

SUMMARY: Amends the Washoe County Code by adding a new section establishing a program of financial assistance, pursuant to NRS 244.3651, that provides financial assistance in the form of loans to residential property owners in converting from private water and sewer systems to Washoe County public water and sewer systems.

BILL NO. 1630

ORDINANCE NO. 1449

AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY ADDING A NEW SECTION DESIGNATED AS CHAPTER 40.335 THROUGH 40.348 AND TITLED "WATER AND SANITARY SEWER FINANCIAL ASSISTANCE PROGRAM" AUTHORIZING THE USE OF GIFTS, GRANTS, MONIES AND LOANS TO ASSIST PROPERTY OWNERS TO PAY FEES AND ON-SITE COSTS ASSOCIATED WITH CONVERSION FROM PRIVATE WATER AND SEWER SYSTEMS TO WASHOE COUNTY PUBLIC WATER AND SEWER SYSTEMS; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO HEREBY ORDAIN:

SECTION 1.

Chapter 40 of the Washoe County Code is hereby amended by adding thereto the provisions set forth as sections 2 to 15 inclusive, of this ordinance, which shall read as follows:

SECTION 2.

40.335. Purpose and Authority. The Nevada State Legislature of 2009 enacted Assembly Bill 54, Chapter 365, Statutes of Nevada, 2009, which was later added to Chapter 244 of the Nevada Revised Statutes as NRS 244.3651 and NRS 244.3653, respectively. NRS 244.3651 authorizes counties with populations between 100,000 and 400,000, as may be amended from time to time, to establish a financial assistance program by ordinance for residential property owners, who desire to abandon their private on-site domestic wells or septic systems and connect to Public Water or Sewer Systems, thereby protecting and conserving groundwater resources in the region. The purpose of this Ordinance and new section of Chapter 40 is to:

1. Establish rules and regulations governing the administration of the "Water and Sanitary Sewer Financial Assistance Program" and ensure that these rules are applied in a

non-discriminatory manner to all eligible residential property owners.

2. Ensure that available financial assistance in the form of loans are exclusively used to pay actual and necessary costs and expenses to:

- (a) disconnect from a Private Water or Sewer System;
- (b) eliminate, decommission or properly abandon a Private Water or Sewer System; and
- (c) connect to a Public Water or Sewer System.

3. Ensure that loan amounts, fees, charges, costs, and any delinquencies, including penalties and interest, are repaid in accordance with this Ordinance and the terms and conditions of the loan agreements, notes, and related documents.

SECTION 3.

40.336. Finding of Public Purpose and Benefit. Based on evidence provided at public hearings, the Board hereby finds and determines as follows:

1. As of 2009, it is estimated that several thousand parcels in the Truckee Meadows Service Area of Washoe County are being served by domestic wells, on-site septic systems, or both.

2. Based on studies performed and data reviewed by the Washoe County Department of Water Resources, domestic wells in the southern portion of Washoe County have failed or no longer provide safe drinking water because of over-appropriation of groundwater resources, declining water tables, poor water availability due to geologic structure, and/or water quality issues caused by natural contaminants or groundwater contamination caused by septic system effluent. These various conditions pose a direct threat to the public's health, welfare and safety.

3. Converting parcels served by domestic wells or on-site septic systems to available Public Water or Sewer Systems, where such systems are or can reasonably be made available, would substantially reduce the impacts to property owners of over-appropriation of groundwater resources, declining water tables and contamination that threaten the public health, welfare and safety. Cost estimates, however, for converting a significant number of these parcels to available Public Water and Sewer Systems indicate that the per parcel cost ranges from \$15,000 to \$30,000 to connect a parcel to each utility system, with a cumulative total cost of approximately \$600 million for converting all such parcels to a public or private utility service provider designed to serve in the area. Many residential property owners do not have the financial means of paying these significant up-front costs associated with conversion to Public Water and Sewer Systems, especially under

economic conditions that include high unemployment and depreciating property values.

4. For the foregoing reasons, the Board finds that it is necessary to establish a program to offer available financial assistance to eligible residential property owners to serve the public purpose and benefit of assisting property owners desiring to convert from Private Water and Sewer Systems to Public Water and Sewer Systems in order to protect and promote the health, welfare and safety of its citizens.

SECTION 4.

40.337. Establishment of Financial Assistance Program. The Board hereby establishes a program to provide financial assistance in the form of loans issued to eligible owners of residential property, who desire to convert from a private on-site domestic well or septic system to a reasonably available Public Water or Sewer System. In basins where financial assistance for domestic well conversions is proposed, a plan for the protection and sustainable management of groundwater of such a basin shall be established, and from time to time amended.

SECTION 5.

40.338. Title. This Ordinance shall be known as the Water and Sanitary Sewer Financial Assistance Program ("Program" or "Ordinance").

SECTION 6.

40.339. Definitions.

1. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Chapter 244 of the NRS, as amended, and, if not defined therein, their common and ordinary meaning.

2. "Administrator" means the Director of the Washoe County Department of Water Resources or designee.

3. "Board" means the Board of Washoe County Commissioners as the legislative body of the county.

4. "Code" means the official code of the county's ordinances of a general and permanent character, as may be adopted and amended by the Board.

5. "Contractor" means a Nevada State licensed and duly qualified contractor who is authorized to perform the work and

services related to the abandonment, decommissioning and conversion of a private water or sewer system to a public water or sewer system.

6. "Loan" means the extension of credit or financing of principal, interest, fees and charges, of whatever kind and in whatever amount, issued by the county from the Water or Sewer Utility Enterprise Fund for the exclusive purpose of providing financial assistance to eligible property owners under this Program.

7. "Loan Package" means the Financial Assistance Program application, security agreement, promissory note, deed of trust and all other documentation, reports, authorizations, letters or requests for information required by the Administrator.

8. "Private Water System" means an on-site domestic well, and any facility or facilities related thereto, that serves potable water to an existing residential dwelling unit.

9. "Private Sewer System" means an on-site sewage or septic system, and any facility or facilities related thereto, that serves an existing residential dwelling unit for the disposal, collection, storage or treatment of sewage.

10. "Public Water or Sewer System" means Washoe County water or sewer system facility or facilities for the collection, pumping, treatment, storage or conveyance of potable water or sewage, and all appurtenances, equipment and machinery necessary, useful and convenient for obtaining, storing, transporting or transferring water or sewage.

11. "Reasonably Available" means that the residential property abuts or is within 400 feet of a Public Water or Sewer main, transmission or distribution line, and the residential property has legal access to the Public Water or Sewer System through either a public street, road or right-of-way, or through a temporary construction and/or permanent easement.

12. "Truckee Meadows Service Area or TMSA" shall mean the defined area, as amended from time to time, within which municipal services and infrastructure will be provided and which boundary is intended to guide orderly urban and suburban development within the Truckee Meadows area.

SECTION 7.

40.340. Administrator's Program Authority.

1. Authority to Award Loan Commitments up to \$25,000.
Subject to and in accordance with the eligibility criteria and requirements set forth in this Ordinance, the Board hereby authorizes the Administrator or designee to enter into Loan commitments with eligible residential property owners in amounts of

\$25,000.00 or less. For all other Loan commitments in amounts that exceed \$25,000.00, Board authorization shall be required.

2. Authority to Implement Administrative Regulations and Policies. The Administrator shall establish and implement regulations, policies and procedures regarding the administration of this Program. Program regulations, policies and procedures shall include, but not be limited to, the responsibility for: receiving and processing applications; developing and providing Loan funding and repayment terms, conditions, and specifications; awarding Loans; monitoring construction; approving disbursements of Loan funds for authorized expenditures; establishing mechanisms for the collection of Loan payments; and administering the repayment of delinquencies under this Ordinance. Regulations, policies and procedures shall be adopted by the Board prior to implementation and shall be consistent with the provisions of this Ordinance and NRS 244.3651.

3. Accounting. Funds used to support this Program shall be accounted for separately and in accordance with generally accepted accounting principles.

4. Reporting. The Administrator shall report to the Board on a quarterly basis on the activities associated with this Program, including new loans made and loan repayment activity.

SECTION 8.

40.341. Applicability.

1. An eligible owner of residential property located in the Truckee Meadows Service Area of Washoe County may apply for financial assistance pursuant to this Program to pay for the necessary and actual costs and expenses associated with abandonment and conversion from a Private Water or Sewer System to a reasonably available Public Water or Sewer System.

2. Nothing in this Ordinance shall be construed to require the Board, the Administrator or designee to provide any financial assistance or to require any owner of residential property to apply for or accept financial assistance pursuant to this Program. Approval of financial assistance under this Program and its written regulations, policies and procedures shall be at the sole discretion of the Board or the Administrator, as authorized by the Board.

SECTION 9.

40.342. General Eligibility for Loans and Program Funding. Loans shall be made subject to the following general eligibility requirements and Program funding terms and conditions:

1. Applicant. To qualify for financial assistance under the Program, the applicant must submit, upon verification by the Administrator, a certified copy of the deed from the Washoe County Recorder that evidences he/she is the current record owner of the residential property to be converted to the Public Water or Sewer System. An applicant must be current and not delinquent in payment of all Washoe County property taxes, fees and assessments, and payment of any existing mortgage, deed of trust, promissory note or other security instrument or agreement, if any.

2. Residential Property. The applicant's residential property must be currently served by a Private Water or Sewer System and must be reasonably available to a Public Water or Sewer System. For purposes of this Ordinance, "reasonably available" means that the residential property abuts or is within 400 feet of a Public Water or Sewer main, transmission or distribution line, and the residential property has legal access to the Public Water or Sewer System through either a public street, road or right-of-way, or through a temporary construction and/or permanent easement. The residential property to be improved and connected to the Public Water or Sewer System must contain a permanent residential structure or mobile or manufactured home with a permanent foundation and must be assessed as real property by the Washoe County Assessor.

3. Program Funding. The Program may be funded by any combination of grants, gifts or other available monies on hand or accepted by the Board. The Administrator is encouraged to obtain additional funding in the form of grants or gifts to be used for the exclusive purpose of reducing Loan amount commitments to eligible property owners under this Program. Program funding is subject to availability. Grant funding, if available, is subject to the terms and conditions of the grant and shall be apportioned equally and uniformly to benefit each eligible property owner in accordance with the purpose, terms and conditions of the grant.

SECTION 10.

40.343. Financial Assistance Application Process. An applicant must satisfactorily complete and submit the applicable Program forms and fees to the Administrator before being considered eligible for financial assistance.

1. Loan Package and Program Funding Forms. The Administrator shall prescribe and make available to applicants Loan Package and Program forms.

2. Application Fee. All applicants for financial assistance shall be charged a standard, non-refundable application fee, which amount shall be established by the Administrator on an annual basis

each July. The standard application fee shall be used to pay standard costs for processing the application and issuing financial assistance, including, but not limited to, all costs of administration, authorization, obtaining credit or other reports, certifications or other documents, and loan set-up fees.

3. Priority. Except as otherwise provided in this subsection, a Program application, together with the standard application fee, will be rated on a first-come, first-serve basis as of the date a completed and submitted application is received by the Administrator, with priority determined as of the date of the application's postmark, receipt date of facsimile or electronic mail transmission or hand delivery date stamp received.

4. Emergency Conditions. The Administrator or designee shall have the discretion to offer financial assistance to an eligible residential property owner who does not have priority status based upon the Program application's date of receipt, if:

(a) All other general eligibility requirements have been satisfied; and

(b) An emergency condition exists or is likely to exist, which necessitates providing the residential property owner with financial assistance, if the residential property owner's Private Water or Sewer System fails to operate and an imminent and substantial endangerment to the environment or to the health, safety and welfare of persons requires immediate action.

5. Acceptance of Application Not a Final Determination of Financial Assistance Granted. Receipt and acceptance of a Program application for financial assistance indicates only a determination that the application has been satisfactorily completed and that it is generally eligible, but does not constitute or imply a commitment of the Board to provide financial assistance, and shall not be construed as such until issuance of a final written determination. Applications will be accepted by the Administrator or designee until Program funding or credit for Loans is no longer available.

6. Denials. Letters of denial will be issued to applicants who are not qualified stating the reason for denial.

7. Withdrawal of Application. An applicant may decline financial assistance or withdraw a Program application at any time prior to disbursements of funds for any reason or no reason at all. Applicants who withdraw an application at any stage in the process shall not be entitled to a refund of the standard application fee.

SECTION 11.

40.344. Authorized Expenditures.

1. To the reasonable satisfaction of the Administrator or designee, all Authorized Expenditures, as defined in subsection

40.344(2), must be verified by invoices or receipts from a duly licensed Contractor or other qualified person, who has actually performed and completed the services or work. Retroactive to May 29, 2009, the Administrator or designee may authorize or recommend financial assistance for Authorized Expenditures already performed prior to the establishment of this Program, if:

(a) The work or services were performed and completed by a duly licensed Contractor or other qualified person in accordance with all applicable federal, state and local laws; and

(b) The work and services were performed and completed in accordance with all applicable public works and water and/or sewer utility standards and requirements.

2. Loan commitments issued to a residential property owner shall only be used for the purposes set forth in this section, and in each case, upon a finding by the Administrator or designee that the purpose of the Loan and the terms and condition of repayment satisfy the goals and eligibility requirements set forth under this Program. Authorized Expenditures shall be limited:

(a) To offset, finance or pay for the costs directly associated with the design, specifications, records or document production, permit and plans for the connection of the residential property to a Public Water or Sewer System;

(b) To offset, finance or pay for the costs associated with the construction, excavation, installation and connection to a Public Water or Sewer System;

(c) To offset, finance or pay for the one-time system connection or hook-up fees; impact fees, capacity fees, lateral line costs, permitting and inspection fees;

(d) To offset, finance or pay for the costs associated with the abandonment and/or decommissioning of a Private Water or Sewer System serving an applicant's eligible residential property; and

(e) To offset, finance or pay for the costs associated with the repair and restoration of the applicant's residential property impacted by the non-negligent abandonment, construction and installation activities, work or services directly related to the conversion from a Private Water or Sewer System to a Public Water or Sewer System.

SECTION 12.

40.345. Construction Requirements.

1. The property owner, Contractor or other qualified person performing the work or services authorized under this Program shall be responsible for ensuring that all such work or services performed is consistent with applicable law, rules and regulations

and that all necessary permits are obtained prior to the commencement of work or services.

2. The Administrator or designee may require eligible program applicants, who intend to use a licensed Contractor to perform the work or services under this Program, to submit a specified number of bids prior to authorizing such work or services. The Contractor, who is hired by the recipient of Funding or a Loan commitment, and who performs authorized work under this Program, must be properly licensed in the State of Nevada, in good standing and duly qualified under all applicable federal, state and local laws.

3. The property owner, Contractor or other qualified person shall not construct, install or connect to a Public Water or Sewer System unless the property owner has received written authorization from the Administrator or designee to proceed. This written authorization does not relieve the property owner, his/her contractor or other qualified person performing the work or services from the responsibility for obtaining all necessary permits and/or means of legal access prior to commencement of the work.

4. Contractors or other qualified persons, who perform abandonment, construction and connection activities, work or services under this Program shall be fully responsible for all acts or omissions in the performance of such activities, work or services. Contractors or other qualified persons shall be responsible for promptly correcting acts or omissions to ensure that the work and services are properly performed.

5. Construction Inspections, Permits and Tests. Upon completion of the work and services authorized under this Program, the Administrator or designee must be provided with sufficient written documentation evidencing all final construction inspections, tests, permits and other related certificates or regulatory approvals before financial assistance will be disbursed. Disbursement of financial assistance to the property owner shall neither constitute nor be construed as the county's opinion of the quality of construction, workmanship or services, but only as to their completion.

SECTION 13.

40.346. Loan Commitments.

1. Loan Commitment. Upon submission of an application for financial assistance under this Program, the Board or Administrator or designee, as authorized by the Board, may approve the issuance of a Loan to an eligible applicant, subject to payment of a Loan Administrative fee described in 40.346(4). If a Loan under this

Program is authorized, the residential property owner must execute applicable Loan Package documents, in the form of a promissory note and deed of trust or such other similar instruments, to pledge the real property as security for the Loan. Interest rates charged on Loans issued under this Program shall be determined by the county and may be subject to modification pursuant to the terms and conditions of the Loan agreements, instruments and documents.

2. Contractor Agreements with Residential Property Owner. Except as otherwise provided in this Ordinance, when a Loan commitment is authorized, the owner of the residential property shall enter into an appropriate agreement with the Contractor to perform and complete the work or services authorized under this Program. The Board, Administrator or any other county officer or representative shall not be a party or a third party beneficiary to any such agreement.

3. Loan Disbursements. The Board hereby authorizes the Administrator or designee to determine whether invoices and amounts submitted for payment qualify as Authorized Expenditures under the Program. After the Administrator or designee determines such invoices and amounts qualify as Authorized Expenditures, Loan disbursements for such amounts shall be made directly and only to the residential property owner, but only after a further determination is made by the Administrator or designee that all abandonment and conversion work or services of a Private Water or Sewer System to a Public Water or Sewer System have been performed and completed satisfactorily and in accordance with applicable public works and utility standards. Loan disbursements shall only be made to a loan applicant or applicants.

4. Loan Administrative Fee. Each recipient of a Program Loan shall be charged a Loan Administrative Fee in the amount of one percent (1%) interest above the interest rate based on the weighted average cost of debt within the County's Department of Water Resources, which is recalculated at the beginning of each fiscal year, for loans made using cash on hand. This loan administrative fee shall be incorporated into the loan interest amount appearing on billing statements. The Loan Administrative Fee shall be used to pay the costs of issuing and servicing the loan, including, but not limited to, all costs of billing and collecting payment related to the loan.

SECTION 14.

40.347. Repayment Procedure for Program Loans.

1. Repayment of Loans. Repayment of Program Loans, together with all interest, fees and charges, shall, upon notice to the residential property owner, be made to the Washoe County Treasurer

using similar procedures to those used for the collection of special assessments or other similar obligations due and owing the county.

2. Billings for Installments. Repayment of Program Loans shall be made in quarterly installments as determined by the Washoe County Treasurer for the parcel being converted to the Public Water or Sewer System. The Program Loan amount, after computing the applicable interest rate, fees and charges for the applicable period from the date of the notice in 40.347(1), shall be prepared by the Washoe County Treasurer as soon as reasonably practicable after Loan issuance. Billing and collection for the Loan amount shall thereafter be treated procedurally in a similar manner as that for any other special assessment or similar obligation for the parcel.

3. Delinquent Repayment of Loans.

(a) If the residential property owner does not timely pay to the Washoe County Treasurer each installment for the Loan amount computed and billed for the parcel, each such installment shall be deemed delinquent and shall accrue a monthly penalty equal to 5% of the delinquent installment plus any applicable penalties previously accrued. On May 1 of each year, any parcel with four or more installments delinquent, plus any penalties accrued, shall be added to the real property tax roll and collected as set forth below in section 40.348. The 5% monthly penalty will accrue through June 30 of each year following the determination to add the delinquency to the tax roll. Any further delinquent installments beyond the first four as described in 40.347(3)(a) above, shall result in the entire outstanding amount of the Loan being added to the real property tax roll and collected as set forth in section 40.348.

(b) The Washoe County Treasurer may, in his/her sole discretion, waive or reduce any penalties and interest accrued for any delinquent installments caused by circumstances beyond the control of the residential property owner. A request to waive or to reduce any such penalties and interest must provide a proper showing of circumstances beyond the residential property owner's control and the failure to timely pay installments occurred despite the exercise of ordinary care.

SECTION 15.

40.348. Collection of Delinquencies.

1. The Board hereby adopts and incorporates in this Ordinance the procedures set forth in NRS 244.36605 for the collection of delinquent repayment of Loans or services, including without limitation, service charges, fees, interest and penalties. The Board further authorizes the Washoe County Treasurer to collect

such delinquencies by preparing them to be collected on the tax roll, or with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner and at the same time as, together with and not separately from, Washoe County's general taxes.

2. In accordance with and in addition to the requirements of NRS 244.36605, the Washoe County Treasurer shall:

(a) Describe each lot or parcel of real property or each mobile or manufactured home with respect to which Loan amounts, charges, fees, penalties and interest are delinquent on May 1 of each year; and

(b) The amount of the delinquent Loan amounts, charges, fees, penalties and interest, to be prepared and submitted to the Washoe County tax receiver, in a form approved by the tax receiver, no later than June 1 of each year.

SECTION 16.

1. All actions, proceedings, matters and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.

2. The officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance, including without limitation the generality of the foregoing, the preparation of all necessary documents, legal proceedings and other items necessary or desirable for the providing of financial assistance. The County Clerk is authorized to make non-substantive edits and corrections to this Ordinance.

3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.

4. This ordinance shall be in effect from and after its publication as hereinafter provided, and after this ordinance is signed by the Chairman of the Board and attested and sealed by the County Clerk, this ordinance shall be published by title only, together with the names of the Commissioners voting for or against and with a statement that typewritten copies of said ordinance are available for inspection by all interested parties at the office of the County Clerk, such publication to be made in the Reno Gazette Journal, a newspaper published and having general circulation in the County, at least once a week for a period of two weeks by two insertions as required by NRS 244.100 and any other enabling laws.

5. Each term and provision of this ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or

provision of this ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this ordinance. In any event, the remainder of this ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY ADDING A NEW SECTION DESIGNATED AS CHAPTER 40.335 THROUGH 40.348 AND TITLED "WATER AND SANITARY SEWER FINANCIAL ASSISTANCE PROGRAM" AUTHORIZING THE USE OF GIFTS, GRANTS, MONIES AND LOANS TO ASSIST PROPERTY OWNERS TO PAY FEES AND ON-SITE COSTS ASSOCIATED WITH CONVERSION FROM PRIVATE WATER AND SEWER SYSTEMS TO WASHOE COUNTY PUBLIC WATER AND SEWER SYSTEMS; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

This ordinance was proposed on the 13th day of July, 2010 by Commissioner: *Larkin*

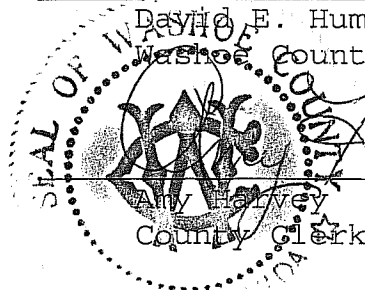
This ordinance was passed on the 27th day of July, 2010.

Those voting "aye" were: *LARKIN, WEBER, Jung & Bretonitz*
Those voting "nay" were: *NONE*
Those absent were: *Humke*
Those abstaining were: *NONE*

This ordinance shall be in force and effect immediately upon the date of the second publication of such ordinance as required by NRS 244.100.

Bonnie Heber for

David E. Humke, Chairman
Washoe County Commission



Amy Harvey
County Clerk

ATTEST: