

CARSON WATER SUBCONSERVANCY DISTRICT

Legislative Committee

NOTICE OF PUBLIC MEETING

DATE: February 13, 2023
TIME: 10 am
LOCATION: CWSD Conference Room or via Zoom
777 E. William Street, Ste. 209
Carson City, NV 89701

If attending remotely, this [Zoom Link](#) or call (669)900 9128. ID: 879 3454 0348; Passcode: 639720

AGENDA

***Please Note:** The Carson Water Subconservancy District (CWSD) Board may: 1) take agenda items out of order; 2) combine two or more items for consideration; and/or 3) remove an item from the agenda or delay discussion related to an item at any time. All votes will be conducted by CWSD Board of Directors. Reasonable efforts will be made to assist and accommodate individuals with limited ability to speak, write, or understand English and/or to those with disabilities who wish to join the meeting. Please contact Catrina Schambra at (775)887-7450 or email: catrina@cwsd.org at least 3 business days in advance so that arrangements can be made.*

1. Call to Order the CWSD Legislative Committee
2. Roll Call
3. For Discussion Only: Public Comment - Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting.
4. For Possible Action: Approval of Agenda
5. For Possible Action: Discussion regarding the upcoming 2023 Legislation Session and a review of various BDRs/bills that CWSD may want to support, oppose, or monitor.
6. For Discussion Only: Public Comment - Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting.

Supporting material for this meeting may be requested from Catrina Schambra at 775-887-7450 (catrina@cwsd.org) and is available on the CWSD website at www.cwsd.org.

CARSON WATER SUBCONSERVANCY DISTRICT

TO: Legislative Committee Members

FROM: EDWIN D. JAMES

DATE: February 13, 2023

SUBJECT: For Possible Action: Discussion regarding the upcoming 2023 Legislation Session and a review of various BDRs/bills that CWSD may want to support, oppose, or monitor

DISCUSSION: CWSD staff is beginning to monitor the various Bill Draft Requests (BDRs) for 2023 Nevada Legislative Session. Attached is the list of BDRs and bills that staff is watching. The Legislative Committee will look into details on each bill and to make recommendations on possible action, if any, CWSD may want to take.

Below is a summary of the various BDRs that have draft bill language:

AB 19

Legislative Counsel's Digest:

Existing law establishes the Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program which provides grants to local governments in this State for the clearance, maintenance, restoration, surveying and monumenting of navigable rivers in this State. (NRS 532.220) **Section 2** of this bill expands the entities eligible to apply for a grant from this Program to include tribal governments in this State. **Section 1** of this bill defines "tribal government" to mean a federally recognized American Indian tribe. **Section 3** of this bill makes a conforming change to include tribal governments in the entities eligible to receive money from the Account for the Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program in the State General Fund.

Existing law provides that: (1) any licensed professional engineer or land surveyor may apply to the State Engineer for appointment as a state water right surveyor; and (2) an officer or employee of the Federal Government who is not a professional engineer or professional land surveyor may apply to be a state water right surveyor, but any certificate issued to such an officer or employee is restricted to work for the Federal Government. (NRS 533.080) **Section 4** of this bill provides that an officer or employee of a tribal government who is not a professional engineer or professional land surveyor may also apply for appointment as a state water right surveyor, but any certificate issued to such an officer or employee is restricted to work for the tribal government.

AB 20

Legislative Counsel's Digest:

Under federal law, the Clean Water State Revolving Fund is established to assist states by providing financial assistance for various water infrastructure projects and projects for the control of water pollution. (33 U.S.C. §§ 1381 et seq.) Existing state law establishes the Account to Finance the Construction of Treatment Works and the Implementation of

Pollution Control Projects to receive and distribute money from the Clean Water State Revolving Fund. (NRS 445A.120) **Sections 1-14** of this bill make various changes to provisions relating to the Account.

Existing law provides that a municipality or an interstate agency is eligible to receive assistance from the Account. (NRS 445A.140) **Section 4** of this bill defines “eligible recipient” to mean a legal entity that is eligible to receive assistance from the Account under federal law, including a municipality or an interstate agency. **Sections 5, 7, 8, 11, 13 and 14** of this bill make conforming changes to expand the entities eligible to receive assistance from the account to any eligible recipient. **Section 9** of this bill requires the regulations adopted by the State Environmental Commission to set forth the eligible entities in accordance with federal law.

Existing law: (1) charges the State Department of Conservation and Natural Resources with administering the Account; and (2) authorizes the Director of the Department to take certain actions to impose and collect fees, employ expert services and issue bonds. (NRS 445A.130, 445A.140-445A.155) **Sections 8 and 9** transfer the responsibility for administering the Account to the Division of Environmental Protection of the Department and the Administrator of the Division. **Sections 2 and 3** of this bill define “Administrator” and “Division,” respectively, and **section 27** of this bill repeals unnecessary definitions.

Section 6 of this bill makes conforming changes to indicate the proper placement of the new definitions into chapter 445A of the Nevada Revised Statutes.

Existing law sets forth certain limitations on the use of money in the Account. 28 (NRS 445A.140) **Section 10** of this bill provides that, with certain exceptions, the money in the Account may be used only in accordance with federal law and requires the regulations adopted by the State Environmental Commission to prescribe the authorized uses of the money in the Account. Existing state law provides that not more than 4 percent of each grant awarded may be spent to administer the Account. (NRS 445A.145) **Section 11** provides instead that not more than the amount or percentage authorized by federal law may be spent to administer the Account, provide technical assistance or for any other use authorized by federal law.

Existing federal law creates the Drinking Water State Revolving Fund to assist states with providing financial assistance for drinking water infrastructure projects, with certain set-asides to provide technical assistance, management and certain other assistance for projects. (42 U.S.C. § 300j-12) To receive and distribute money in accordance with federal law, existing state law creates: (1) the Account to Finance the Construction of Projects, known as the Account for the Revolving Fund; and (2) the account to fund activities, other than projects, authorized by the federal Safe Drinking Water Act, known as the Account for Set-Aside Programs. (NRS 445A.255) **Sections 15-20** of this bill make various changes to provisions relating to the Account for the Revolving Fund and the Account for Set-Aside Programs. Existing federal law authorizes the Account for Set-Aside Programs to make loans and grants and to provide certain limited types of assistance to projects authorized by the Safe Drinking Water Act. (42 U.S.C. §§ 300f et seq.) Existing state law creates the Account for Set-Aside Programs in the Fund for the Municipal Bond Bank. (NRS

445A.255) **Section 15** provides instead that the Account for Set- Aside Programs is created in the Fund for Water Projects Loans to reflect that the Account may be used for certain project-related activities. **Section 25** of this bill makes a conforming change to create an exception to the general requirement that all revenues from certain lending projects be deposited in the Fund for the Municipal Bond Bank. **Sections 16 and 17** of this bill make changes to existing state law to provide that the Account for Set-Aside Programs may be used to make loans and grants in accordance with federal law.

Existing law sets forth certain limitations on the use of money in the Account for the Revolving Fund and the Account for Set-Aside Programs. (NRS 445A.275) 62 **Section 18** of this bill provides that, with certain exceptions, the money in these accounts may be used only in accordance with federal law and requires the State Environmental Commission to adopt regulations prescribing the authorized uses of the money.

Existing law prohibits the Administrator from spending more than a certain percentage of federal grants for administration, certain types of activities authorized pursuant to federal law and technical assistance to small water systems. (NRS 69 445A.280) **Section 19** of this bill instead prohibits the Administrator from spending more than the amount or percentage authorized by federal law for administering the account or certain programs authorized by federal law.

AB 34

Legislative Counsel's Digest:

Under existing law, the State Engineer is required to publish certain notices and court orders in a newspaper of general circulation consecutively for certain periods of time. (NRS 533.087, 533.095, 533.165, 533.360, 534.037, 534.270) **Sections 1, 2, 5, 6, 12 and 13** of this bill revise these requirements to: (1) provide that if a newspaper of general circulation fails to publish the notice or order submitted by the State Engineer the required number of times or consecutively, the State Engineer is not required to republish the notice or order if the notice or order is published at least once by the newspaper; and (2) require the State Engineer to mail the notice or order to not less than one public library in an affected county or counties or, if there is no public library, another public place, for public posting.

Existing law requires the State Engineer to: (1) publish notice that an application has been filed in compliance with chapter 533 of NRS once a week for 4 consecutive weeks in a newspaper of general circulation where the point of diversion is located; and (2) file proof of publication within 30 days after the final day of publication. (NRS 533.360) **Section 6** eliminates the requirement that the State Engineer file proof of publication.

Existing law authorizes any interested person to file a written protest against the granting of an application for a permit within 30 days of the last publication of the notice of application. (NRS 533.365) **Section 6** requires the State Engineer to add to the notice of an application the date on which the period of notice will end. **Section 8** of this bill provides that a person may file a protest against the granting of an application for a permit within 30 days after the end of the required period of notice for certain applications.

Existing law provides that if water for which a permit is requested will be used or diverted from a county other than the county in which the water is or is currently used or diverted, the State Engineer must notify the board of county commissioners of the county in which the water will be appropriated and the board of county commissioners of the county in which the water will be diverted or used. Each board of county commissioners must consider the request at a public meeting and provide public notice of the meeting in a newspaper of general circulation in the county for a period of 3 consecutive weeks before the meeting. (NRS 533.363) **Section 7** of this bill provides that if the newspaper fails to publish the notice 3 times or consecutively for 3 weeks, the board of county commissioners is not required to republish the notice if the notice is published at least once by the newspaper. Existing law provides that if the State Engineer has not acted on an application within 7 years after the final date for filing a protest, the State Engineer must republish notice of the application and the applicant must pay the cost of the republication. (NRS 533.370) **Section 9** of this bill provides that the State Engineer will pay the cost of remailing the notice to a public library or other public place in the county where the point of diversion is located. **Sections 3, 10 and 11** of this bill remove requirements that certain maps relating to water rights be on mylar and tracing linen. **Section 4** of this bill clarifies that certain blank forms for a proof of appropriation must be included in the notice sent by the State Engineer to certain persons claiming rights in or to the waters of certain stream systems.

AB 52

Legislative Counsel's Digest:

The Open Meeting Law requires that meetings of public bodies be open to the public, with limited exceptions set forth specifically in statute. (NRS 241.020) With certain exceptions, to constitute a "meeting" for purposes of the Open Meeting Law, the following two conditions must be met: (1) there must be a gathering of members of a public body at which a quorum is present; and (2) the members must be gathering to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power. In addition, a "meeting" occurs for purposes of the Open Meeting Law when a collective quorum of the members of a public body attend a series of gatherings of less than a quorum of a public body held with the specific intent to avoid the provisions of the Open Meeting Law. A "meeting" does not occur for purposes of the Open Meeting Law where a quorum of members of a public body receives information from its attorney regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and deliberate toward a decision, but not take action, on the matter. The Open Meeting Law further provides that a "meeting" does not occur if there is a gathering or series of gatherings of a quorum of members of a public body: (1) which occurs at a social function if the members do not deliberate toward a decision or take action on a matter over which the public body has supervision, control, jurisdiction or advisory power; or (2) to receive training regarding the legal obligations of the public body if the members do not deliberate toward a decision or take action on a matter over which the public body has supervision, control, jurisdiction or advisory power. **Section 4** of this bill makes technical, nonsubstantive changes to

reorganize the definition of “meeting” to make clear that a meeting does not occur for purposes of the Open Meeting Law if the members of a public body, regardless of the presence of an actual or collective quorum of those members, do not deliberate or take action on a matter over which the public body has supervision, control, jurisdiction or advisory power.

For purposes of the Open Meeting Law, a quorum is defined as a simple majority of the membership of a public body unless a different proportion is provided in law for that public body. (NRS 241.015) Under existing law, some public bodies include nonvoting members as well as voting members and, for some such public bodies, existing law specifies whether nonvoting members are counted for purposes of determining a quorum. (See, e.g., NRS 360.010, 360.080) **Section 4** specifies that, unless otherwise provided in law for a public body, nonvoting members are not counted for purposes of determining a quorum of that public body. **Section 2** of this bill specifies that, unless otherwise provided by specific statute, if a vacancy occurs in the voting membership of a public body, the necessary quorum and number of votes necessary to take action on a matter is reduced as though the voting membership does not include the vacancy.

The Open Meeting Law authorizes a public body to conduct a meeting by means of a remote technology system under certain circumstances. (NRS 241.023) **Sections 4, 5 and 8** of this bill make conforming changes to include remote technology systems as one of the means by which public bodies conduct meetings.

The Open Meeting Law prohibits, with certain exceptions, a public body from holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person, or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has given written notice to that person of the time and place of the meeting and received proof of service of the notice. With certain exceptions, the notice is required to be delivered personally to the person or sent by certified mail by certain deadlines. (NRS 241.033) **Section 6** of this bill adds to the methods by which such notice may be given and revises the deadlines for providing such notice. **Section 6** also removes the requirement for a public body to receive proof of service of the notice before the meeting if the notice was given by electronic mail.

The Open Meeting Law prohibits, with certain exceptions, a public body from holding a meeting to consider whether to: (1) take administrative action against a person; or (2) acquire real property owned by a person by the exercise of the power of eminent domain unless the public body has given written notice to that person of the time and place of the meeting and received proof of service of such notice. With certain exceptions, the notice must be delivered personally to the person or sent by certified mail by certain deadlines. (NRS 241.034) **Sections 3 and 7** of this bill: (1) reorganize these provisions; and (2) revise the deadlines for providing such notice. **Section 3**: (1) adds to the manners by which notice of a meeting to consider whether to take administrative action against a person may be given; and (2) removes the requirement for a public body to receive proof of service of such notice before considering the matter if the notice was provided by electronic mail. **Section 4** defines the term “administrative action against a person.”

Sections 16-19 of this bill make conforming changes relating to the reorganization of these provisions.

Under existing law, with certain exceptions, if a public officer on a body or committee abstains from voting on a matter because of certain conflicts of interest, as required by the Nevada Ethics in Government Law, the necessary quorum and the number of votes necessary to act upon the matter is reduced as though the member abstaining were not a member of the body or committee. (NRS 281A.420) The Open Meeting Law provides that in a county whose population is 45,000 or more (currently Carson City and Clark, Douglas, Elko, Lyon, Nye and Washoe Counties), the reduction in the necessary quorum and the number of votes necessary to act upon the matter does not apply to a public body that is required to be composed of elected officials only, unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel authorized by law to provide legal advice to the public body that the abstention is required. (NRS 241.0355) **Sections 9 and 10** of this bill eliminate the requirement that the member of such a public body receives and discloses the opinion of the legal counsel in order to reduce the necessary quorum and the number of votes necessary to act upon the matter.

Existing law requires the appointment of committees to prepare arguments advocating or opposing approval of statewide ballot measures proposed by initiative or referendum, county ballot measures and city ballot measures. (NRS 293.252, 295.121, 295.217) Under existing law, the provisions of the Open Meeting Law do not apply to any consultations, deliberations, hearings or meetings that are conducted by committees that prepare arguments advocating or opposing approval of county ballot measures. (NRS 295.121) **Sections 11 and 12** of this bill also exempt from the Open Meeting Law consultations, deliberations, hearings or meetings that are conducted by: (1) committees that prepare arguments advocating or opposing approval of statewide ballot measures proposed by initiative or referendum; and (2) committees that prepare arguments advocating or opposing approval of city ballot measures. **Section 5** of this bill makes a conforming change to indicate these additional exemptions from the Open Meeting Law.

The Open Meeting Law defines a “public body” to include a library foundation, an educational foundation and a university foundation if the foundation is created in a specified manner. (NRS 241.015) **Sections 13-15** of this bill clarify that the Open Meeting Law only applies to such a foundation if the foundation meets the definition of a “public body.” (NRS 379.1495, 388.750, 396.405)

AB 291

Legislative Counsel’s Digest:

Existing law prohibits, with certain exceptions, the discharge, use or release of any Class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances for the purpose of testing the Class B firefighting foam or firefighting training. (NRS 459.682) Beginning on January 1, 2024, **section 21** of this bill prohibits a manufacturer from selling, offering for sale, distributing for sale or distributing for use any carpet or rug, fabric treatment, food packaging or children’s product that contains

intentionally added perfluoroalkyl and polyfluoroalkyl substances. **Section 24** of this bill amends **section 21** to also prohibit, beginning July 1, 2024, a manufacturer from selling, offering for sale, distributing for sale or distributing for use any cosmetics, indoor textile furnishings or indoor upholstered furniture that contain intentionally added perfluoroalkyl and polyfluoroalkyl substances.

Section 22 of this bill requires, with certain exceptions, a manufacturer of cookware sold in this State that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances to include on the cookware product label and on any product listing for online sales: (1) that the product contains intentionally added perfluoroalkyl and polyfluoroalkyl substances; and (2) an Internet address and quick response code for a website that contains certain information about the intentionally added perfluoroalkyl and polyfluoroalkyl substances.

Section 23 of this bill provides that a person who willfully and knowingly violates the provisions of **sections 21, 22 and 24** is subject to a maximum civil penalty of \$1,000.

Section 20 of this bill provides an exception to the requirements and prohibitions set forth in this bill to the extent that such provisions are preempted by or conflict with federal law.

Sections 3-19 of this bill define certain terms related to these requirements.

SB 13

Legislative Counsel's Digest:

Existing federal law establishes various requirements for the registration, distribution, sale and use of pesticides. (7 U.S.C. §§ 136 et seq.) **Sections 1, 3 and 4** of this bill update certain references to existing federal law relating to pesticides.

Existing law prohibits, in general, any natural person from using pesticides or otherwise engaging in pest control without a license as an applicator issued by the Director of the State Department of Agriculture. (NRS 555.280, 555.285) **Section 2** of this bill clarifies that "pest control" includes certain activities of a city, county, state or other governmental agency, thereby clarifying that employees of such agencies who engage in pest control are required to obtain a license from the Director.

Existing law prohibits a person from selling, offering to sell, distributing or delivering a restricted-use pesticide unless the person is registered with the Director. Existing law also requires each person registered with the Director to maintain a record of each sale and distribution of restricted-use pesticides for 2 years. (NRS 586.406) **Section 4** of this bill requires that such records be kept at each place of business at which a person sells or distributes restricted-use pesticides.

AB90

Legislative Counsel's Digest:

Under existing law, the State Engineer may grant a permit for a temporary change of the place of diversion, manner of use or place of use of water already appropriated for a period not to exceed 1 year. Before granting such a permit, if the State Engineer determines that

a temporary change may not be in the public interest, or may impair the water rights held by other persons, existing law: (1) requires the State Engineer to give notice of the application; (2) authorizes any interested person to file a written protest to the application; and (3) if a protest is filed, provides that the State Engineer may hold a hearing. (NRS 533.345) Section 1 of this bill authorizes the State Engineer to grant an application for a temporary change for a period not to exceed 10 years. If an application for a temporary change is filed for a period of more than 1 year, section 1 requires the State Engineer to give notice of the application. Existing law sets forth a schedule of fees that the State Engineer is required to collect for providing various services relating to the appropriation of water, including fees for: (1) examining and filing an application for a temporary permit to change the point of diversion, manner of use or place of use of an existing water right; and (2) with certain exceptions, issuing and recording each permit to change an existing water right, whether temporary or permanent. (NRS 533.435) Section 2 of this bill instead establishes fees for: (1) examining and filing an application for a temporary permit to change an existing water right for a period of 1 year or less; (2) examining and filing an application for a temporary permit to change an existing water right for a period of more than 1 year; (3) with certain exceptions, issuing and recording each permit for a permanent change to an existing water right for any purpose; and (4) with certain exceptions, issuing and recording each permit for a temporary change to an existing water right for any purpose.

AB 91

Legislative Counsel's Digest:

Existing law requires a person to submit an application for a permit to change the place of diversion of water already appropriated. (NRS 533.325-533.345) Existing law provides an exception for a person to sink or bore a replacement well without submitting such an application for a permit if: (1) both the original site of the well and the site of the replacement well are located on property owned by the same person for whom the water has already been appropriated; and (2) the site of the replacement well is located not more than 300 feet from the original place of diversion described on the permit to appropriate water. (NRS 534.065) This bill: (1) expands the exception for a person to sink or bore a replacement well without submitting an application for a permit if both the original site of the well and the site of the replacement well are on public lands; and (2) requires the site of the replacement well to be located anywhere on public lands or on the property of the person who holds the permit to appropriate water that is not more than 300 feet from the original place of diversion described on the permit to appropriate water.

STAFF RECOMMENDATION: Make recommendations to the Board on upcoming 2023 Legislation.