

LINCOLN COUNTY WATER DISTRICT ACT

CHAPTER 474, STATUTES OF NEVADA 2003

AN ACT relating to water; * * * creating the Lincoln County Water District; setting forth the powers of the District and the form and method of governance of the District; * * * and providing other matters properly relating thereto.

[Approved: June 11, 2003]

(Leadlines for sections have been supplied by the
Legislative Counsel of the State of Nevada)

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

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

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

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

Sec. 6. Definitions. As used in sections 6 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7, 8 and 9 of this act have the meaning ascribed to them in those sections.

(Ch. 474, Stats. 2003 p. 2985)

Sec. 7. "Board" defined. "Board" means the Governing Board of the District.

(Ch. 474, Stats. 2003 p. 2985)

Sec. 8. "District" defined. "District" means the Lincoln County Water District created by section 10 of this act.

(Ch. 474, Stats. 2003 p. 2985)

Sec. 9. "Service area" defined. "Service area" means the service area of the District described in section 10 of this act.

(Ch. 474, Stats. 2003 p. 2985)

Sec. 10. Creation; jurisdiction; service area. There is hereby created a political subdivision of this state to be known as the "Lincoln County Water District." The jurisdiction and service area of the District are all that real property within the boundaries of Lincoln County, Nevada, as described in NRS 243.210, 243.215 and 243.220.

(Ch. 474, Stats. 2003 p. 2985)

Sec. 11. Powers. The District has the following powers:

1. To have perpetual succession.
2. To sue and be sued in the name of the District in all courts or tribunals of competent jurisdiction.
3. To adopt a seal and alter it at the pleasure of the District.
4. To enter into contracts, and employ and fix the compensation of staff and professional advisers.
5. To incur indebtedness pursuant to chapter 271 of NRS, issue bonds pursuant to chapter 350 of NRS and provide for medium-term obligations pursuant to chapter 350 of NRS to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in this section. For the purposes of NRS 350.572, sections 6 to 16, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.720, inclusive, if the obligation is payable solely from pledged revenues, but an election must be held before incurring a general obligation.
6. To acquire, by purchase, grant, gift, devise, lease, construction, contract or otherwise, lands, rights-of-way, easements, privileges, water and water rights, and property of every kind, whether real or personal, to construct, maintain and operate, within or without the District, any and all works and improvements necessary or proper to carry out any of the objects or purposes of sections 6 to 16, inclusive, of this act, and to complete, extend, add to, repair or otherwise improve any works, improvements or property acquired by it as authorized by sections 6 to 16, inclusive, of this act.
7. To sell, lease, encumber, hypothecate or otherwise dispose of property, whether real or personal, including, without limitation, water and water rights, as is necessary or convenient to the full exercise of the powers of the District.
8. To adopt ordinances, rules, regulations and bylaws necessary for the exercise of the powers and conduct of the affairs of the Board and District.
9. Except as otherwise provided in this subsection, to exercise the power of eminent domain in the manner prescribed by law, within or without the service area, to take any property, including, without limitation, the property specified in subsections 6 and 15, necessary or convenient for the exercise of the powers of the District or for the provision of adequate water service to the service area. The District shall not exercise the power of eminent domain to acquire the water rights or waterworks facilities of any nonprofit purveyor delivering water for domestic use whose service area is adjacent to the District without first obtaining the consent of the purveyor.
10. To enter upon any land, to make surveys and locate any necessary improvements, including, without limitation, lines for channels, conduits, canals, pipelines, roadways and other rights-of-way, to acquire property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of such improvements, including, without limitation, works constructed and being constructed by private owners, lands for reservoirs for the storage of necessary water, and all necessary appurtenances, and, where necessary and for the purposes and uses set forth in this section, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions or other rights.

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

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

13. To enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the transfer or delivery to any district, corporation, association, firm or natural person of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the District, or for the purpose of exchanging the water or water right for any other water, water right or water supply to be delivered to the District by the other party to the agreement.

14. To cooperate and act in conjunction with the State of Nevada or any of its engineers, officers, boards, commissions, departments or agencies, with the Government of the United States or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, to construct any work for the development, importation or distribution of water of the District, for the protection of life or property therein, or for the conservation of its water for beneficial use within the District, or to carry out any other works, acts or purposes provided for in sections 6 to 16, inclusive, of this act, and to adopt and carry out any definite plan or system of work for any of the purposes described in sections 6 to 16, inclusive, of this act.

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

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

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

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

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

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

16. To sell and distribute water under the control of the District, without preference, to any natural person, firm, corporation, association, district, agency or inhabitant, public or private, for use within the service area, to fix, establish and

adjust rates, classes of rates, terms and conditions for the sale and use of such water, and to sell water for use outside the service area upon a finding by the Board that there is a surplus of water above that amount required to serve customers within the service area.

17. To cause taxes to be levied and collected for the purposes prescribed in sections 6 to 16, inclusive, of this act, including, without limitation, the payment of any obligation of the District during its organizational state and thereafter, and necessary engineering costs, and to assist in the operational expenses of the District, until such taxes are no longer required.

18. To supplement the surface and ground-water resources of Lincoln County by the importation and use of water from other sources for industrial, irrigation, municipal and domestic uses.

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

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

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

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

23. To do all acts and things reasonably implied from and necessary for the full exercise of all powers of the District granted by sections 6 to 16, inclusive, of this act.

(Ch. 474, Stats. 2003 p. 2985)

Sec. 12. Board: Exercise of powers, duties and privileges; composition.

1. All powers, duties and privileges of the District must be exercised and performed by the Board.

2. The Board must be composed of the members of the Board of County Commissioners of Lincoln County.

(Ch. 474, Stats. 2003 p. 2988)

Sec. 13. Board: Officers; employees; meetings; place of business; quorum; compensation.

1. The Board shall:

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

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

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

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

- (e) Appoint a General Manager who must not be a member of the Board.
 - (f) Delegate and redelegate to officers of the District the power to employ necessary executives, clerical workers, engineering assistants and laborers, and retain legal, accounting or engineering services, subject to such conditions and restrictions as may be imposed by the Board.
 - (g) Prescribe the powers, duties, compensation and benefits of all officers and employees of the District, and require all bonds necessary to protect the money and property of the District.
 - (h) Take all actions and do all things reasonably and lawfully necessary to conduct the business of the District and achieve the purposes of sections 6 to 16, inclusive, of this act.
2. A simple majority of the members of the Board constitutes a quorum. The vote of a simple majority of the quorum is required to take action.
 3. Members of the Board are entitled to receive a salary of not more than \$80 per day and reasonable per diem and travel expenses, as set by the Board, for their attendance at meetings and conduct of other business of the District.
(Ch. 474, Stats. 2003 p. 2988)

Sec. 14. Levy and collection of taxes ad valorem; remedy for nonpayment of taxes.

1. The Board may levy and collect general ad valorem taxes on all taxable property within the District, but only for the payment of principal and interest on its general obligations. Such a levy and collection must be made in conjunction with Lincoln County in the manner prescribed in this section.
2. The Board shall determine the amount of money necessary to be raised by taxation for a particular year in addition to other sources of revenue of the District. The Board then shall fix a rate of levy which, when applied to the assessed valuation of all taxable property within the District, will produce an amount, when combined with other revenues of the District, sufficient to pay, when due, all principal of and interest on general obligations of the District and any defaults or deficiencies relating thereto.
3. In accordance with and in the same manner required by the law applicable to incorporated cities, the Board shall certify the rate of levy fixed pursuant to subsection 2 for levy upon all taxable property in the District in accordance with such rate at the time and in the manner required by law for levying of taxes for county purposes.
4. The proper officer or authority of Lincoln County, upon behalf of the District, shall levy and collect the tax for the District specified in subsection 3. Such a tax must be collected in the same manner, including, without limitation, interest and penalties, as other taxes collected by the County. When collected, the tax must be paid to the District in monthly installments for deposit in the appropriate depository of the District.
5. If the taxes levied are not paid, the property subject to the tax lien must be sold and the proceeds of the sale paid to the District in accordance with the law applicable to tax sales and redemptions.
(Ch. 474, Stats. 2003 p. 2988)

Sec. 15. Exemption from regulation by Public Utilities Commission of Nevada. The District is exempt from regulation by the Public Utilities Commission of Nevada.

(Ch. 474, Stats. 2003 p. 2989)

Sec. 16. Severability. If any provision of sections 6 to 16, inclusive, of this act or the application thereof to any person, thing or circumstance is held invalid, such invalidity does not affect the provisions or application of sections 6 to 16, inclusive, of this act that can be given effect without the invalid provision or application, and to this end the provisions of sections 6 to 16, inclusive, of this act are declared to be severable.

(Ch. 474, Stats. 2003 p. 2989)