities so issued shall enjoy complete equality of lien with the portion of any securities of the same issue which is not refunded, if there is any; and the owner or owners of the refunding securities shall be subrogated to all of the rights and privileges enjoyed by the owner or owners of the unrefunded securities of the same issue partially refunded by the refunding securities.

C. Any refunding bonds or other refunding securities payable from any Gross Revenues shall be issued with such details as the Board may by ordinance provide, subject to the provisions of this Section but without any impairment of any contractual obligation imposed upon the County by any proceedings authorizing the issuance of any unrefunded portion of the Outstanding securities of any one or more issues (including, without limitation, the Bonds).

D. If only a part of the Outstanding Bonds and other Outstanding securities of any issue or issues payable from the Gross Revenues is refunded, then such securities

may not be refunded without the consent of the owner or owners of the unrefunded portion of such securities:

(1) Unless the refunding bonds or other refunding securities do not increase for any Bond Year the aggregate principal and interest requirements evidenced by the refunding securities and by the Outstanding securities not refunded on and before the last maturity date or last Redemption Date, if any, whichever is later, of the unrefunded securities, and unless the lien of any refunding bonds or other refunding securities on the Net Revenues is not raised to a higher priority than the lien thereon of the Bonds or other securities thereby refunded; or

(2) Unless the lien on any Gross Revenues for the payment of the refunding securities is subordinate to each such lien for the payment of any securities not refunded; or

(3) Unless the refunding bonds or other refunding securities are issued in compliance with Section 47 hereof.

SECTION 45. **Operation of the System.** The County shall at all times operate the Water System properly and in a sound and economical manner and shall maintain, preserve and keep the Water System properly, or cause the same so to be maintained, preserved and kept, in good repair, working order and condition. The County also shall from time to time make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Water System may be properly and advantageously conducted in conformity with standards customarily followed by municipalities operating water systems of like size and character.

Except for the use of the Water System or services pertaining thereto in the normal course of business, neither all nor a substantial part of the Water System shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of until the Bonds have been paid in full, or unless provision has been made therefor as hereinafter provided.

SECTION 46. **Payment of Taxes, Etc.** The County shall pay or cause to be paid all taxes, assessments and other municipal or governmental charges, if any, lawfully levied or assessed upon or in respect of the Water System or any part thereof, or upon any portion of the Gross Revenues, when the same shall become due. The County shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to the Water System or any part thereof, except for any period during which the validity of the same is being contested in good

faith by proper legal proceedings. The County shall not create or cause to be created any lien or charge on the Water System or any part thereof, or upon the Gross Revenues, except the pledge and lien created by this Ordinance for the payment of the Bonds and any Superior Securities, Parity Securities, or Subordinate Securities issued in accordance herewith, and except as herein otherwise permitted. The County shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Water System or any part thereof, or upon the Gross Revenues. Nothing herein contained requires the County to pay or cause to be discharged or to make provision for any such tax, assessment, lien, charge or demand before the time when payment thereon shall be due, or so long as the validity thereof shall be contested in good faith by appropriate legal proceedings.

SECTION 47. **No Competing Facilities.** The County shall neither construct nor permit to be constructed other facilities or structures to be operated by the County separate from the Water System and competing for Gross Revenues otherwise available for the payment of the Bonds or any other securities payable from Net Revenues; provided, however, that nothing herein contained shall impair the police powers of the County or otherwise cause the County to violate any applicable law.

SECTION 48. **Rate Covenant.** The County shall charge against users or against purchasers of services or commodities pertaining to the Water System such fees, rates and other charges as shall be sufficient to produce Gross Revenues annually which, together with any other funds available therefor, will be in each Fiscal Year of the County at least equal to the sum of:

- A. an amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year;
- B. an amount equal to 125% of the sum of the Bond Requirements due in such Fiscal Year on the then Outstanding Bonds and any then Outstanding Superior Securities and Parity Securities; and
- C. any other amounts payable from the Net Revenues and pertaining to the Water System, including, without limitation, debt service on any Subordinate Securities and any other securities pertaining to the Water System, operation and maintenance reserves, additional capital reserves and prior deficiencies pertaining to any account relating to Gross Revenues.

The foregoing rate covenant is subject to compliance by the County with any legislation of the United States of America, the State or other governmental body, or any regulation or other action taken by the United States, the State or any agency or political subdivision of the State pursuant to such legislation, in the exercise of the police power thereof for the public welfare, which legislation, regulation or action limits or otherwise inhibits the amounts of fees, rates and other charges collectible by the County for the use of or otherwise pertaining to, and all services rendered by, the Water System.

Subject to the foregoing, the County shall cause all fees, rates and other charges pertaining to the Water System to be collected as soon as reasonable and shall provide methods of collection and penalties to the end that the Gross Revenues shall be adequate to meet the requirements hereof.

SECTION 49. **Accounts and Records.** So long as the Bonds remains Outstanding, proper accounts and records shall be kept by the County, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Water System and to all moneys pertaining thereto, including, without limitation, the Gross Revenues.

SECTION 50. **Tax Covenant.** The County covenants for the benefit of the owners of the 2023A Bond that it will not take any action or omit to take any action with respect to the 2023A Bond, the proceeds thereof, any other funds of the County or any facilities financed with the proceeds of the 2023A Bond if such action or omission (i) would cause the interest on the 2023A Bond to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code or (ii) would cause interest on the 2023A Bond to lose its exclusion from alternative minimum taxable income as defined in Section 55(b) of the Tax Code. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the 2023A Bond until the date on which all obligations of the County in fulfilling the above covenant under the Tax Code have been met. The County makes no covenant with respect to taxation of interest on the 2023A Bond as a result of the inclusion of that interest in the "adjusted financial statement income" of "applicable corporations" (as defined in Sections 56A and 59(k), respectively, of the Tax Code).

SECTION 51. **Defeasance.** When all Bond Requirements of the Bonds have been duly paid, the pledge, the lien, and all obligations hereunder as to the Bond shall thereby be discharged and the Bonds shall no longer be deemed to be Outstanding within the meaning of this

Ordinance. There shall be deemed to be such due payment when the County has placed in escrow or in trust with a Trust Bank, an amount sufficient (including the known minimum yield available for such purpose from the Federal Securities in which such amount may be initially invested wholly or in part) to meet all Bond Requirements of the Bonds, as the same become due to the final maturity of the Bonds, or upon any redemption date as of which the County shall have exercised or shall have obligated itself to exercise its prior redemption option by a call of the Bonds for payment then. The Federal Securities shall become due before the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the County and the Trust Bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure availability as needed to meet the schedule. For the purpose of this Section "Federal Securities" shall include only Federal Securities which are not callable for redemption prior to their maturities except at the option of the owner thereof. When such defeasance is accomplished the Paying Agent shall mail written notice of the defeasance to the registered owners of the Bonds at the addresses last shown on the registration records for the Bonds maintained by the Registrar.

SECTION 52. **Amendments.** This Ordinance may be amended or supplemented by instruments adopted by the County, without receipt by the County of any additional consideration, but with the written consent of the State Treasurer at the time of the adoption of the amendatory or supplemental instrument, excluding bonds which may then be held or owned for the account of the County, but including such refunding securities as may be issued for the purpose of refunding the Bonds if the refunding securities are not owned by the County. No such instrument shall permit:

A. A change in the maturity or in the terms of redemption of the principal or any installment thereof of any Outstanding Bonds or any installment of interest thereon, without the consent of the State Treasurer;

B. A reduction in the principal amount of any Bond, the rate of interest thereon, without the consent of the State Treasurer; or

C. A reduction of the principal amount or percentages or otherwise affecting the description of the portion of the Bonds of which the consent of the State Treasurer is required for any modification or amendment; or

D. The establishment of priorities as between the portions of the Bonds issued and Outstanding under the provisions of this Ordinance.

E. The modification of, or other action which materially and prejudicially affects the rights or privileges of the State.

Whenever the County proposes to amend or modify this Ordinance under the provisions hereof, it shall cause notice of the proposed amendment to be mailed within 30 days to the State Treasurer. The notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory instrument is on file in the office of the County Clerk for public inspection.

Whenever at any time within one year from the date of such notice there shall be filed in the office of the County Clerk an instrument or instruments executed by the State Treasurer, which instrument or instruments shall refer to the proposed amendatory instrument described in the notice and shall specifically consent to and approve the adoption of the instrument; thereupon, but not otherwise, the Board may adopt the amendatory instrument and the instrument shall become effective. Any consent given by the State Treasurer pursuant to the provisions hereof shall be irrevocable.

Any Bond authenticated and delivered after the effective date of any action taken as provided in this Section may bear a notation by endorsement or otherwise in form approved by the County as to the action; and if any Bond so authenticated and delivered shall bear such notation, then upon demand of the State Treasurer at such effective date and upon presentation of such Bond, suitable notation shall be made on the Bond as to any such action. If the County so determines, a new Bond so modified as in the opinion of the County to conform to such action shall be prepared, registered and delivered; and upon demand of the State Treasurer then Outstanding, shall be exchanged without cost to the State Treasurer upon surrender of such Bond.

SECTION 53. **Replacement of Registrar or Paying Agent.** If the Registrar or Paying Agent initially appointed hereunder shall resign, or if the Board shall determine to replace said Registrar or Paying Agent, the Board may, upon notice mailed to the State Treasurer, appoint a successor Registrar or Paying Agent, or both. No resignation or dismissal of the Registrar or Paying Agent may take effect until a successor is appointed. It shall not be required that the same person or

institution serve as both Registrar and Paying Agent hereunder, but the County shall have the right to have the same person or institution serve as both Registrar and Paying Agent.

SECTION 54. **Delegated Powers.** The officers of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limitation:

A. The printing and execution of the Bonds, including, without limitation, the execution and delivery of the principal advance panels appended to the Bonds by the County Manager and the County's Public Works Director, as necessary;

B. The execution of such certificates electronically or otherwise as may be reasonably required by the State, relating, inter alia,

- (1) to the signing of the Bonds,
- (2) to the tenure and identity of the officials of the County,
- (3) to the assessed valuation of the taxable property in and the indebtedness of the County,
- (4) to the rate of taxes levied against the taxable property within the County,
- (5) the exemption of interest on the Bonds from federal income taxation,
- (6) the delivery of the Bonds and the receipt of the Bond purchase price,
- (7) the completeness and accuracy of any information provided the State in connection with the Bonds as of the date of delivery of the Bonds, and
- (8) if it is in accordance with the fact, the absence of litigation, pending or threatened, affecting the validity of the Bonds;

C. The execution and delivery of the Loan Contracts electronically or otherwise by the County Manager, or in his absence, the County Comptroller; and

D. The assembly and dissemination of financial and other information concerning the County and the Bonds.

SECTION 55. **Implied Repealer**. All resolutions and ordinances, bylaws and orders, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution, ordinance, bylaw, order, or part thereof, heretofore repealed.

SECTION 56. **Ordinance Irrepealable**. After the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the County and the owners of the Bonds; and this Ordinance, if the Bonds are in fact issued, shall be and shall remain irrepealable until the Bonds, as to all Bond Requirements, shall be fully paid, canceled and discharged, as herein provided.

SECTION 57. **Proposal of Ordinance**. In accordance with NRS 244.100, this Ordinance when first proposed is to be read by title to the Board, immediately after which several copies of the proposed ordinance are to be filed with the office of the County Clerk for public examination; thereafter, the County Clerk is authorized and directed to give notice of the filing together with the title of the Ordinance and an adequate summary of the Ordinance, and the date upon which a public hearing will be held on such ordinance by publication at least ten (10) days before the date set for such hearing, such publication to be in substantially the following form:

(Form of Publication of Notice of Filing of and Public Hearing for an Ordinance)

BILL NO.
ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE BY HUMBOLDT COUNTY, NEVADA, OF ITS WATER REVENUE BONDS, SERIES 2023A, SERIES 2023B AND SERIES 2023C IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$2,400,000 FOR THE PURPOSE OF FINANCING WATER PROJECTS; PROVIDING THE FORM, TERMS AND CONDITIONS THEREOF AND COVENANTS RELATING TO THE PAYMENT OF THE BONDS; AND PROVIDING THE EFFECTIVE DATE HEREOF.

PUBLIC NOTICE IS HEREBY GIVEN, that electronic copies of the above-numbered and entitled Ordinance may requested by all interested persons during the regular office hours of Humboldt County, Nevada (the "County" and the "State," respectively) by contacting the administrative assistant at the County Manager's office at 775-623-6300.

The following is a brief summary of the provisions of the Ordinance: The Ordinance authorizes the issuance of the Humboldt County, Nevada, Water Revenue Bonds, Series 2023A, Series 2023B (principal forgiveness) and Series 2023C (principal forgiveness) (collectively, the "Bonds") in the maximum aggregate principal amount of \$2,400,000 in order to finance the cost of the acquisition, construction, improvement and equipment of water projects, as defined in NRS 244A.056 (the "Project). The County has requested the Administrator of the Division of Environmental Protection of the Department of Conservation and Natural Resources as Administrator of the State of Nevada Account for the Revolving Fund, under NRS 445A.200 to 445A.295, inclusive, to make loans to the County by purchasing the Bonds. The Ordinance sets forth the details of the Bonds, including, but not limited to, the dates and amounts of installments of principal maturing on the Bonds, the interest rate(s) and the terms of the prior redemption thereof. The principal of the Series 2023B Bonds and the Series 2023C Bonds will be automatically forgiven upon the issuance of the Series 2023B Bonds and the Series 2023C Bonds. The Ordinance provides the terms of registration, transfer, exchange, execution and delivery of the Bonds. The Ordinance provides the form of the Bonds and the use of the proceeds thereof. The County makes a covenant in the Ordinance with respect to the tax-exemption of the interest on the Series 2023A Bonds.

The Ordinance provides that the payment of the principal of and interest on the 2023A Bond is secured by a pledge of the net revenues (the "Net Revenues") derived from the operation and use of, and otherwise pertaining to the water system of the County (collectively, the "Water System") after provision is made for the payment of all necessary and reasonable operation and maintenance expenses of the Water System. The Ordinance provides that the Bonds are not secured by any property of the County, other than the proceeds of Net Revenues and any other moneys pledged for the repayment of the Bonds. The Ordinance provides no recourse for payment of the Bonds that may be had against the Board (as defined below) or other officers or agents of the

County. The Ordinance provides for the defeasance of the Bonds, the replacement of the registrar and paying agent for the Bonds and the publication of the Ordinance by title in accordance with State law.

Such Ordinance was proposed on [date of introduction], 2023 and will be considered for adoption at the regular meeting of the Board of County Commissioners (the "Board") of the County to be held on [date of adoption], 2023. Prior to consideration of the Ordinance for final adoption, the Board will hold a public hearing on [date of adoption], 2023 at ____ pm.

The Board shall adopt or reject the Ordinance (or the Ordinance as amended) within 35 days after the date of the final public hearing.

IN WITNESS WHEREOF, the Board of County Commissioners of Humboldt County, Nevada, has ordered this notice to be published.

DATED this [date of introduction], 2023.

/s/ Ken Tipton
Chair
Board of County Commissioners
Humboldt County, Nevada

(SEAL)

Attest:

/s/ Tami Rae Spero
County Clerk
Humboldt County, Nevada

(End of Form of Publication of Notice of Filing of and Public Hearing for an Ordinance)

SECTION 58. **Effective Date.** After this Ordinance is signed by the Chair and attested and sealed by the County Clerk, it shall be published by title only, together with the names of the Commissioners voting for or against its passage, and with a statement that typewritten copies are available for inspection by all interested persons at the office of the County Clerk, such publication to be made in the _____, a newspaper published and having general circulation in the County, at least once a week for a period of two (2) weeks by two (2) insertions, pursuant to NRS 244.100, and all laws thereunto enabling, such publication to be in substantially the following form:

(Form of Publication of Notice of Adoption of Ordinance)

BILL NO.
ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE BY HUMBOLDT COUNTY, NEVADA, OF ITS WATER REVENUE BONDS, SERIES 2023A, SERIES 2023B AND SERIES 2023C IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$2,400,000 FOR THE PURPOSE OF FINANCING WATER PROJECTS; PROVIDING THE FORM, TERMS AND CONDITIONS THEREOF AND COVENANTS RELATING TO THE PAYMENT OF THE BONDS; AND PROVIDING THE EFFECTIVE DATE HEREOF.

PUBLIC NOTICE IS HEREBY GIVEN that electronic copies of the above-numbered and entitled Ordinance are available for inspection by all interested parties during the regular office hours of Humboldt County, Nevada (the "County") by contacting the administrative assistant at the County Manager's office at 775-623-6300. The Ordinance was proposed by Commissioner _____ on [date of introduction], 2023, and was passed and adopted without amendment at a regular meeting held not more than 35 days thereafter (i.e., at the regular meeting on [date of adoption], 2023) by the following vote of the Board of County Commissioners:

Those Voting Aye: _____

Those Voting Nay: _____

Those Absent: _____

This Ordinance shall be in force and effect from and after the ____ day of _____, 2023, the date of the second publication of such Ordinance by its title only.

IN WITNESS WHEREOF, the Board of County Commissioners of Humboldt County, Nevada, has caused this instrument to be published by title only:

DATED on this [date of adoption], 2023.

/s/ Ken Tipton
Chair
Board of County Commissioners
Humboldt County, Nevada

(SEAL)

Attest:

/s/ Tami Rae Spero
County Clerk
Humboldt County, Nevada

(Form of Publication of Notice of Adoption of Ordinance)

STATE OF NEVADA)
) **ss.**
COUNTY OF HUMBOLDT)

I am the duly chosen, qualified and acting County Clerk of Humboldt County (the "County"), Nevada (the "State") and in the performance of my duties as County Clerk do hereby certify:

1. The foregoing pages are a true, correct and compared copy of an ordinance introduced at the regular meeting of the Board of County Commissioners (the "Board") of the County at a meeting held on [date of introduction], 2023, and passed and adopted at the regular meeting of the Board held on [date of adoption], 2023. The original of the ordinance has been approved and authenticated by the signatures of the Chair of the Board and myself as County Clerk and sealed with the seal of the County, and has been recorded in the records of the Board kept for that purpose in my office.

2. Said proceedings were duly had and taken as therein shown. The Commissioners set forth in the ordinance were present at said meetings and voted on the ordinance as set forth in such ordinance.

3. All members of the Board were given due and proper notice of such meetings held on [date of introduction], 2023 and [date of adoption], 2023.

4. Public notice of such meetings was given and such meetings was held and conducted in full compliance with the provisions of NRS 241.020. A copy of the notices of meetings are attached hereto as Exhibit A and Exhibit B, respectively.

5. Prior to 9:00 a.m. at least 3 working days before such meeting, such notice was delivered to each member of the Board and to each person, if any, who has requested notice of meetings of the Board in accordance with the provisions of Chapter 241 of NRS.

6. A copy of evidence of publication of the Notice of Filing of and Public Hearing for the ordinance is attached hereto as Exhibit C.

7. After adoption, the ordinance was published twice by title and a copy of the evidence of publication of the Notice of Adoption of the ordinance is attached hereto as Exhibit D.



IN WITNESS WHEREOF, I have hereunto set my hand this [date of adoption],

2023.

Tami Rae Spero, County Clerk
Humboldt County, Nevada

EXHIBIT A

(Attach Copy of Notice of [date of introduction], 2023 Meeting)

EXHIBIT B

(Attach Copy of Notice of [date of adoption], 2023 Meeting)

EXHIBIT C

(Attach Evidence of Publication of Notice of Filing of and Public Hearing for the Ordinance)

EXHIBIT D

(Attach Evidence of Publication of Notice of Adoption of the Ordinance twice by title)

Elko County Board of Commissioners

540 Court Street, Suite 101 • Elko, Nevada 89801
775-738-5398 Phone • 775-753-8535 Fax

www.elkocountynv.net

Commissioners

Delmo Andreozzi
Wilde Brough
Travis Gerber
Jon Karr
Rex Steninger

Elko County Manager

Amanda Osborne

Executive Assistant

Michele Petty

Receptionist/Clerical

Anna Hight

April 13, 2023

Nevada Legislature
Senate Committee on Government Affairs
401 S. Carson Street
Carson City, NV 89701

Sent electronically: SenGa@sen.state.nv.us

RE: Senate Bill 226

Chair Flores and Members of the Government Affairs Committee:

The Elko County Board of Commissioners is unanimously opposed to Senate Bill 226 which would make major changes to prevailing wage laws in Nevada and undermines some of the State's very own priorities.

This bill would not only negatively impact the development of affordable housing, it would negatively impact economic development and role that non-profit organizations play in rural Nevada in providing services to our most vulnerable and underserved populations.

State and local governments already pay more for construction projects that the private sector pays for comparable projects, ultimately at the expense of tax payers.

Should this bill pass in its current form, it would delay or completely derail projects that would improve our communities and Nevada. Public-private partnerships that are critical to economic development across the State would suffer greatly and most likely no longer exist.

Sincerely,



Amanda Osborne, County Manager for Rex Steninger, Chair
Elko County Board of Commissioners

RS/ao

March 29, 2023

Senate Government Affairs

Public Testimony

Good afternoon, Chair Flores and members of the Committee:

For the record, I am Bill Brewer, Executive Director for the Nevada Rural Housing Authority.

As the Nevada Housing Coalition has eloquently stated, SB226 as currently written would be devastating for the affordable housing sector in Nevada. Ms. Hess spoke to you about the Coalition's research indicating development cost of an actual project that was built in 2022 would have increased by 23.1%.

To put that in some context, I'll use a project we currently have under construction in Mesquite. The City of Mesquite has been very involved in this project, donating land and other services. This would have triggered State Prevailing Wage under the terms of this bill. Thanks to the City's help, total development costs to bring the project into existence are about \$37MM. It is a 96-unit property financed with LIHTC, HOME funds, State Trust funds, Affordable Housing Program funds from the Federal Home Loan Bank in San Francisco, and about \$900,000 of our own money. To make the project work, we will also have a permanent loan of \$6.1MM.

If total development cost increased by 23%, the total cost for this project would be approximately \$45MM. Tax credit and other grant sources could not increase, leaving us with the only option of increasing debt. In this scenario, our debt would increase from \$6.1MM to over \$14MM.

There are two major factors that comprise the rents in an affordable development - debt and operating expense. In order to cover the same operating expense and the increased debt on the property, rents would need to increase 32.42%.

This increased debt load would render us unable to meet the rent requirements under the tax credit, HOME, State Trust Funds and AHP funds. In other words, this project could not have been built at all.

Because of the devastating effect this might have on the development of affordable housing, we are unable to support this bill. If housing development were exempted from the requirements of this bill, it could bring us to a neutral position.

Thank you.

William L. Brewer
Nevada Rural Housing

TESTIMONY TO SENATE COMMITTEE ON GOVERNMENT AFFAIRS

3/29/2023

Geoffrey Lawrence
Research Director
Nevada Policy

Chair Flores and Members of the Senate Committee on Government Affairs,

Nevada Policy opposes Senate Bill 226 which would make major changes to prevailing wage laws in Nevada. Prevailing wages are a special form of minimum wage applicable to publicly financed construction projects. To illuminate discussion surrounding this proposal, we offer the following insights:

Calculation Bias: Prevailing wage rates are determined using a periodic survey of construction firms within each county asking about total compensation paid to personnel performing very specific functions on an hourly basis. This compensation must include an hourly breakout of employer-provided benefits. Most non-union employers do not have the wherewithal to complete this survey for two reasons. First, employer-provided benefits are typically not standardized, as employees may choose to participate in a range of different health care and retirement benefit options, and these costs are not computed on an hourly basis. Second, a single employee may move freely from one role to another on the job site as required by the needs of the project, performing, for example, carpentry, taping and painting in a single day.

In order to accurately complete the survey, the employer would need to track compensation paid in each of these roles separately on an hourly basis. Union firms are able to complete this survey because union work rules generally restrict the dynamic use or assignment of labor and require standardized benefits that can be accounted for an annual basis. Because of these peculiarities, the response rate to prevailing wage surveys is overwhelmingly skewed toward unionized firms.

The calculation process for prevailing wages is premised on this inherent sampling error but goes even further to ensure that the wages announced as “prevailing” correspond to union wages. If a simple majority of responses for a given job function in a given county are uniform, then all non-conforming responses are disregarded and the statistical mode of the survey is announced as the prevailing wage. If the statistical mode does not account for the majority of responses, then the average of all responses becomes the prevailing wage.

In a competitive labor market, it is highly unlikely that a single hourly rate of pay and benefits would ever apply to the majority of workers unless those workers are bound by a single contract, such as a collective bargaining agreement. This provision further ensures that so-called prevailing wages are really just wages demanded by unions even if those wages are not predominant within the overall marketplace.

The Nevada Policy Research Institute is a nonpartisan, nonprofit think tank that promotes policy ideas consistent with the principles of limited government, individual liberty and free markets. As a 501(c)(3) organization, as defined by the Internal Revenue Code, the Institute does not endorse or oppose political candidates.

Additional Cost: It is straightforward to compare the wages announced as prevailing to those that actually prevail within the marketplace simply by examining two different state-funded surveys. The Nevada Labor Commissioner conducts the prevailing wage survey described above. Separately, the Nevada Department of Employment, Training and Rehabilitation conducts a separate survey funded by the U.S. Census Bureau that simply looks for the average wages in the marketplace for different occupations.

In a 2011 analysis, Nevada Policy compared the wages reported in these two surveys and found that prevailing wage requirements resulted in a wage premium paid on publicly financed projects that amounted to 44.2 percent in Northern Nevada and 45.8 percent in Southern Nevada. Among the wage rates officially announced as “prevailing,” 77 percent were simply the corresponding union rate within the area. These wage premiums result in an additional \$1 billion expense on publicly financed projects in Nevada across 2009 and 2010. Alternatively, without a prevailing wage mandate, \$1 billion may have been available to construct additional projects or finance public services.^[1]

These results are uncontroversial. Former Nevada Labor Commissioner Michael Tanchek stated in a 2010 letter to lawmakers, “State and local government agencies pay more for construction projects than the private sector pays for comparable projects. Saying otherwise would be denying the obvious.”^[2] A 2007 analysis of the additional labor costs imposed by prevailing wage laws in Michigan concluded that contractors for public works projects “pay wages that average 40 to 60 percent higher than those found in the marketplace” and that this “increases the cost of construction by 10 percent to 15 percent.”^[3] In 1997, Ohio lawmakers exempted school construction from prevailing wage laws. Five years later, legislative staff reviewed the financial impact of the change and reported that school districts had saved \$487.9 million because of the exemption – roughly 10.7 percent of all spending on school construction during the time period.^[4]

The Davis-Bacon Act is the federal corollary to state prevailing wage laws. It is similarly uncontroversial that this law inflates spending on publicly financed projects. A 2008 analysis by economists at Suffolk University showed that Davis-Bacon standards inflated labor costs on federal projects by 22 percent.^[5]

Ignominious, Racist History: State prevailing wage laws are all modeled on the Davis-Bacon Act, which passed in 1931 and predates all state corollaries. The Davis-Bacon Act subjects all federally funded projects worth more than \$2,000 to prevailing wage requirements. Sec. 2 of Senate Bill 226 would lower Nevada’s current thresholds to this standard. The Davis-Bacon Act was a congressional response to the perceived problem of racially Black laborers winning federal contracts instead of White laborers. At that time, trade unions systematically excluded Black Americans from their membership and lobbied to ensure that unions would be awarded federal contracts.

According to the 1930 Census, Black Americans accounted for 22.8 percent of all unskilled construction labor – twice their prevalence in the overall labor force. During testimony in support of the measure, Rep. Clayton Allgood stated on the record that the rationale for the measure was that “cheap, colored labor is in competition with white labor throughout the country.” Rep. William Upshaw also stated, “You will not think that a Southern man is more than human if he smiles over the fact of your

The Nevada Policy Research Institute is a nonpartisan, nonprofit think tank that promotes policy ideas consistent with the principles of limited government, individual liberty and free markets. As a 501(c)(3) organization, as defined by the Internal Revenue Code, the Institute does not endorse or oppose political candidates.

reaction to that real problem you are confronted with in any community with a superabundance or large aggregation of Negro labor.” Indeed, throughout the Congressional record, it is clear that the primary motivation of the Davis-Bacon Act was to preclude Black Americans from winning contracts on federal projects.^[6]

The racially discriminatory effect of Davis-Bacon and state prevailing wage laws remains in effect, as Black workers are statistically less likely to belong to construction trade unions than White workers. A 1999 study published by the National Bureau of Economic Research concluded that “repeal of [prevailing wage laws] is associated with a sizeable reduction in the union wage premium and a significant narrowing of the black/nonblack wage differential for construction workers.”^[7]

Senate Bill 226 would classify almost everything as a “public work.” Sec. 5 of SB 226 would implement overly broad definitions of “public work” in an effort to subject more projects to union-controlled prevailing wage rates. It would include within the definition of a “public work” many projects that are privately owned and receive no public financing. Any project within a legislatively defined improvement district or redevelopment zone would be classified as a public work despite the lack of public financing or ownership.

Sec. 5 would even class any work over which a public body retains “a contingent right ... to retake ownership of the property or premises” as a “public work” subject to prevailing wage laws. Technically, public bodies retain a contingent right to retake ownership of all properties within their jurisdictions through asset levies against parcels for which property taxes become seriously delinquent. One interpretation of this provision is that prevailing wage would become required for all construction projects anywhere in the state of Nevada regardless of whether those projects have any connection to a true public work. If the legislature is intent on pursuing SB 226, it should at least remove this provision.

States are rapidly repealing prevailing wage laws and Nevada should as well. At the high point in 1978, 41 states had enacted prevailing wage laws. Since then, 13 states have repealed these laws (including Oklahoma where the state supreme court declared the law unconstitutional). The most recent state to do so was Michigan in 2018. In recognition of the economic inefficiency, higher tax burden and the intended racially discriminatory effects of prevailing wage laws, Nevada should join the movement and abandon these laws.

Sincerely,

*Geoffrey Lawrence
Research Director
Nevada Policy*

^[6] Geoffrey Lawrence, “Who Really Prevails Under Prevailing Wage?” Nevada Policy, April 2011, https://www.npri.org/docLib/20110419_Who_Really_Prevails_Under_Prevailing_Wage.pdf.

^[7] Office of the Nevada Labor Commissioner, Letter from Labor Commissioner Michael Tanchek to Assembly Minority Leader Pete Goicoechea, Oct. 14, 2010.

The Nevada Policy Research Institute is a nonpartisan, nonprofit think tank that promotes policy ideas consistent with the principles of limited government, individual liberty and free markets. As a 501(c)(3) organization, as defined by the Internal Revenue Code, the Institute does not endorse or oppose political candidates.

- ^[3] Paul Kersey, “The Effects of Michigan’s Prevailing Wage Law,” Mackinac Center for Public Policy, <https://www.mackinac.org/S2007-09>.
- ^[4] Ohio Legislative Service Commission, Staff Research Report No. 149, “The Effects of the Exemption of School Construction Projects from Ohio’s Prevailing Wage Law,” May 20, 2002, <https://www.lsc.state.oh.us/research/srr149.pdf>.
- ^[5] Sarah Glassman et al., “The Federal Davis-Bacon Act: The Prevailing Mismeasure of Wages,” Beacon Hill Institute at Suffolk University, <https://www.beaconhill.org/bhistudies/prevwage08/davisbaconprevwage080207final.pdf>.
- ^[6] Congressional Record, February 28, 1931, p. 6,513; House Committee on Labor, Hearings on H.R. 17069, 69th Congress, 2d Sess. Feb. 28, 1927, p. 3.
- ^[7] Daniel Kessler and Lawrence Katz, “Prevailing Wage Laws and Construction Labor Markets,” National Bureau of Economic Research Working Paper 7454, <https://www.nber.org/papers/w7454>.
- ^[8]

Amendment No. 477

Senate Amendment to Senate Bill No. 226	(BDR 28-494)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 226 (§§ 3, 5).

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

ERS/HAC



Date: 4/22/2023

S.B. No. 226—Revises provisions governing public works. (BDR 28-494)



SENATE BILL NO. 226—SENATOR CANNIZZARO

MARCH 7, 2023

JOINT SPONSOR: ASSEMBLYMAN YEAGER

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works. (BDR 28-494)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 3, 5) ~~[9, 13, 14]~~
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

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

AN ACT relating to public works; providing a declaration of legislative intent regarding the payment of prevailing wages on public works projects; ~~[deeming]~~ ***providing that*** certain projects ~~to be financed in whole or in part from public money for purposes of determining whether a project is a public work; excluding certain public works projects from certain procedures for awarding contracts;~~ ***require the payment of prevailing wages;*** revising ~~[certain definitions relating to]~~ ***the definition of “public*** ~~[works; requiring the payment of prevailing wages to workers who perform custom fabrication on a public work or for certain performance contracts of local governments or state agencies;]~~ ***work”;*** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of a public work, must contain in express terms the hourly and daily rate of wages to be paid to each of the classes of mechanics and workers. The hourly and daily rate of wages must not be less than the prevailing wage in the region in which the public work is located, as determined by the Labor Commissioner. (NRS 338.020) ~~[Section 9 of this bill provides that workers who perform custom fabrication on a public work must also be paid such a prevailing wage. Section 5 of this bill revises the definition of “worker” to include a worker who performs custom fabrication.~~

~~Existing law provides that performance contracts for certain operating cost savings measures entered into by local governments and state agencies must contain in express terms the hourly and daily rate of wages to be paid to each class of mechanics and workers. Such wages must not be less than the prevailing wage in the region in which the local government or state agency is located. (NRS 332.390, 333A.120) Similar to section 5, sections 13 and 14~~

of this bill, respectively, provide that workers who perform custom fabrication must also be paid such a prevailing wage.]

Section 2 of this bill makes a declaration of legislative intent finding that: (1) the payment of prevailing wages to workers on public works projects that are funded in whole or in part by public money is essential to the economic well-being of this State, increasing the number of skilled construction workers in this State, enhancing the workforce of the State and increasing redevelopment opportunities in the State; **and** (2) ~~[to the extent practicable, the interpretation of the provisions of the Nevada Revised Statutes, and regulations adopted pursuant thereto, must be aligned with the provisions of the federal Davis Bacon Act, 40 U.S.C. §§ 3141 et seq., to ensure uniformity and consistency on federal and state public works projects in this State; and (3) any interpretation of the Act applies to the interpretation of chapter 338 of NRS, and any regulations adopted pursuant thereto, unless the interpretation of the Act directly conflicts with a clear and specific requirement set forth in chapter 338 of NRS and any regulations adopted pursuant thereto.]~~ **careful scrutiny of novel leasing and financial arrangements entered into and incentives offered by a public body is necessary to ensure workers are paid the prevailing wage.** **Section 8** of this bill provides that any regulation adopted by the Labor Commissioner relating to public works must be consistent with the declaration of legislative intent set forth in **section 2**.

Existing law ~~[defines the term “public work” to mean any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for certain publicly owned works and property. (NRS 338.010)]~~ **makes the prevailing wage requirements applicable to certain, specific construction projects. (NRS 244.286, 244A.058, 244A.763, 268.568, 271.710, 271.800, 278C.240, 279.500, 318.140, 318.144, 321.416, 332.390, 333A.120, 349.670, 349.956, 349.981, 388A.635, 408.3886, 543.545, 701B.265, 701B.625)** **Section 3** of this bill ~~[provides that for purposes of determining whether a project is a public work, it shall be deemed that a project is financed in whole or in part from public money]~~ **requires, with certain exceptions, the payment of prevailing wages on any project if, [without limitation:] pursuant to certain agreements or partnerships between a developer and a public body: (1) the property or premises on which the project will be constructed or developed is owned by a public body ; (2) the property or premises on which a project will be constructed or developed is, in whole or in part, subject to a lease or lease-purchase agreement by a public body; (3) a public body pays money or other compensation directly to or on behalf of the developer or contractor of the project or any subcontractor who performs any work on the project; ~~[(2)] (4)~~ (4) a public body pays, credits, reduces, forgives or waives any fee, cost, rent, insurance premium, bond premium, obligation or expense, including, without limitation, an incidental expense, in relation to the project that is normally required in the execution of a contract for a public work ~~[-(3)] on which the estimated cost exceeds \$100,000; (5) a public body loans money in relation to the project that is required to be repaid to the public body [on a contingent basis; (4) any employee of] ; (6) a public body [performs skilled work or labor in furtherance of] retains any right to ownership of the property or premises after construction work begins on the project; ~~[(5)] (7)~~ (7) in relation to the project, a public body sells, leases or otherwise transfers for less than fair market value any developed or undeveloped real property or any other property or asset; or ~~[(6)] (8)~~ (8) in relation to the project, a public body transfers property of the State or political subdivision for less than fair market value. **Section 3 exempts from these provisions certain projects relating to affordable housing.**~~**

Existing law defines the term “public work” to mean any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for certain publicly owned works and property. (NRS 338.010) **Section 5 of this bill** amends the definition of “public work” to include ~~[the construction, demolition, alteration, custom fabrication or repair work on any property or premises, regardless of whether] a project~~ financed in whole or in part from public money. ~~[if, at the time the contract for the project is entered into: (1) the property or premises is owned by a public body; (2) the property or premises, in whole or in part, is leased by a public body or is subject to an agreement to be subsequently leased by a public body; (3) the property, or any horizontal construction or vertical construction relating thereto, is in an improvement district; (4) the project, or any horizontal construction or vertical construction relating thereto, is a redevelopment project; (5) the project qualifies for certain tax credits; (6) the property, or any horizontal construction or vertical construction relating thereto, has been or will be conveyed,~~

74 in whole or in part, to a public body pursuant to the terms of a development agreement with
 75 the public body; or (7) a public body retains any right, including, without limitation, a
 76 contingent right, to retake ownership of the property or premises after the commencement of
 77 work on the project. Section 4 of this bill provides that certain procedures relating to awarding
 78 contracts for public works do not apply to such public works projects. Section 5 also revises
 79 the definition of the terms "horizontal construction" and "vertical construction."
 80 — Sections 10-12 of this bill make conforming changes to indicate the proper placement of
 81 sections 2 and 3 within the Nevada Revised Statutes. Section 7 of this bill makes conforming
 82 changes to indicate the proper placement of section 4 within the Nevada Revised Statutes.]

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

1 **Section 1.** Chapter 338 of NRS is hereby amended by adding thereto the
 2 provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *The Legislature hereby finds and declares that:*

4 *1. The payment of prevailing wages to workers on public works projects that*
 5 *are funded in whole or in part by public money is essential to:*

- 6 (a) *The economic well-being of this State;*
 7 (b) *Increasing the number of skilled construction workers in this State;*
 8 (c) *Enhancing the workforce in this State; and*
 9 (d) *Increasing redevelopment opportunities in this State.*

10 *2. To [the extent practicable, the interpretation of provisions of the Nevada*
 11 *Revised Statutes, and regulations adopted pursuant thereto, relating to public*
 12 *works and prevailing wages must be aligned with provisions of the federal Davis-*
 13 *Bacon Act, 40 U.S.C. §§ 3141 et seq., to ensure uniformity and consistency on*
 14 *federal and state public works projects in this State.*

15 *3. It is the intent of the Legislature that any interpretation of the federal*
 16 *Davis Bacon Act, 40 U.S.C. §§ 3141 et seq., applies to the interpretation of*
 17 *provisions of this chapter, and any regulation adopted pursuant thereto, unless*
 18 *the interpretation of the federal Davis Bacon Act, 40 U.S.C. §§ 3141 et seq.,*
 19 *directly conflicts with a clear and specific requirement set forth in this chapter or*
 20 *a regulation adopted pursuant thereto.] ensure the intentions set forth in*
 21 *subsection 1 are upheld, careful scrutiny of novel leasing and financing*
 22 *arrangements entered into or incentives offered by public bodies for the*
 23 *construction of public works is necessary to ensure that workers on public works*
 24 *projects are paid prevailing wages.*

25 **Sec. 3.** *[For purposes of determining whether a project is a public work, it*
 26 *shall be deemed that a project is financed in whole or in part from public money]*

27 *1. The provisions of NRS 338.013 to 338.090, inclusive, apply to any project*
 28 *if, [without limitation,] pursuant to the provisions of a contract or a lease*
 29 *agreement, lease-purchase agreement, development agreement, improvement*
 30 *district, redevelopment project or public-private partnership between a private*
 31 *developer and a public body;*

32 *[H.] (a) The property or premises on which a project will be constructed or*
 33 *developed is owned by a public body;*

34 *(b) The property or premises on which a project will be constructed or*
 35 *developed are, in whole or in part, subject to a lease or lease-purchase agreement*
 36 *by a public body;*

37 *(c) A public body pays money or other compensation directly to or on behalf*
 38 *of the developer or contractor of the project or any subcontractor who performs*
 39 *any work on the project;*

~~2. A~~ or

(d) Except as otherwise provided in subsection 2, a public body ~~pays~~ :

(1) Pays, credits, reduces, forgives or waives any fee, cost, rent, insurance premium, bond premium, obligation or expense, including, without limitation, an incidental expense, in relation to the project that is normally required in the execution of a contract for a public work ~~for~~

~~3. A public body loans~~ on which the estimated cost exceeds \$100,000;

(2) Loans money in relation to the project that is required to be repaid to the public body ~~on a contingent basis;~~

~~4. Any employee of a public body performs skilled work or labor in furtherance of the project;~~

~~5. In~~ , regardless of the terms of the loan or the interest charged;

(3) Retains any right, including, without limitation, a contingent right, to retake ownership of the property or premises after construction work begins on the project;

(4) In relation to the project, a public body sells, leases or otherwise transfers for less than fair market value any developed or undeveloped real property or any other property or asset; or

~~6. In~~

(5) In relation to the project, a public body transfers property for less than fair market value.

2. The provisions of paragraph (d) of subsection 1 are not applicable if a local government takes an action set forth in paragraph (d) of subsection 1 for the construction of affordable housing, if such affordable housing is less than three floors, regardless of whether each or any floor is above or below ground.

3. As used in this section:

(a) "Affordable housing" means:

(1) Multifamily housing that is:

(I) Tier one affordable housing or tier two affordable housing; and

(II) Subject to a legally binding agreement or other instrument that includes restrictions for the resale of the property to require that such property continue to be used as tier one affordable housing or tier two affordable housing;

or

(2) Single-family residential housing that is:

(I) Built on property that the homeowner leases under an agreement that includes restrictions for the resale of the property to require that such property continue to be used as tier two affordable housing or tier three affordable housing;

(II) Owned by a household that qualifies for tier two affordable housing or tier three affordable housing; and

(III) Subject to a legally binding agreement or other instrument that includes restrictions for the resale of the property to require that such property continue to be used as tier two affordable housing or tier three affordable housing.

(b) "Improvement district" has the meaning ascribed to it in NRS 271.130.

(c) "Tier one affordable housing" has the meaning ascribed to it in NRS 278.01902.

(d) "Tier three affordable housing" has the meaning ascribed to it in NRS 278.01904.

(e) "Tier two affordable housing" has the meaning ascribed to it in NRS 278.01906.

1 **Sec. 4.** ~~1. The general procedures for awarding contracts, as described in~~
 2 ~~NRS 338.1373 to 338.139, inclusive, do not apply to a public work completed on a~~
 3 ~~property or premises if, at the time of entering into the contract:~~

4 ~~—(a) The property or premises, in whole or in part, is leased by a public body~~
 5 ~~or is subject to an agreement to be subsequently leased by a public body;~~

6 ~~—(b) The property, or any horizontal construction or vertical construction~~
 7 ~~relating thereto, is in an improvement district, as defined in NRS 271.130;~~

8 ~~—(c) The project, or any horizontal construction or vertical construction~~
 9 ~~relating thereto, is a redevelopment project, as defined in NRS 279.412, that is~~
 10 ~~financed pursuant to chapter 279 of NRS;~~

11 ~~—(d) The project is a qualified project, as defined in NRS 360.888;~~

12 ~~—(e) The property, or any horizontal construction or vertical construction~~
 13 ~~relating thereto, has been or will be conveyed, in whole or in part, to a public~~
 14 ~~body pursuant to the terms of a development agreement with the public body; or~~

15 ~~—(f) A public body retains any right, including, without limitation, a~~
 16 ~~contingent right, to retake ownership of the property or premises after the~~
 17 ~~commencement of work on the project.~~

18 ~~2. This section must not be construed to abrogate the requirement to pay~~
 19 ~~prevailing wages on a public work described in subsection 1.) Deleted by~~
 20 ~~amendment.)~~

21 **Sec. 5.** NRS 338.010 is hereby amended to read as follows:

22 338.010 As used in this chapter:

23 1. “Authorized representative” means a person designated by a public body to
 24 be responsible for the development, solicitation, award or administration of
 25 contracts for public works pursuant to this chapter.

26 2. “Bona fide fringe benefit” means a benefit in the form of a contribution
 27 that is made not less frequently than monthly to an independent third party pursuant
 28 to a fund, plan or program:

29 (a) Which is established for the sole and exclusive benefit of a worker and his
 30 or her family and dependents; and

31 (b) For which none of the assets will revert to, or otherwise be credited to, any
 32 contributing employer or sponsor of the fund, plan or program.

33 ➤ The term includes, without limitation, benefits for a worker that are determined
 34 pursuant to a collective bargaining agreement and included in the determination of
 35 the prevailing wage by the Labor Commissioner pursuant to NRS 338.030.

36 3. “Contract” means a written contract entered into between a contractor and
 37 a public body for the provision of labor, materials, equipment or supplies for a
 38 public work.

39 4. “Contractor” means:

40 (a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

41 (b) A design-build team.

42 5. “Day labor” means all cases where public bodies, their officers, agents or
 43 employees, hire, supervise and pay the wages thereof directly to a worker or
 44 workers employed by them on public works by the day and not under a contract in
 45 writing.

46 6. “Design-build contract” means a contract between a public body and a
 47 design-build team in which the design-build team agrees to design and construct a
 48 public work.

49 7. “Design-build team” means an entity that consists of:

50 (a) At least one person who is licensed as a general engineering contractor or a
 51 general building contractor pursuant to chapter 624 of NRS; and

52 (b) For a public work that consists of:

1 (1) A building and its site, at least one person who holds a certificate of
2 registration to practice architecture pursuant to chapter 623 of NRS.

3 (2) Anything other than a building and its site, at least one person who
4 holds a certificate of registration to practice architecture pursuant to chapter 623 of
5 NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed
6 as a professional engineer pursuant to chapter 625 of NRS.

7 8. "Design professional" means:

8 (a) A person who is licensed as a professional engineer pursuant to chapter 625
9 of NRS;

10 (b) A person who is licensed as a professional land surveyor pursuant to
11 chapter 625 of NRS;

12 (c) A person who holds a certificate of registration to engage in the practice of
13 architecture, interior design or residential design pursuant to chapter 623 of NRS;

14 (d) A person who holds a certificate of registration to engage in the practice of
15 landscape architecture pursuant to chapter 623A of NRS; or

16 (e) A business entity that engages in the practice of professional engineering,
17 land surveying, architecture or landscape architecture.

18 9. "Discrete project" means one or more public works which are undertaken
19 on a single construction site for a single public body. The term does not include one
20 or more public works that are undertaken on multiple construction sites regardless
21 of whether the public body which sponsors or finances the public works bundles the
22 public works together.

23 10. "Division" means the State Public Works Division of the Department of
24 Administration.

25 11. "Eligible bidder" means a person who is:

26 (a) Found to be a responsible and responsive contractor by a local government
27 or its authorized representative which requests bids for a public work in accordance
28 with paragraph (b) of subsection 1 of NRS 338.1373; or

29 (b) Determined by a public body or its authorized representative which
30 awarded a contract for a public work pursuant to NRS 338.1375 to 338.139,
31 inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or
32 338.1382.

33 12. "General contractor" means a person who is licensed to conduct business
34 in one, or both, of the following branches of the contracting business:

35 (a) General engineering contracting, as described in subsection 2 of NRS
36 624.215.

37 (b) General building contracting, as described in subsection 3 of NRS 624.215.

38 13. "Governing body" means the board, council, commission or other body in
39 which the general legislative and fiscal powers of a local government are vested.

40 14. "Horizontal construction" means any ~~fixed~~ construction, alteration,
41 repair, renovation, demolition or remodeling necessary to complete a ~~for any fixed~~
42 public work, including, without limitation, any irrigation, drainage, water supply,
43 flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage
44 disposal plant or water treatment facility and any ancillary vertical components
45 thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any
46 other liquid or gaseous substance, pier, and any other work incidental thereto. The
47 term does not include vertical construction, the construction of any terminal or
48 other building of an airport or airway, or the construction of any other building.

49 15. "Local government" means every political subdivision or other entity
50 which has the right to levy or receive money from ad valorem or other taxes or any
51 mandatory assessments, and includes, without limitation, counties, cities, towns,
52 boards, school districts and other districts organized pursuant to chapters 244A,
53 318, 318A, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,

1 inclusive, and any agency or department of a county or city which prepares a
 2 budget separate from that of the parent political subdivision. The term includes a
 3 person who has been designated by the governing body of a local government to
 4 serve as its authorized representative.

5 16. "Offense" means:

6 (a) Failing to:

7 (1) Pay the prevailing wage required pursuant to this chapter;

8 (2) Pay the contributions for unemployment compensation required
 9 pursuant to chapter 612 of NRS;

10 (3) Provide and secure compensation for employees required pursuant to
 11 chapters 616A to 617, inclusive, of NRS; or

12 (4) Comply with subsection 5 or 6 of NRS 338.070.

13 (b) Discharging an obligation to pay wages in a manner that violates the
 14 provisions of NRS 338.035.

15 17. "Prime contractor" means a contractor who:

16 (a) Contracts to construct an entire project;

17 (b) Coordinates all work performed on the entire project;

18 (c) Uses his or her own workforce to perform all or a part of the public work;
 19 and

20 (d) Contracts for the services of any subcontractor or independent contractor or
 21 is responsible for payment to any contracted subcontractors or independent
 22 contractors.

23 ➤ The term includes, without limitation, a general contractor or a specialty
 24 contractor who is authorized to bid on a project pursuant to NRS 338.139 or
 25 338.148.

26 18. "Public body" means the State, county, city, town, school district or any
 27 public agency of this State or its political subdivisions sponsoring or financing a
 28 public work.

29 19. "Public work" means any project ~~for the new construction, repair or~~
 30 ~~reconstruction of a project~~ financed ~~for~~

31 ~~(a) Financed~~ in whole or in part from public money for:

32 ~~(a) (1)~~ Public buildings;

33 ~~(b) (2)~~ Jails and prisons;

34 ~~(c) (3)~~ Public roads;

35 ~~(d) (4)~~ Public highways;

36 ~~(e) (5)~~ Public streets and alleys;

37 ~~(f) (6)~~ Public utilities;

38 ~~(g) (7)~~ Publicly owned water mains and sewers;

39 ~~(h) (8)~~ Public parks and playgrounds;

40 ~~(i) (9)~~ Public convention facilities which are financed at least in part ~~with~~
 41 ~~from~~ public money; and

42 ~~(j) (10)~~ All other publicly owned works and property ~~and publicly leased~~
 43 ~~property where construction, reconstruction, demolition, alteration, custom~~
 44 ~~fabrication, repair, maintenance, painting or decorating is performed by skilled~~
 45 ~~mechanics, skilled workers, semiskilled mechanics, semiskilled workers or~~
 46 ~~unskilled labor.~~

47 ~~(b) That includes construction, demolition, alteration, custom fabrication or~~
 48 ~~repair work on any property or premises, regardless of whether financed in whole~~
 49 ~~or in part from public money if, at the time the contract for the project is entered~~
 50 ~~into:~~

51 ~~(1) The property or premises is owned by a public body;~~

52 ~~(2) The property or premises, in whole or in part, is leased by a public~~
 53 ~~body or is subject to an agreement to be subsequently leased by a public body;~~

~~(3) The property, or any horizontal construction or vertical construction relating thereto, is in an improvement district, as that term is defined in NRS 271.130;~~

~~(4) The project, or any horizontal construction or vertical construction relating thereto, is a redevelopment project, as that term is defined in NRS 279.412, that is financed pursuant to chapter 279 of NRS;~~

~~(5) The project is a qualified project, as that term is defined in NRS 360.888;~~

~~(6) The property, or any horizontal construction or vertical construction relating thereto, has been or will be conveyed, in whole or in part, to a public body pursuant to the terms of a development agreement with the public body; or~~

~~(7) A public body retains any right, including, without limitation, a contingent right, to retake ownership of the property or premises after the commencement of work on the project.~~

20. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

21. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

↳ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

22. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier, ↳ for the provision of labor, materials, equipment or supplies for a construction project.

23. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

24. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

25. "Vertical construction" means any [the] construction, alteration, repair, renovation, demolition or remodeling necessary to complete a public work for [off] any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any other work or improvement appurtenant thereto.

26. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other bona fide fringe benefits which are a benefit to the worker.

27. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker ~~[r]~~ or unskilled worker ~~for worker who performs custom fabrication~~ in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or

1 written, whether lawfully or unlawfully employed. The term does not include a
2 design professional.

3 **Sec. 6.** ~~[NRS 338.010 is hereby amended to read as follows:~~

4 ~~338.010 As used in this chapter:~~

5 ~~1. "Authorized representative" means a person designated by a public body to~~
6 ~~be responsible for the development, solicitation, award or administration of~~
7 ~~contracts for public works pursuant to this chapter.~~

8 ~~2. "Bona fide fringe benefit" means a benefit in the form of a contribution~~
9 ~~that is made not less frequently than monthly to an independent third party pursuant~~
10 ~~to a fund, plan or program:~~

11 ~~(a) Which is established for the sole and exclusive benefit of a worker and his~~
12 ~~or her family and dependents; and~~

13 ~~(b) For which none of the assets will revert to, or otherwise be credited to, any~~
14 ~~contributing employer or sponsor of the fund, plan or program.~~

15 ~~The term includes, without limitation, benefits for a worker that are determined~~
16 ~~pursuant to a collective bargaining agreement and included in the determination of~~
17 ~~the prevailing wage by the Labor Commissioner pursuant to NRS 238.030.~~

18 ~~3. "Contract" means a written contract entered into between a contractor and~~
19 ~~a public body for the provision of labor, materials, equipment or supplies for a~~
20 ~~public work.~~

21 ~~4. "Contractor" means:~~

22 ~~(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.~~

23 ~~(b) A design build team.~~

24 ~~5. "Day labor" means all cases where public bodies, their officers, agents or~~
25 ~~employees, hire, supervise and pay the wages thereof directly to a worker or~~
26 ~~workers employed by them on public works by the day and not under a contract in~~
27 ~~writing.~~

28 ~~6. "Design build contract" means a contract between a public body and a~~
29 ~~design build team in which the design build team agrees to design and construct a~~
30 ~~public work.~~

31 ~~7. "Design build team" means an entity that consists of:~~

32 ~~(a) At least one person who is licensed as a general engineering contractor or a~~
33 ~~general building contractor pursuant to chapter 624 of NRS; and~~

34 ~~(b) For a public work that consists of:~~

35 ~~(1) A building and its site, at least one person who holds a certificate of~~
36 ~~registration to practice architecture pursuant to chapter 623 of NRS.~~

37 ~~(2) Anything other than a building and its site, at least one person who~~
38 ~~holds a certificate of registration to practice architecture pursuant to chapter 623 of~~
39 ~~NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed~~
40 ~~as a professional engineer pursuant to chapter 625 of NRS.~~

41 ~~8. "Design professional" means:~~

42 ~~(a) A person who is licensed as a professional engineer pursuant to chapter 625~~
43 ~~of NRS;~~

44 ~~(b) A person who is licensed as a professional land surveyor pursuant to~~
45 ~~chapter 625 of NRS;~~

46 ~~(c) A person who holds a certificate of registration to engage in the practice of~~
47 ~~architecture, interior design or residential design pursuant to chapter 623 of NRS;~~

48 ~~(d) A person who holds a certificate of registration to engage in the practice of~~
49 ~~landscape architecture pursuant to chapter 623A of NRS; or~~

50 ~~(e) A business entity that engages in the practice of professional engineering,~~
51 ~~land surveying, architecture or landscape architecture.~~

52 ~~9. "Discrete project" means one or more public works which are undertaken~~
53 ~~on a single construction site for a single public body. The term does not include one~~

1 ~~or more public works that are undertaken on multiple construction sites regardless~~
2 ~~of whether the public body which sponsors or finances the public works bundles the~~
3 ~~public works together.~~

4 ~~10. "Division" means the State Public Works Division of the Department of~~
5 ~~Administration.~~

6 ~~11. "Eligible bidder" means a person who is:~~

7 ~~(a) Found to be a responsible and responsive contractor by a local government~~
8 ~~or its authorized representative which requests bids for a public work in accordance~~
9 ~~with paragraph (b) of subsection 1 of NRS 338.1373; or~~

10 ~~(b) Determined by a public body or its authorized representative which~~
11 ~~awarded a contract for a public work pursuant to NRS 338.1375 to 338.139,~~
12 ~~inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or~~
13 ~~338.1382.~~

14 ~~12. "General contractor" means a person who is licensed to conduct business~~
15 ~~in one, or both, of the following branches of the contracting business:~~

16 ~~(a) General engineering contracting, as described in subsection 2 of NRS~~
17 ~~624.215.~~

18 ~~(b) General building contracting, as described in subsection 3 of NRS 624.215.~~

19 ~~13. "Governing body" means the board, council, commission or other body in~~
20 ~~which the general legislative and fiscal powers of a local government are vested.~~

21 ~~14. "Horizontal construction" means the construction of any fixed public~~
22 ~~work, including, without limitation, any irrigation, drainage, water supply, flood~~
23 ~~control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal~~
24 ~~plant or water treatment facility and any ancillary vertical components thereof,~~
25 ~~bridge, inland waterway, pipeline for the transmission of petroleum or any other~~
26 ~~liquid or gaseous substance, pier, and any other work incidental thereto. The term~~
27 ~~does not include vertical construction, the construction of any terminal or other~~
28 ~~building of an airport or airway, or the construction of any other building.~~

29 ~~15. "Local government" means every political subdivision or other entity~~
30 ~~which has the right to levy or receive money from ad valorem or other taxes or any~~
31 ~~mandatory assessments, and includes, without limitation, counties, cities, towns,~~
32 ~~boards, school districts and other districts organized pursuant to chapters 244A,~~
33 ~~318, 318A, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,~~
34 ~~inclusive, and any agency or department of a county or city which prepares a~~
35 ~~budget separate from that of the parent political subdivision. The term includes a~~
36 ~~person who has been designated by the governing body of a local government to~~
37 ~~serve as its authorized representative.~~

38 ~~16. "Offense" means:~~

39 ~~(a) Failing to:~~

40 ~~(1) Pay the prevailing wage required pursuant to this chapter;~~

41 ~~(2) Pay the contributions for unemployment compensation required~~
42 ~~pursuant to chapter 612 of NRS;~~

43 ~~(3) Provide and secure compensation for employees required pursuant to~~
44 ~~chapters 616A to 617, inclusive, of NRS; or~~

45 ~~(4) Comply with subsection 5 or 6 of NRS 338.070.~~

46 ~~(b) Discharging an obligation to pay wages in a manner that violates the~~
47 ~~provisions of NRS 338.035.~~

48 ~~17. "Prime contractor" means a contractor who:~~

49 ~~(a) Contracts to construct an entire project;~~

50 ~~(b) Coordinates all work performed on the entire project;~~

51 ~~(c) Uses his or her own workforce to perform all or a part of the public work;~~
52 ~~and~~

~~(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.~~

~~The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.~~

~~18. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.~~

~~19. "Public work" means any project:~~

~~(a) Financed in whole or in part from public money for:~~

~~(1) Public buildings;~~

~~(2) Jails and prisons;~~

~~(3) Public roads;~~

~~(4) Public highways;~~

~~(5) Public streets and alleys;~~

~~(6) Public utilities;~~

~~(7) Publicly owned water mains and sewers;~~

~~(8) Public parks and playgrounds;~~

~~(9) Public convention facilities which are financed at least in part from public money; and~~

~~(10) All publicly owned works and property and publicly leased property where construction, reconstruction, demolition, alteration, custom fabrication, repair, maintenance, painting or decorating is performed by skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor.~~

~~(b) That includes construction, demolition, alteration, custom fabrication or repair work on any property or premises, regardless of whether financed in whole or in part from public money if, at the time the contract for the project is entered into:~~

~~(1) The property or premises is owned by a public body;~~

~~(2) The property or premises, in whole or in part, is leased by a public body or is subject to an agreement to be subsequently leased by a public body;~~

~~(3) The property, or any horizontal construction or vertical construction relating thereto, is in an improvement district, as that term is defined in NRS 271.130;~~

~~(4) The project, or any horizontal construction or vertical construction relating thereto, is a redevelopment project, as that term is defined in NRS 279.412, that is financed pursuant to chapter 279 of NRS;~~

~~(5) [The project is a qualified project, as that term is defined in NRS 360.888;~~

~~(6) The property, or any horizontal construction or vertical construction relating thereto, has been or will be conveyed, in whole or in part, to a public body pursuant to the terms of a development agreement with the public body; or~~

~~[(7)] (6) A public body retains any right, including, without limitation, a contingent right, to retake ownership of the property or premises after the commencement of work on the project.~~

~~20. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.~~

~~21. "Stand alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:~~

~~(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and~~

~~1 (b) A project for the construction or installation of a storm drain, including
2 facilities appurtenant thereto;
3 that is not located at the site of a public work for the design and construction of
4 which a public body is authorized to contract with a design-build team pursuant to
5 subsection 2 of NRS 338.1711.~~

~~6 22. "Subcontract" means a written contract entered into between:~~

~~7 (a) A contractor and a subcontractor or supplier; or~~

~~8 (b) A subcontractor and another subcontractor or supplier;~~

~~9 for the provision of labor, materials, equipment or supplies for a construction
10 project.~~

~~11 23. "Subcontractor" means a person who:~~

~~12 (a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs
13 such work that the person is not required to be licensed pursuant to chapter 624 of
14 NRS; and~~

~~15 (b) Contracts with a contractor, another subcontractor or a supplier to provide
16 labor, materials or services for a construction project.~~

~~17 24. "Supplier" means a person who provides materials, equipment or supplies
18 for a construction project.~~

~~19 25. "Vertical construction" means the construction or remodeling of any
20 building, structure or other improvement that is predominantly vertical, including,
21 without limitation, a building, structure or improvement for the support, shelter and
22 enclosure of persons, animals, chattels or movable property of any kind, and any
23 other work or improvement appurtenant thereto.~~

~~24 26. "Wages" means:~~

~~25 (a) The basic hourly rate of pay; and~~

~~26 (b) The amount of pension, health and welfare, vacation and holiday pay, the
27 cost of apprenticeship training or other bona fide fringe benefits which are a benefit
28 to the worker.~~

~~29 27. "Worker" means a skilled mechanic, skilled worker, semiskilled
30 mechanic, semiskilled worker, unskilled worker or worker who performs custom
31 fabrication in the service of a contractor or subcontractor under any appointment or
32 contract of hire or apprenticeship, express or implied, oral or written, whether
33 lawfully or unlawfully employed. The term does not include a design professional.]~~

~~34 **(Deleted by amendment.)**~~

~~35 **Sec. 7.** [NRS 338.0115 is hereby amended to read as follows:~~

~~36 338.0115 1. Except as otherwise provided in subsection 2, the provisions of
37 this chapter and chapters 332 and 339 of NRS do not apply to a contract under
38 which a private developer, for the benefit of a private development, constructs a
39 water or sewer line extension and any related appurtenances;~~

~~40 (a) Which qualify as a public work pursuant to NRS 338.010; and~~

~~41 (b) For which the developer will receive a monetary contribution or refund
42 from a public body as reimbursement for a portion of the costs of the project.~~

~~43 2. If, pursuant to the provisions of such a contract, the developer is not
44 responsible for paying all of the initial construction costs of the project, the
45 provisions of NRS 338.0117, 338.013 to 338.090, inclusive, and 338.1373 to
46 338.148, inclusive, and section 4 of this act apply to the contract.] **(Deleted by**~~

~~47 **amendment.)**~~

~~48 **Sec. 8.** NRS 338.012 is hereby amended to read as follows:~~

~~49 338.012 1. The Labor Commissioner may adopt such regulations as are
50 necessary to enable the Labor Commissioner to carry out his or her duties pursuant
51 to the provisions of this chapter.~~

1 **2. Any regulation adopted by the Labor Commissioner pursuant to this**
 2 **chapter must be consistent with the declaration of legislative intent set forth in**
 3 **section 2 of this act.**

4 **Sec. 9. [NRS 338.020 is hereby amended to read as follows:**

5 ~~338.020 1. Every contract to which a public body of this State is a party,~~
 6 ~~requiring the employment of skilled mechanics, skilled workers, semiskilled~~
 7 ~~mechanics, semiskilled workers, [or] unskilled labor or workers who perform~~
 8 ~~custom fabrication in the performance of a public work, must contain in express~~
 9 ~~terms the hourly and daily rate of wages to be paid each of the classes of mechanics~~
 10 ~~and workers. The hourly and daily rate of wages must:~~

11 ~~(a) Not be less than the rate of such wages then prevailing in the region in~~
 12 ~~which the public work is located, which prevailing rate of wages must have been~~
 13 ~~determined in the manner provided in NRS 338.020; and~~

14 ~~(b) Be posted on the site of the public work in a place generally visible to the~~
 15 ~~workers.~~

16 ~~2. When public work is performed by day labor, the prevailing wage for each~~
 17 ~~class of mechanics and workers so employed applies and must be stated clearly to~~
 18 ~~such mechanics and workers when employed.~~

19 ~~3. Except as otherwise provided in subsection 4, a contractor or subcontractor~~
 20 ~~shall pay to a mechanic or worker employed by the contractor or subcontractor on~~
 21 ~~the public work not less than one and one-half times the prevailing rate of wages~~
 22 ~~applicable to the class of the mechanic or worker for each hour the mechanic or~~
 23 ~~worker works on the public work in excess of:~~

24 ~~(a) Forty hours in any scheduled week of work by the mechanic or worker for~~
 25 ~~the contractor or subcontractor, including, without limitation, hours worked for the~~
 26 ~~contractor or subcontractor on work other than the public work; or~~

27 ~~(b) Eight hours in any workday that the mechanic or worker was employed by~~
 28 ~~the contractor or subcontractor, including, without limitation, hours worked for the~~
 29 ~~contractor or subcontractor on work other than the public work, unless by mutual~~
 30 ~~agreement the mechanic or worker works a scheduled 10 hours per day for 4~~
 31 ~~calendar days within any scheduled week of work.~~

32 ~~4. The provisions of subsection 3 do not apply to a mechanic or worker who~~
 33 ~~is covered by a collective bargaining agreement that provides for the payment of~~
 34 ~~wages at not less than one and one-half times the rate of wages set forth in the~~
 35 ~~collective bargaining agreement for work in excess of:~~

36 ~~(a) Forty hours in any scheduled week of work; or~~

37 ~~(b) Eight hours in any workday unless the collective bargaining agreement~~
 38 ~~provides that the mechanic or worker shall work a scheduled 10 hours per day for 4~~
 39 ~~calendar days within any scheduled week of work.~~

40 ~~5. The prevailing wage and any wages paid for overtime pursuant to~~
 41 ~~subsection 3 or 4 to each class of mechanics or workers must be in accordance with~~
 42 ~~the jurisdictional classes recognized in the region where the work is performed.~~

43 ~~6. Nothing in this section prevents an employer who is signatory to a~~
 44 ~~collective bargaining agreement from assigning such work in accordance with~~
 45 ~~established practice.] (Deleted by amendment.)~~

46 **Sec. 10. NRS 338.050 is hereby amended to read as follows:**

47 338.050 For the purpose of NRS 338.010 to 338.090, inclusive, **and sections**
 48 **2 and 3 of this act**, except as otherwise provided by specific statute, every worker
 49 who performs work for a public work covered by a contract therefor is subject to all
 50 of the provisions of NRS 338.010 to 338.090, inclusive, **and sections 2 and 3 of**
 51 **this act**, regardless of any contractual relationship alleged to exist between such
 52 worker and his or her employer.

1 **Sec. 11.** NRS 338.070 is hereby amended to read as follows:

2 338.070 1. Any public body awarding a contract shall:

3 (a) Investigate possible violations of the provisions of NRS 338.010 to
4 338.090, inclusive, *and sections 2 and 3 of this act* committed in the course of the
5 execution of the contract, and determine whether a violation has been committed
6 and inform the Labor Commissioner of any such violations; and

7 (b) When making payments to the contractor engaged on the public work of
8 money becoming due under the contract, withhold and retain all sums forfeited
9 pursuant to the provisions of NRS 338.010 to 338.090, inclusive ~~§~~, *and sections 2*
10 *and 3 of this act.*

11 2. No sum may be withheld, retained or forfeited, except from the final
12 payment, without a full investigation being made by the awarding public body.

13 3. Except as otherwise provided in subsection 7, it is lawful for any contractor
14 engaged on a public work to withhold from any subcontractor engaged on the
15 public work sufficient sums to cover any penalties withheld from the contractor by
16 the awarding public body on account of the failure of the subcontractor to comply
17 with the terms of NRS 338.010 to 338.090, inclusive ~~§~~, *and sections 2 and 3 of*
18 *this act.* If payment has already been made to the subcontractor, the contractor may
19 recover from the subcontractor the amount of the penalty or forfeiture in a suit at
20 law.

21 4. A contractor engaged on a public work and each subcontractor engaged on
22 the public work shall:

23 (a) Inquire of each worker employed by the contractor or subcontractor in
24 connection with the public work:

25 (1) Whether the worker wishes to specify voluntarily his or her gender; and

26 (2) Whether the worker wishes to specify voluntarily his or her ethnicity;

27 and

28 (b) For each response the contractor or subcontractor receives pursuant to
29 paragraph (a):

30 (1) If the worker chose voluntarily to specify his or her gender or ethnicity,
31 or both, record the worker's responses; and

32 (2) If the worker declined to specify his or her gender or ethnicity, or both,
33 record that the worker declined to specify such information.

34 ➤ A contractor or subcontractor shall not compel or coerce a worker to specify his
35 or her gender or ethnicity and shall not penalize or otherwise take any adverse
36 action against a worker who declines to specify his or her gender or ethnicity.
37 Before inquiring as to whether a worker wishes to specify voluntarily his or her
38 gender or ethnicity, the applicable contractor or subcontractor must inform the
39 worker that such information, if provided, will be open to public inspection as set
40 forth in subsection 6.

41 5. A contractor engaged on a public work and each subcontractor engaged on
42 the public work shall keep or cause to be kept:

43 (a) An accurate record showing, for each worker employed by the contractor or
44 subcontractor in connection with the public work:

45 (1) The name of the worker;

46 (2) The occupation of the worker;

47 (3) The gender of the worker, if the worker voluntarily agreed to specify
48 that information pursuant to subsection 4, or an entry indicating that the worker
49 declined to specify such information;

50 (4) The ethnicity of the worker, if the worker voluntarily agreed to specify
51 that information pursuant to subsection 4, or an entry indicating that the worker
52 declined to specify such information;

1 (5) If the worker has a driver's license or identification card, an indication
2 of the state or other jurisdiction that issued the license or card; and

3 (6) The actual per diem, wages and benefits paid to the worker; and

4 (b) An additional accurate record showing, for each worker employed by the
5 contractor or subcontractor in connection with the public work who has a driver's
6 license or identification card:

7 (1) The name of the worker;

8 (2) The driver's license number or identification card number of the
9 worker; and

10 (3) The state or other jurisdiction that issued the license or card.

11 6. The records maintained pursuant to subsection 5 must be open at all
12 reasonable hours to the inspection of the public body awarding the contract. The
13 contractor engaged on the public work or subcontractor engaged on the public work
14 shall ensure that a copy of each record for each calendar month is received by the
15 public body awarding the contract no later than 15 days after the end of the month.
16 The copy of the record maintained pursuant to paragraph (a) of subsection 5 must
17 be open to public inspection as provided in NRS 239.010. The copy of the record
18 maintained pursuant to paragraph (b) of subsection 5 is confidential and not open to
19 public inspection. The records in the possession of the public body awarding the
20 contract may be discarded by the public body 2 years after final payment is made
21 by the public body for the public work. The Labor Commissioner shall adopt
22 regulations authorizing and prescribing the procedures for the electronic filing of
23 the copies of the records required to be provided monthly by a contractor or
24 subcontractor to a public body pursuant to this subsection.

25 7. A contractor engaged on a public work shall not withhold from a
26 subcontractor engaged on the public work the sums necessary to cover any
27 penalties provided pursuant to subsection 3 of NRS 338.060 that may be withheld
28 from the contractor by the public body awarding the contract because the public
29 body did not receive a copy of the record maintained by the subcontractor pursuant
30 to subsection 5 for a calendar month by the time specified in subsection 6 if:

31 (a) The subcontractor provided to the contractor, for submission to the public
32 body by the contractor, a copy of the record not later than the later of:

33 (1) Ten days after the end of the month; or

34 (2) A date agreed upon by the contractor and subcontractor; and

35 (b) The contractor failed to submit the copy of the record to the public body by
36 the time specified in subsection 6.

37 ➤ Nothing in this subsection prohibits a subcontractor from submitting a copy of a
38 record for a calendar month directly to the public body by the time specified in
39 subsection 6.

40 8. Any contractor or subcontractor, or agent or representative thereof,
41 performing work for a public work who neglects to comply with the provisions of
42 this section is guilty of a misdemeanor.

43 **Sec. 12.** NRS 338.090 is hereby amended to read as follows:

44 338.090 1. Except as otherwise provided in subsection 5, any person,
45 including the officers, agents or employees of a public body, who violates any
46 provision of NRS 338.010 to 338.090, inclusive, *and sections 2 and 3 of this act* or
47 any regulation adopted pursuant thereto, is guilty of a misdemeanor.

48 2. The Labor Commissioner, in addition to any other remedy or penalty
49 provided in this chapter:

50 (a) Shall, except as otherwise provided in subsection 4, assess a person who,
51 after an opportunity for a hearing, is found to have failed to pay the prevailing wage
52 required pursuant to NRS 338.020 to 338.090, inclusive, an amount equal to the

1 difference between the prevailing wages required to be paid and the wages that the
2 contractor or subcontractor actually paid; and

3 (b) May, in addition to any other administrative penalty, impose an
4 administrative penalty not to exceed the costs incurred by the Labor Commissioner
5 to investigate and prosecute the matter.

6 3. If the Labor Commissioner finds that a person has failed to pay the
7 prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, the public
8 body may, in addition to any other remedy or penalty provided in this chapter,
9 require the person to pay the actual costs incurred by the public body to investigate
10 the matter.

11 4. The Labor Commissioner is not required to assess a person an amount
12 equal to the difference between the prevailing wages required to be paid and the
13 wages that the contractor or subcontractor actually paid if the contractor or
14 subcontractor has already paid that amount to a worker pursuant to paragraph (c) of
15 subsection 4 of NRS 338.035.

16 5. The provisions of subsection 1 do not apply to a subcontractor specified in
17 NRS 338.072.

18 **Sec. 13.** ~~[NRS 332.300 is hereby amended to read as follows:~~

19 ~~— 332.300 1. If a performance contract entered into pursuant to NRS 332.300
20 to 332.440, inclusive, requires the employment of skilled mechanics, skilled
21 workers, semiskilled mechanics, semiskilled workers, [or] unskilled labor or
22 workers who perform custom fabrication to perform the performance contract, the
23 performance contract must include a provision relating to the prevailing wage as
24 required pursuant to NRS 338.013 to 338.090, inclusive. The local government, the
25 qualified service company, any contractor who is awarded a contract or enters into
26 an agreement to perform the work for the performance contract, and any
27 subcontractor who performs any portion of that work shall comply with the
28 provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the local
29 government had undertaken the work or had awarded the contract.~~

30 ~~— 2. Before a qualified service company enters into a performance contract
31 pursuant to NRS 332.300 to 332.440, inclusive, that exceeds \$100,000, the
32 qualified service company must furnish to the contracting body any bonds required
33 pursuant to NRS 339.025. The provisions of chapter 339 of NRS apply to any
34 performance contract described in this subsection.] (Deleted by amendment.)~~

35 **Sec. 14.** ~~[NRS 333A.120 is hereby amended to read as follows:~~

36 ~~— 333A.120 If a performance contract entered into pursuant to this chapter
37 requires the employment of skilled mechanics, skilled workers, semiskilled
38 mechanics, semiskilled workers, [or] unskilled labor or workers who perform
39 custom fabrication to perform the performance contract, the performance contract
40 must include a provision relating to the prevailing wage as required pursuant to
41 NRS 338.013 to 338.090, inclusive. The using agency, the qualified service
42 company, any contractor who is awarded a contract or enters into an agreement to
43 perform the work for the performance contract, and any subcontractor who
44 performs any portion of that work shall comply with the provisions of NRS 338.013
45 to 338.090, inclusive, in the same manner as if the using agency had undertaken the
46 work or had awarded the contract.] (Deleted by amendment.)~~

47 **Sec. 15.** ~~[Section 4 of this act is hereby amended to read as follows:~~

48 ~~— Sec. 4. 1. The general procedures for awarding contracts, as
49 described in NRS 338.1373 to 338.139, inclusive, do not apply to a public
50 work completed on a property or premises if, at the time of entering into the
51 contract:~~

~~— (a) The property or premises, in whole or in part, is leased by a public body or is subject to an agreement to be subsequently leased by a public body;~~

~~— (b) The property, or any horizontal construction or vertical construction relating thereto, is in an improvement district, as defined in NRS 271.130;~~

~~— (c) The project, or any horizontal construction or vertical construction relating thereto, is a redevelopment project, as defined in NRS 279.412, that is financed pursuant to chapter 279 of NRS;~~

~~— (d) [The project is a qualified project, as defined in NRS 360.888;~~

~~— (e) The property, or any horizontal construction or vertical construction relating thereto, has been or will be conveyed, in whole or in part, to a public body pursuant to the terms of a development agreement with the public body; or~~

~~— [(f)] (c) A public body retains any right, including, without limitation, a contingent right, to retake ownership of the property or premises after the commencement of work on the project.~~

~~— 2. This section must not be construed to abrogate the requirement to pay prevailing wages on a public work described in subsection 1.] **(Deleted by amendment.)**~~

Sec. 16. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 16.5. **The amendatory provisions of this act do not apply to any contract, lease or other agreement entered into before the effective date of this act.**

Sec. 17. ~~[[.]~~ This ~~[section and section 16 of this]~~ act ~~[become]~~ **becomes** effective upon passage and approval.

~~— [2. Sections 1 to 5, inclusive, and 7 to 14, inclusive, of this act become effective;~~

~~— (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~— (b) On January 1, 2024, for all other purposes.~~

~~— 3. Sections 6 and 15 of this act become effective on July 1, 2032.]~~

ASSEMBLY BILL NO. 387—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON NATURAL RESOURCES)

MARCH 23, 2023

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to water. (BDR 48-338)

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

~

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

AN ACT relating to water; requiring the State Engineer to consider the best available science when rendering decisions; revising provisions relating to the appropriation of underground water; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law declares that it is the policy of this State to encourage the State
2 Engineer to consider the best available science in rendering decisions concerning
3 the available surface and underground sources of water in this State. (NRS
4 533.024) **Sections 3 and 5** of this bill remove this provision from the legislative
5 declaration and instead require the State Engineer to consider the best available
6 science.

7 Existing law provides that all underground waters within the boundaries or the
8 State, subject to all existing rights to the use thereof, are subject to appropriation for
9 beneficial use under the laws of this State. (NRS 534.020) **Section 10** of this bill
10 provides that the appropriation or use of underground waters is subject to all
11 existing rights to the use of the source thereof, if the State Engineer finds that a
12 hydrologic connection exists that is sufficient to cause a conflict with existing
13 rights.

14 Under existing law, the State Engineer is required to determine whether there is
15 unappropriated water in an affected area and may issue permits for a well only if
16 the determination is affirmative. (NRS 534.110) Existing law prohibits the State
17 Engineer from issuing a permit to appropriate water under certain circumstances,
18 including, without limitation, if there is no unappropriated water or where the
19 proposed use or change conflicts with existing rights or with protectable interests or
20 threatens to prove detrimental to the public interest. (NRS 533.370) **Section 6** of
21 this bill requires the State Engineer, in determining whether there is unappropriated
22 water, to consider whether the permit would conflict with any hydrologically



23 connected surface water or groundwater. **Section 13** of this bill clarifies that the
24 State Engineer must determine whether there is unappropriated water in an affected
25 area in accordance with existing law governing the issuance of permits to
26 appropriate water. **Sections 11 and 12** of this bill make conforming changes to
27 revise certain internal references.

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

1 **Section 1.** Chapter 533 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** (Deleted by amendment.)

4 **Sec. 3. 1.** *The State Engineer shall consider the best*
5 *available science in rendering decisions concerning the surface*
6 *and underground sources of water in this State.*

7 *2. As used in this section, "best available science" means the*
8 *use of credible information and data that is specific to the decision*
9 *being made and the time frame available for making such a*
10 *decision and consistent with professional scientific and*
11 *engineering standards and practices.*

12 **Sec. 4.** (Deleted by amendment.)

13 **Sec. 5.** NRS 533.024 is hereby amended to read as follows:

14 533.024 The Legislature declares that:

15 1. It is the policy of this State:

16 (a) To encourage and promote the use of effluent, where that use
17 is not contrary to the public health, safety or welfare, and where that
18 use does not interfere with federal obligations to deliver water of the
19 Colorado River.

20 (b) To recognize the importance of domestic wells as
21 appurtenances to private homes, to create a protectable interest in
22 such wells and to protect their supply of water from unreasonable
23 adverse effects which are caused by municipal, quasi-municipal or
24 industrial uses and which cannot reasonably be mitigated.

25 (c) ~~To encourage the State Engineer to consider the best~~
26 ~~available science in rendering decisions concerning the available~~
27 ~~surface and underground sources of water in Nevada.~~

28 ~~(d)~~ To encourage and promote the use of water to prevent or
29 reduce the spread of wildfire or to rehabilitate areas burned by
30 wildfire, including, without limitation, through the establishment of
31 vegetative cover that is resistant to fire.

32 ~~(e)~~ (d) To manage conjunctively the appropriation, use and
33 administration of all waters of this State, regardless of the source of
34 the water.

35 2. The procedures in this chapter for changing the place of
36 diversion, manner of use or place of use of water, and for



1 confirming a report of conveyance, are not intended to have the
2 effect of quieting title to or changing ownership of a water right and
3 that only a court of competent jurisdiction has the power to
4 determine conflicting claims to ownership of a water right.

5 **Sec. 6.** NRS 533.370 is hereby amended to read as follows:

6 533.370 1. Except as otherwise provided in this section and
7 NRS 533.0241, 533.345, 533.371, 533.372 and 533.503, the State
8 Engineer shall approve an application submitted in proper form
9 which contemplates the application of water to beneficial use if:

10 (a) The application is accompanied by the prescribed fees;

11 (b) The proposed use or change, if within an irrigation district,
12 does not adversely affect the cost of water for other holders of water
13 rights in the district or lessen the efficiency of the district in its
14 delivery or use of water; and

15 (c) The applicant provides proof satisfactory to the State
16 Engineer of the applicant's:

17 (1) Intention in good faith to construct any work necessary to
18 apply the water to the intended beneficial use with reasonable
19 diligence; and

20 (2) Financial ability and reasonable expectation actually to
21 construct the work and apply the water to the intended beneficial use
22 with reasonable diligence.

23 2. Except as otherwise provided in subsection 10, where there
24 is no unappropriated water in the proposed source of supply, where
25 the groundwater that has not been committed for use has been
26 reserved pursuant to NRS 533.0241 or where its proposed use or
27 change conflicts with existing rights, *including, without limitation,*
28 *conflicts from any hydrologically connected surface water or*
29 *groundwater* or with protectable interests in existing domestic wells
30 as set forth in NRS 533.024, or threatens to prove detrimental to the
31 public interest, the State Engineer shall reject the application and
32 refuse to issue the requested permit. If a previous application for a
33 similar use of water within the same basin has been rejected on
34 those grounds, the new application may be denied without
35 publication.

36 3. In addition to the criteria set forth in subsections 1 and 2, in
37 determining whether an application for an interbasin transfer of
38 groundwater must be rejected pursuant to this section, the State
39 Engineer shall consider:

40 (a) Whether the applicant has justified the need to import the
41 water from another basin;

42 (b) If the State Engineer determines that a plan for conservation
43 of water is advisable for the basin into which the water is to be
44 imported, whether the applicant has demonstrated that such a plan
45 has been adopted and is being effectively carried out;



1 (c) Whether the proposed action is environmentally sound as it
2 relates to the basin from which the water is exported;

3 (d) Whether the proposed action is an appropriate long-term use
4 which will not unduly limit the future growth and development in
5 the basin from which the water is exported; and

6 (e) Any other factor the State Engineer determines to be
7 relevant.

8 4. Except as otherwise provided in this subsection and
9 subsections 6 and 10 and NRS 533.365, the State Engineer shall
10 approve or reject each application within 2 years after the final date
11 for filing a protest. The State Engineer may postpone action:

12 (a) Upon written authorization to do so by the applicant.

13 (b) If an application is protested.

14 (c) If the purpose for which the application was made is
15 municipal use.

16 (d) In areas where studies of water supplies have been
17 determined to be necessary by the State Engineer pursuant to
18 NRS 533.368.

19 (e) Where court actions or adjudications are pending, which may
20 affect the outcome of the application.

21 (f) In areas in which adjudication of vested water rights is
22 deemed necessary by the State Engineer.

23 (g) On an application for a permit to change a vested water right
24 in a basin where vested water rights have not been adjudicated.

25 (h) Where authorized entry to any land needed to use the water
26 for which the application is submitted is required from a
27 governmental agency.

28 (i) On an application for which the State Engineer has required
29 additional information pursuant to NRS 533.375.

30 5. If the State Engineer does not act upon an application in
31 accordance with subsections 4 and 6, the application remains active
32 until approved or rejected by the State Engineer.

33 6. Except as otherwise provided in this subsection and
34 subsection 10, the State Engineer shall approve or reject, within 6
35 months after the final date for filing a protest, an application filed to
36 change the point of diversion of water already appropriated when
37 the existing and proposed points of diversion are on the same
38 property for which the water has already been appropriated under
39 the existing water right or the proposed point of diversion is on real
40 property that is proven to be owned by the applicant and is
41 contiguous to the place of use of the existing water right. The State
42 Engineer may postpone action on the application pursuant to
43 subsection 4.

44 7. If the State Engineer has not approved, rejected or held a
45 hearing on an application within 7 years after the final date for filing



1 a protest, the State Engineer shall cause notice of the application to
2 be republished pursuant to NRS 533.360 immediately preceding
3 the time at which the State Engineer is ready to approve or reject the
4 application. The cost of the republication must be paid by the
5 applicant. After such republication, a protest may be filed in
6 accordance with NRS 533.365.

7 8. If a hearing is held regarding an application, the decision of
8 the State Engineer must be in writing and include findings of fact,
9 conclusions of law and a statement of the underlying facts
10 supporting the findings of fact. The written decision may take the
11 form of a transcription of an oral ruling. The rejection or approval of
12 an application must be endorsed on a copy of the original
13 application, and a record must be made of the endorsement in the
14 records of the State Engineer. The copy of the application so
15 endorsed must be returned to the applicant. Except as otherwise
16 provided in subsection 11, if the application is approved, the
17 applicant may, on receipt thereof, proceed with the construction of
18 the necessary works and take all steps required to apply the water to
19 beneficial use and to perfect the proposed appropriation. If the
20 application is rejected, the applicant may take no steps toward the
21 prosecution of the proposed work or the diversion and use of
22 the public water while the rejection continues in force.

23 9. If a person is the successor in interest of an owner of a water
24 right or an owner of real property upon which a domestic well is
25 located and if the former owner of the water right or real property on
26 which a domestic well is located had previously filed a written
27 protest against the granting of an application, the successor in
28 interest must be allowed to pursue that protest in the same manner
29 as if the successor in interest were the former owner whose interest
30 he or she succeeded. If the successor in interest wishes to pursue the
31 protest, the successor in interest must notify the State Engineer in a
32 timely manner on a form provided by the State Engineer.

33 10. The provisions of subsections 1 to 9, inclusive, do not
34 apply to an application for an environmental permit or a temporary
35 permit issued pursuant to NRS 533.436 or 533.504.

36 11. The provisions of subsection 8 do not authorize the
37 recipient of an approved application to use any state land
38 administered by the Division of State Lands of the State Department
39 of Conservation and Natural Resources without the appropriate
40 authorization for that use from the State Land Registrar.

41 12. As used in this section, "domestic well" has the meaning
42 ascribed to it in NRS 534.350.

43 **Sec. 7.** (Deleted by amendment.)

44 **Sec. 8.** (Deleted by amendment.)

45 **Sec. 9.** (Deleted by amendment.)



1 **Sec. 10.** NRS 534.020 is hereby amended to read as follows:
2 534.020 1. *Any appropriation or use of underground waters*
3 *within the boundaries of this State is subject to all existing rights*
4 *to the use of the source thereof, if the State Engineer finds that a*
5 *hydrologic connection exists that is sufficient to cause a conflict*
6 *with existing rights.*

7 2. All underground waters within the boundaries of the State
8 belong to the public, and, subject to all existing rights to the use
9 thereof ~~[]~~ *as set forth in subsection 1*, are subject to appropriation
10 for beneficial use only under the laws of this State relating to the
11 appropriation and use of water and not otherwise.

12 ~~[2.]~~ 3. It is the intention of the Legislature, by this chapter, to
13 prevent the waste of underground waters and pollution and
14 contamination thereof and provide for the administration of the
15 provisions thereof by the State Engineer, who ~~is hereby empowered~~
16 ~~to~~ *shall* make such rules and regulations within the terms of this
17 chapter as may be necessary for the proper execution of the
18 provisions of this chapter.

19 **Sec. 11.** NRS 534.037 is hereby amended to read as follows:

20 534.037 1. In a basin that has been designated as a critical
21 management area by the State Engineer pursuant to subsection ~~[7]~~ 8
22 of NRS 534.110, a petition for the approval of a groundwater
23 management plan for the basin may be submitted to the State
24 Engineer. The petition must be signed by a majority of the holders
25 of permits or certificates to appropriate water in the basin that are on
26 file in the Office of the State Engineer and must be accompanied by
27 a groundwater management plan which must set forth the necessary
28 steps for removal of the basin's designation as a critical
29 management area.

30 2. In determining whether to approve a groundwater
31 management plan submitted pursuant to subsection 1, the State
32 Engineer shall consider, without limitation:

- 33 (a) The hydrology of the basin;
- 34 (b) The physical characteristics of the basin;
- 35 (c) The geographic spacing and location of the withdrawals of
36 groundwater in the basin;
- 37 (d) The quality of the water in the basin;
- 38 (e) The wells located in the basin, including, without limitation,
39 domestic wells;
- 40 (f) Whether a groundwater management plan already exists for
41 the basin; and
- 42 (g) Any other factor deemed relevant by the State Engineer.

43 3. Before approving or disapproving a groundwater
44 management plan submitted pursuant to subsection 1, the State
45 Engineer shall hold a public hearing to take testimony on the plan in



1 the county where the basin lies or, if the basin lies in more than one
2 county, within the county where the major portion of the basin lies.
3 The State Engineer shall cause notice of the hearing to be:

4 (a) Given once each week for 2 consecutive weeks before the
5 hearing in a newspaper of general circulation in the county or
6 counties in which the basin lies.

7 (b) Posted on the Internet website of the State Engineer for at
8 least 2 consecutive weeks immediately preceding the date of the
9 hearing.

10 4. The decision of the State Engineer on a groundwater
11 management plan may be reviewed by the district court of the
12 county pursuant to NRS 533.450.

13 5. An amendment to a groundwater management plan must be
14 proposed and approved in the same manner as an original
15 groundwater management plan is proposed and approved pursuant
16 to this section.

17 **Sec. 12.** NRS 534.090 is hereby amended to read as follows:

18 534.090 1. Except as otherwise provided in this section,
19 failure for 5 successive years after April 15, 1967, on the part of the
20 holder of any right, whether it is an adjudicated right, an
21 unadjudicated right or a right for which a certificate has been issued
22 pursuant to NRS 533.425, and further whether the right is initiated
23 after or before March 25, 1939, to use beneficially all or any part of
24 the underground water for the purpose for which the right is
25 acquired or claimed, works a forfeiture of both undetermined rights
26 and determined rights to the use of that water to the extent of the
27 nonuse.

28 2. If the records of the State Engineer or any other documents
29 obtained by or provided to the State Engineer indicate 4 or more
30 consecutive years of nonuse of all or any part of a water right which
31 is governed by this chapter:

32 (a) The State Engineer shall notify the owner of the water right,
33 as determined in the records of the Office of the State Engineer, by
34 registered or certified mail of the nonuse and that the owner has 1
35 year after the date of the notice of nonuse in which to use the water
36 right beneficially and to provide proof of such use to the State
37 Engineer or apply for relief pursuant to subsection 3 to avoid
38 forfeiting the water right.

39 (b) If, after 1 year after the date of the notice of nonuse pursuant
40 to paragraph (a), proof of resumption of beneficial use is not filed in
41 the Office of the State Engineer, the State Engineer shall, unless the
42 State Engineer has granted a request to extend the time necessary to
43 work a forfeiture of the water right, send a final notice to the owner
44 of the water right, as determined in the records of the Office of the
45 State Engineer, by registered or certified mail, that the water right is



1 held for forfeiture. If the owner of the water right, within 30 days
2 after the date of such final notice, fails to file the required proof of
3 resumption of beneficial use or an application for an extension of
4 time to prevent forfeiture, the State Engineer shall declare the right,
5 or the portion of the right not returned to beneficial use, forfeited.
6 The State Engineer shall send notice of the declaration of forfeiture,
7 by registered or certified mail, to the owner of record, as determined
8 in the records of the Office of the State Engineer, of the water right
9 that has been declared forfeited.

10 (c) If, after receipt of a notice of the declaration of forfeiture
11 pursuant to paragraph (b), the owner of record of the water right
12 fails to appeal the ruling in the manner provided for in
13 NRS 533.450, and within the time provided for therein, the
14 forfeiture becomes final. Upon the forfeiture of the water right, the
15 water reverts to the public and is available for further appropriation,
16 subject to existing rights.

17 3. The State Engineer may, upon the request of the holder of
18 any right described in subsection 1, extend the time necessary to
19 work a forfeiture under subsection 2 if the request is made before
20 the expiration of the time necessary to work a forfeiture. Except as
21 otherwise provided in subsection 4, the State Engineer may grant,
22 upon request and for good cause shown, any number of extensions,
23 but a single extension must not exceed 1 year. In determining
24 whether to grant or deny a request, the State Engineer shall, among
25 other reasons, consider:

26 (a) Whether the holder has submitted proof and evidence that
27 the holder is proceeding in good faith and with reasonable diligence
28 to resume use of the water beneficially for the purpose for which the
29 holder's right is acquired or claimed;

30 (b) The number of years during which the water has not been
31 put to the beneficial use for which the right is acquired or claimed;

32 (c) Any economic conditions or natural disasters which made
33 the holder unable to put the water to that use;

34 (d) Whether the water right is located in a basin within a county
35 under a declaration of drought by the Governor, United States
36 Secretary of Agriculture or the President of the United States;

37 (e) Whether the holder has demonstrated efforts to conserve
38 water which have resulted in a reduction in water consumption;

39 (f) Whether the water right is located in a basin that has been
40 designated as a critical management area by the State Engineer
41 pursuant to subsection ~~7~~ 8 of NRS 534.110;

42 (g) The date of priority of the water right as it relates to the
43 potential curtailment of water use in the basin;



1 (h) The availability of water in the basin, including, without
2 limitation, whether withdrawals of water consistently exceed the
3 perennial yield of the basin; and

4 (i) Any orders restricting use or appropriation of water in the
5 basin.

6 ↪ The State Engineer shall notify, by registered or certified mail,
7 the owner of the water right, as determined in the records of the
8 Office of the State Engineer, of whether the State Engineer has
9 granted or denied the holder's request for an extension pursuant to
10 this subsection. If the State Engineer grants an extension pursuant to
11 this subsection and, before the expiration of that extension, proof of
12 resumption of beneficial use or another request for an extension is
13 not filed in the Office of the State Engineer, the State Engineer shall
14 send a final notice to the owner of the water right, by registered or
15 certified mail, that the water right will be declared forfeited if the
16 owner of the water right fails to file the required proof of
17 resumption of beneficial use or an application for an extension of
18 time to prevent forfeiture within 30 days after the date of the final
19 notice. If the owner of the water right fails to file the required proof
20 of resumption of beneficial use or an application for an extension of
21 time to prevent forfeiture within 30 days after the date of such final
22 notice, the State Engineer shall declare the water right, or the
23 portion of the right not returned to beneficial use, forfeited.

24 4. If the State Engineer grants an extension pursuant to
25 subsection 1 in a basin:

26 (a) Where withdrawals of groundwater consistently exceed the
27 perennial yield of the basin; or

28 (b) That has been designated as a critical management area by
29 the State Engineer pursuant to subsection ~~7~~ 8 of NRS 534.110,

30 ↪ a single extension must not exceed 3 years, but any number of
31 extensions may be granted to the holder of such a right.

32 5. The failure to receive a notice pursuant to subsection 2 or 3
33 does not nullify the forfeiture or extend the time necessary to work
34 the forfeiture of a water right.

35 6. A right to use underground water whether it is vested or
36 otherwise may be lost by abandonment. If the State Engineer, in
37 investigating a groundwater source, upon which there has been a
38 prior right, for the purpose of acting upon an application to
39 appropriate water from the same source, is of the belief from his or
40 her examination that an abandonment has taken place, the State
41 Engineer shall so state in the ruling approving the application. If,
42 upon notice by registered or certified mail to the owner of record
43 who had the prior right, the owner of record of the prior right fails to
44 appeal the ruling in the manner provided for in NRS 533.450, and



1 within the time provided for therein, the alleged abandonment
2 declaration as set forth by the State Engineer becomes final.

3 **Sec. 13.** NRS 534.110 is hereby amended to read as follows:

4 534.110 1. The State Engineer shall administer this chapter
5 and shall prescribe all necessary regulations within the terms of this
6 chapter for its administration.

7 2. The State Engineer may:

8 (a) Require periodical statements of water elevations, water
9 used, and acreage on which water was used from all holders of
10 permits and claimants of vested rights.

11 (b) Upon his or her own initiation, conduct pumping tests to
12 determine if overpumping is indicated, to determine the specific
13 yield of the aquifers and to determine permeability characteristics.

14 3. ~~[The]~~ *In accordance with NRS 533.370, the* State Engineer
15 shall determine whether there is unappropriated water in the area
16 affected and may issue permits only if the determination is
17 affirmative.

18 4. The State Engineer may require each applicant to whom a
19 permit is issued for a well:

20 (a) For municipal, quasi-municipal or industrial use; and

21 (b) Whose reasonably expected rate of diversion is one-half
22 cubic foot per second or more,

23 ↪ to report periodically to the State Engineer concerning the effect
24 of that well on other previously existing wells that are located within
25 2,500 feet of the well.

26 ~~[4.]~~ 5. It is a condition of each appropriation of groundwater
27 acquired under this chapter that the right of the appropriator relates
28 to a specific quantity of water and that the right must allow for a
29 reasonable lowering of the static water level at the appropriator's
30 point of diversion. In determining a reasonable lowering of the static
31 water level in a particular area, the State Engineer shall consider the
32 economics of pumping water for the general type of crops growing
33 and may also consider the effect of using water on the economy of
34 the area in general.

35 ~~[5.]~~ 6. This section does not prevent the granting of permits to
36 applicants later in time on the ground that the diversions under the
37 proposed later appropriations may cause the water level to be
38 lowered at the point of diversion of a prior appropriator, so long as
39 any protectable interests in existing domestic wells as set forth in
40 NRS 533.024 and the rights of holders of existing appropriations
41 can be satisfied under such express conditions. At the time a permit
42 is granted for a well:

43 (a) For municipal, quasi-municipal or industrial use; and

44 (b) Whose reasonably expected rate of diversion is one-half
45 cubic foot per second or more,



1 ↳ the State Engineer shall include as a condition of the permit that
2 pumping water pursuant to the permit may be limited or prohibited
3 to prevent any unreasonable adverse effects on an existing domestic
4 well located within 2,500 feet of the well, unless the holder of the
5 permit and the owner of the domestic well have agreed to alternative
6 measures that mitigate those adverse effects.

7 ~~{6-}~~ 7. Except as otherwise provided in subsection ~~{7-}~~ 8, the
8 State Engineer shall conduct investigations in any basin or portion
9 thereof where it appears that the average annual replenishment to
10 the groundwater supply may not be adequate for the needs of all
11 permittees and all vested-right claimants, and if the findings of the
12 State Engineer so indicate, except as otherwise provided in
13 subsection ~~{9-}~~ 10, the State Engineer may order that withdrawals,
14 including, without limitation, withdrawals from domestic wells, be
15 restricted to conform to priority rights.

16 ~~{7-}~~ 8. The State Engineer:

17 (a) May designate as a critical management area any basin in
18 which withdrawals of groundwater consistently exceed the perennial
19 yield of the basin.

20 (b) Shall designate as a critical management area any basin in
21 which withdrawals of groundwater consistently exceed the perennial
22 yield of the basin upon receipt of a petition for such a designation
23 which is signed by a majority of the holders of certificates or
24 permits to appropriate water in the basin that are on file in the Office
25 of the State Engineer.

26 ↳ The designation of a basin as a critical management area pursuant
27 to this subsection may be appealed pursuant to NRS 533.450. If a
28 basin has been designated as a critical management area for at least
29 10 consecutive years, except as otherwise provided in subsection
30 ~~{9-}~~ 10, the State Engineer shall order that withdrawals, including,
31 without limitation, withdrawals from domestic wells, be restricted in
32 that basin to conform to priority rights, unless a groundwater
33 management plan has been approved for the basin pursuant to
34 NRS 534.037.

35 ~~{8-}~~ 9. In any basin or portion thereof in the State designated
36 by the State Engineer, the State Engineer may restrict drilling of
37 wells in any portion thereof if the State Engineer determines that
38 additional wells would cause an undue interference with existing
39 wells. Any order or decision of the State Engineer so restricting
40 drilling of such wells may be reviewed by the district court of the
41 county pursuant to NRS 533.450.

42 ~~{9-}~~ 10. If a court of competent jurisdiction orders the State
43 Engineer to restrict withdrawals to conform to priority rights or if
44 pursuant to subsection ~~{6-or}~~ 7 or 8 the State Engineer orders that
45 withdrawals be restricted to conform to priority rights, the State



- 1 Engineer must limit the restriction of withdrawals from a domestic
- 2 well to allow a domestic well to continue to withdraw 0.5 acre-feet
- 3 of water per year, which must be recorded by a water meter.

30



* A B 3 8 7 R 1 *