

SENATE BILL NO. 108—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF LEGISLATIVE COMMITTEE ON PUBLIC LANDS)

FEBRUARY 4, 1999

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing applications for use of water. (BDR 48-922)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to water; revising the circumstances under which the state engineer may postpone action on an application to use water or reject an application for an interbasin transfer of ground water; 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.** NRS 533.370 is hereby amended to read as follows:
2 533.370 1. Except as otherwise provided in ***this section and*** NRS
3 533.345, 533.371, 533.372 and 533.503 , ~~and this section,~~ the state
4 engineer shall approve an application submitted in proper form which
5 contemplates the application of water to beneficial use if:
6 (a) The application is accompanied by the prescribed fees;
7 (b) The proposed use or change, if within an irrigation district, does not
8 adversely affect the cost of water for other holders of water rights in the
9 district or lessen the ~~district's~~ efficiency ***of the district*** in its delivery or
10 use of water; and
11 (c) The applicant provides proof satisfactory to the state engineer of:
12 (1) His intention in good faith to construct any work necessary to
13 apply the water to the intended beneficial use with reasonable diligence;
14 and
15 (2) His financial ability and reasonable expectation actually to
16 construct the work and apply the water to the intended beneficial use with
17 reasonable diligence.

2. Except as otherwise provided in subsection ~~{5,}~~ 6, the state engineer shall ~~{either}~~ approve or reject each application within 1 year after the final date for filing **a** protest. However:

(a) Action ~~{can}~~ **may** be postponed by the state engineer upon written authorization to do so by the applicant or, ~~{in case of a protested application, by both}~~ **if an application is protested, by** the protestant and the applicant; and

(b) In areas where studies of water supplies ~~{are being made}~~ **have been determined to be necessary by the state engineer pursuant to NRS 533.368** or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~{5,}~~ 6, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, or threatens to prove detrimental to the public interest, the state engineer shall reject the application and refuse to issue the requested permit. ~~{Where}~~ **If** a previous application for a similar use of water within the same basin has been rejected on ~~{these}~~ **those** grounds, the new application may be denied without publication.

4. ***In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this section, the state engineer shall consider:***

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

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

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

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

(e) Any other factor the state engineer determines to be relevant.

5. If a hearing is held regarding an application, the decision of the state engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record made of the endorsement in the records of the state engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~{6,}~~ 7,

1 if the application is approved, the applicant may, on receipt thereof,
2 proceed with the construction of the necessary works and take all steps
3 required to apply the water to beneficial use and to perfect the proposed
4 appropriation. If the application is rejected the applicant may take no steps
5 toward the prosecution of the proposed work or the diversion and use of the
6 public water ~~{so long as}~~ *while* the rejection continues in force.
7 ~~{5.}~~ 6. The provisions of subsections 1 ~~{, 2 and 3}~~ *to 4, inclusive*, do
8 not apply to an application for an environmental permit.
9 ~~{6.}~~ 7. The provisions of subsection ~~{4}~~ 5 do not authorize the
10 recipient of an approved application to use any state land administered by
11 the division of state lands of the state department of conservation and
12 natural resources without the appropriate authorization for ~~{such a}~~ *that* use
13 from the state land registrar.
14 8. *As used in this section, "interbasin transfer of ground water"*
15 *means a transfer of ground water for which the proposed point of*
16 *diversion is in a different basin than the proposed place of beneficial use.*