

ASSEMBLY BILL NO. 134—COMMITTEE ON NATURAL RESOURCES, AGRICULTURE
AND MINING

(ON BEHALF OF HEALTH DIVISION)

FEBRUARY 4, 1999

Referred to Committee on Natural Resources, Agriculture and Mining

SUMMARY—Makes various changes to provisions governing public water systems.
(BDR 40-441)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

~

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

AN ACT relating to public water systems; expanding the authority of the state board of health to regulate such systems; requiring certain systems to have the necessary technical, managerial and financial capacities to comply with certain federal regulations; revising the requirement that operators of such systems be certified by the state board of health; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 445A of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 11, inclusive, of this act.
3 **Sec. 2. “Capability” has the meaning ascribed to the term**
4 **“capacity” in 42 U.S.C. § 300j-12.**
5 **Sec. 3. “Community water system” means a public water system**
6 **that:**
7 1. **Has at least 15 service connections used by year-round residents**
8 **of the area served by the system; or**
9 2. **Regularly serves at least 25 year-round residents of the area**
10 **served by the system.**

1 **Sec. 4. “Financial capability” means the ability of a public water**
2 **system to:**

- 3 1. **Pay the costs related to maintenance, operations, depreciation and**
4 **capital expenses;**
- 5 2. **Maintain creditworthiness; and**
- 6 3. **Establish and maintain adequate fiscal controls and accounting**
7 **methods required for the operation of the system.**

8 **Sec. 5. “Managerial capability” means the ability of a public water**
9 **system to conduct its administrative affairs in a manner that ensures**
10 **compliance with all applicable standards based on:**

- 11 1. **The accountability, responsibility and authority of the owner or**
12 **operator of the system;**
- 13 2. **The personnel and organization of the system; and**
- 14 3. **The ability of the persons who manage the system to work with:**
15 **(a) Jurisdictional, regulatory and other governmental agencies;**
16 **(b) Trade and industry organizations; and**
17 **(c) The persons served by the system.**

18 **Sec. 6. “Noncommunity water system” means a public water system**
19 **that:**

- 20 1. **Has at least 15 service connections used by persons who are not**
21 **year-round residents of the area served by the system; or**
- 22 2. **Has less than 15 service connections used by at least 25 persons**
23 **who are not year-round residents of the area served by the system.**

24 **Sec. 7. “Nontransient water system” means a noncommunity water**
25 **system that regularly serves at least 25 of the same persons for more than**
26 **6 months per year.**

27 **Sec. 8. “Public utility” has the meaning ascribed to it in NRS**
28 **704.020.**

29 **Sec. 9. 1. “Service connection” means:**

- 30 (a) **The point of connection between a public water system and the**
31 **system used by a customer of the public water system to obtain water**
32 **from that system, at which point the public water system loses its control**
33 **over the use of the water;**
- 34 (b) **If a meter is installed between a public water system and the**
35 **system used by a customer of the public water system to obtain water**
36 **from that system, the downstream end of the meter or meter assembly; or**
- 37 (c) **At a park for mobile homes or recreational vehicles, the point of**
38 **connection of the mobile home or recreational vehicle to the riser for**
39 **water service of the public water system that serves the park.**
- 40 2. **The term does not include a connection to a system that delivers**
41 **water which is exempted pursuant to 42 U.S.C. § 300f(4)(B).**

1 **Sec. 10.** *“Technical capability” means the ability of a public water*
2 *system to:*

3 1. *Obtain an adequate and reliable source of water that is necessary*
4 *to provide the quantity and quality of water required by the system;*

5 2. *Establish and maintain an adequate infrastructure for the*
6 *treatment, storage and distribution of the quantity and quality of water*
7 *required by the system; and*

8 3. *Employ operators who have the technical knowledge and ability to*
9 *operate the system.*

10 **Sec. 11.** *“Transient water system” means a noncommunity water*
11 *system that does not regularly serve at least 25 of the same persons for*
12 *more than 6 months per year.*

13 **Sec. 12.** NRS 445A.235 is hereby amended to read as follows:

14 445A.235 “Public water system” means a system, regardless of
15 ownership, that provides the general public with ~~pip~~ed water for human
16 consumption ~~through pipes or other constructed conveyances~~, if the
17 system has 15 or more *service* connections , *as defined in section 9 of this*
18 *act*, used by *year-round* residents of ~~the state throughout the year~~ *this*
19 *state* or regularly serves 25 or more persons for 60 or more days a year.

20 The term includes:

21 1. A facility for the collection, pumping, treatment, storage or
22 distribution of water which is controlled by the operator of the system and
23 used primarily in connection with the system; and

24 2. A facility for the collection or storage before treatment of water
25 which is not controlled by the operator of the system but is used primarily
26 in connection with the system.

27 **Sec. 13.** NRS 445A.265 is hereby amended to read as follows:

28 445A.265 1. The division shall:

29 (a) Use the money in the account for the revolving fund and the account
30 for set-aside programs for the purposes set forth in the Safe Drinking
31 Water Act.

32 (b) Determine whether public water systems which receive money or
33 other assistance from the account for the revolving fund or the account for
34 set-aside programs comply with the Safe Drinking Water Act and
35 regulations adopted pursuant thereto.

36 2. The division may:

37 (a) Prepare and enter into required agreements with the Federal
38 Government for the acceptance of grants of money for the account for the
39 revolving fund and the account for set-aside programs.

40 (b) Bind itself to terms of the required agreements.

1 (c) Accept grants made pursuant to the Safe Drinking Water Act.
2 (d) Manage the account for the revolving fund and the account for set-
3 aside programs in accordance with the requirements and objectives of the
4 Safe Drinking Water Act.

5 (e) Provide services relating to management and administration of the
6 account for the revolving fund and the account for set-aside programs,
7 including the preparation of any agreement, plan or report.

8 (f) Perform, or cause to be performed by the Nevada Rural Water
9 Association or other *persons*, agencies or organizations through
10 interagency agreement, contract or memorandum of understanding, set-
11 aside programs pursuant to 42 U.S.C. § 300j-12 of the Safe Drinking
12 Water Act.

13 3. The division shall not:

14 (a) Commit any money in the account for the revolving fund for
15 expenditure for the purposes set forth in NRS 445A.275; or

16 (b) Establish the priorities for determining which public water systems
17 will receive money or other assistance from the account for the revolving
18 fund,
19 without obtaining the prior approval of the board for financing water
20 projects.

21 **Sec. 14.** NRS 445A.805 is hereby amended to read as follows:

22 445A.805 As used in NRS 445A.800 to 445A.955, inclusive, *and*
23 *sections 2 to 11, inclusive, of this act*, unless the context otherwise
24 requires, the *words and* terms defined in NRS 445A.810 to 445A.850,
25 inclusive, *and sections 2 to 11, inclusive, of this act*, have the meanings
26 ascribed to them in those sections.

27 **Sec. 15.** NRS 445A.815 is hereby amended to read as follows:

28 445A.815 “Federal Act” means the Safe Drinking Water Act, ~~(H)~~ 42
29 U.S.C. §§ 300f et seq. ~~(D-I)~~, *as amended*.

30 **Sec. 16.** NRS 445A.840 is hereby amended to read as follows:

31 445A.840 “Public water system” ~~[means any system which provides~~
32 ~~the public with piped water for human consumption if the system has 15 or~~
33 ~~more service connections or regularly serves 25 or more persons for 60 or~~
34 ~~more days a year. A public water system includes:~~

35 ~~—1.— Any collection, treatment, storage and distribution facility under~~
36 ~~control of the operator of the system and used primarily in connection with~~
37 ~~the system; and~~

38 ~~—2.— Any collection or pretreatment storage facility not under such~~
39 ~~control but used primarily in connection with the system.]~~ *has the*
40 *meaning ascribed to it in NRS 445A.235.*

1 **Sec. 17.** NRS 445A.860 is hereby amended to read as follows:

2 445A.860 In addition to the regulations required to be adopted
3 pursuant to NRS 445A.880, the state board of health:

4 1. Shall adopt regulations establishing procedures for a system of
5 permits to operate water systems which are constructed on or after July 1,
6 1991.

7 2. May adopt such other regulations as may be necessary to govern the
8 construction, operation and maintenance of public water systems if those
9 activities affect the quality of water, but the regulations do not supersede
10 any regulation of the public utilities commission of Nevada.

11 3. May establish by regulation a system for the issuance of operating
12 permits for suppliers of water and set a reasonable date after which a
13 person shall not operate a public water system constructed before July 1,
14 1991, without possessing a permit issued by a health authority.

15 4. *May adopt such other regulations as may be necessary to ensure*
16 *that a community water system or nontransient water system that*
17 *commences operation on or after October 1, 1999, demonstrates the*
18 *technical capability, managerial capability and financial capability to*
19 *comply with 40 C.F.R. §§ 141.110 and 141.111, but the regulations do*
20 *not supersede any regulation of the public utilities commission of Nevada*
21 *or the authority of the commission or other state agencies or local*
22 *governing bodies to issue permits or certificates of authority for suppliers*
23 *of water.*

24 5. *May adopt such other regulations as may be necessary to evaluate*
25 *the technical capability, managerial capability and financial capability of*
26 *a community water system or nontransient water system that commenced*
27 *operation before October 1, 1999, to comply with 40 C.F.R. §§ 141.110*
28 *and 141.111, but the regulations do not supersede any regulation of the*
29 *public utilities commission of Nevada or the authority of the commission*
30 *or other state agencies or local governing bodies to issue permits or*
31 *certificates of authority for suppliers of water.*

32 6. *May adopt such other regulations as may be necessary to carry out*
33 *the provisions of NRS 445A.800 to 445A.955, inclusive, and sections 2 to*
34 *11, inclusive, of this act.*

35 **Sec. 18.** NRS 445A.863 is hereby amended to read as follows:

36 445A.863 1. The state board of health shall provide by regulation
37 standards for the certification of laboratories for the analysis of water
38 pursuant to NRS 445A.800 to 445A.955, inclusive. An analysis required
39 pursuant to any provision of NRS 445A.800 to 445A.955, inclusive, must
40 be performed by a certified laboratory.

41 2. The certifying officer shall conduct an evaluation at the site of each
42 laboratory to determine whether the laboratory is using the methods of
43 analysis required by this section in an acceptable manner, applying

1 procedures required by regulation for the control of quality and making
2 results available in a timely manner.

3 3. For analyses required pursuant to NRS 445A.800 to 445A.955,
4 inclusive, or by a lender as a condition precedent to the transfer of real
5 property, the methods used must comply with the ~~{Safe Drinking Water~~
6 ~~Act, 42 U.S.C. §§ 300f et seq.}~~ **Federal Act.**

7 4. A laboratory may be certified to perform analyses for the presence
8 of one or more specified contaminants, or to perform all analyses required
9 pursuant to NRS 445A.800 to 445A.955, inclusive.

10 **Sec. 19.** NRS 445A.870 is hereby amended to read as follows:

11 445A.870 1. The state board of health may appoint an advisory
12 board to act in an advisory capacity in matters relating to the certification
13 of operators of ~~{public}~~ **community water systems or noncommunity** water
14 systems. ~~{Each member of the advisory board must:~~

15 ~~1. Serve without compensation; and~~

16 ~~2. Be a member of the American Water Works Association.}~~

17 2. **If such an advisory board is appointed:**

18 (a) **At least one member of the advisory board must be a member of**
19 **the American Water Works Association.**

20 (b) **At least one member of the advisory board must be a member of**
21 **the Nevada Rural Water Association or its successor organization.**

22 (c) **One member of the advisory board may represent the general**
23 **public.**

24 3. **Each member of the advisory board serves without compensation.**
25 **While engaged in the business of the advisory board, each member of the**
26 **advisory board is entitled to receive the per diem allowance and travel**
27 **expenses provided for state officers and employees generally, to the**
28 **extent that money is made available for that purpose.**

29 **Sec. 20.** NRS 445A.875 is hereby amended to read as follows:

30 445A.875 1. ~~{A}~~ **Except as otherwise provided in subsection 2, a**
31 **person shall not act as an operator of a ~~{public}~~ community water system**
32 **or noncommunity water system ~~{which:~~**

33 ~~—(a) Serves 100 or more persons at places which are intended for~~
34 ~~occupancy throughout the year;~~

35 ~~—(b) Is designated by the health division as being supplied by surface~~
36 ~~water; or~~

37 ~~—(c) Is designated by the health division as being supplied by ground~~
38 ~~water that is under the direct influence of surface water,}~~ unless he has
39 obtained a certificate to operate **such** a ~~{public}~~ water system from the
40 ~~{state board of health.}~~ **health division.**

41 2. **An operator of a transient water system is not required to obtain a**
42 **certificate to operate a noncommunity water system if the system is**

1 *designated by the health division as being supplied by ground water that*
2 *is not under the direct influence of surface water.*

3 3. An operator may be certified to operate more than one ~~{public}~~
4 *community water system or noncommunity* water system.

5 ~~{3.— No provision of this section requires that}~~

6 4. *This section does not require* a certified operator *to* be on site at a
7 ~~{public}~~ *community water system or noncommunity* water system during
8 all hours of operation.

9 **Sec. 21.** NRS 445A.880 is hereby amended to read as follows:

10 445A.880 1. The state board of health shall adopt regulations to
11 establish:

12 (a) A system of classification of operators of ~~{public}~~ *community water*
13 *systems and noncommunity* water systems who are required to be certified
14 pursuant to NRS 445A.875;

15 (b) Requirements for certification for each class of operator; ~~{and}~~

16 (c) Reasonable fees for issuing and renewing certificates ~~{; and}~~

17 *(d) Requirements for continuing education for the renewal of a*
18 *certificate.*

19 2. The fees so collected must only be used to:

20 (a) Defray the cost of issuing and renewing certificates; and

21 (b) Pay any expenses incurred by the ~~{state board of}~~ health *division* in
22 carrying out its duties relating to operators of ~~{public}~~ *community water*
23 *systems and noncommunity* water systems.

24 3. The ~~{state board of}~~ health *division* shall establish and administer
25 examinations to determine the eligibility of any person who applies for
26 certification. An applicant is entitled to certification upon satisfaction of
27 the requirements of the state board of health and payment of the applicable
28 fee. The ~~{state board of}~~ health *division* may enter into a contract with the
29 American Water Works Association *or another person, organization or*
30 *agency* to carry out or assist the ~~{board}~~ *health division* in carrying out the
31 provisions of this subsection.

32 4. The ~~{state board of health shall}~~ *health division may* grant such
33 certification, without examination, to an applicant who holds current
34 certification by the California/Nevada section of the American Water
35 Works Association ~~{; or by another organization whose requirements for}~~
36 *certification are equivalent to the requirements for certification*
37 *established by the state board of health pursuant to subsection 1.*

38 **Sec. 22.** NRS 445A.915 is hereby amended to read as follows:

39 445A.915 ~~{No provision}~~ *The provisions* of NRS 445A.885 to
40 445A.915, inclusive, ~~{prevents;}~~ *do not prevent:*

41 1. A local governing body or a health district from imposing its own
42 conditions for approval of the operation of any water system located within

1 its jurisdiction, which may be more stringent than those authorized by NRS
2 445A.885 to 445A.915, inclusive.

3 2. A local governing body from requiring the prior approval of a
4 proposed water system by a local committee created for that purpose.

5 3. A local governing body from converting **service** connections to
6 water systems into **service** connections to water systems provided by a
7 public utility or a municipality or other public entity.

8 **Sec. 23.** This act becomes effective upon passage and approval.

~