

ASSEMBLY BILL NO. 231—ASSEMBLYMEN MORTENSON AND BACHE

FEBRUARY 26, 2001

JOINT SPONSOR: SENATOR RAWSON

Referred to Concurrent Committees on Government Affairs
and Natural Resources, Agriculture, and Mining

SUMMARY—Revises various provisions concerning certain wells. (BDR 48-195)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to water; extending the statutory protection of domestic wells from impairment for other uses and for the redress of impairment to counties with larger populations; requiring certain minimum financial assistance to be offered to certain persons before the state engineer may take various actions concerning certain wells; removing the prospective repeal of certain provisions that limit the circumstances under which the state engineer may take various actions concerning certain wells; 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 533.024 is hereby amended to read as follows:
2 533.024 *1.* The legislature declares that it is the policy of this state:
3 ~~1-1~~ *(a)* To encourage and promote the use of effluent, where that use is
4 not contrary to the public health, safety or welfare, and where that use does
5 not interfere with federal obligations to deliver water of the Colorado
6 River.
7 ~~{2. In a county whose population is less than 400,000, to}~~
8 *(b)* To recognize the importance of domestic wells as appurtenances to
9 private homes, to create a protectible interest in such wells and to protect
10 their supply of water from unreasonable adverse effects caused by
11 municipal, quasi-municipal or industrial uses.
12 *2. As used in this section, "domestic well" means a well used:*
13 *(a) Solely for culinary and household purposes, including, without*
14 *limitation, the watering of gardens, lawns and domestic animals;*
15 *(b) By not more than 15 single-family dwellings; and*



* A B 2 3 1 *

1 *(c) By each dwelling served by the well to draw not more than 1,800*
2 *gallons of water in a day.*

3 **Sec. 2.** NRS 533.360 is hereby amended to read as follows:

4 533.360 1. Except as otherwise provided in subsection 4, NRS
5 533.345 and subsection 3 of NRS 533.370, when an application is filed in
6 compliance with this chapter the state engineer shall, within 30 days,
7 publish or cause to be published once a week for 4 consecutive weeks in a
8 newspaper of general circulation and printed and published in the county
9 where the water is sought to be appropriated, a notice of the application,
10 which sets forth:

11 (a) That the application has been filed.

12 (b) The date of the filing.

13 (c) The name and address of the applicant.

14 (d) The name of the source from which the appropriation is to be made.

15 (e) The location of the place of diversion, described by legal subdivision
16 or metes and bounds and by a physical description of that place of
17 diversion.

18 (f) The purpose for which the water is to be appropriated.

19 The publisher shall add thereto the date of the first publication and the date
20 of the last publication.

21 2. Except as otherwise provided in subsection 4, proof of publication
22 must be filed within 30 days after the final day of publication. The state
23 engineer shall pay for the publication from the application fee. If the
24 application is canceled for any reason before publication, the state engineer
25 shall return to the applicant that portion of the application fee collected for
26 publication.

27 3. If the application is for a proposed well:

28 (a) ~~In a county whose population is less than 400,000;~~

29 ~~—(b)—~~ For municipal, quasi-municipal or industrial use; and

30 ~~—(c)—~~ (b) Whose reasonably expected rate of diversion is one-half cubic
31 foot per second or more,

32 the applicant shall mail a copy of the notice of application to each owner of
33 real property containing a domestic well that is within 2,500 feet of the
34 proposed well, to his address as shown in the latest records of the county
35 assessor. If there are not more than six such wells, notices must be sent to
36 each owner by certified mail, return receipt requested. If there are more
37 than six such wells, at least six notices must be sent to owners by certified
38 mail, return receipt requested. The return receipts from these notices must
39 be filed with the state engineer before he may consider the application.

40 4. The provisions of this section do not apply to an environmental
41 permit.

42 5. *As used in this section, "domestic well" means a well used:*

43 *(a) Solely for culinary and household purposes, including, without*
44 *limitation, the watering of gardens, lawns and domestic animals;*

45 *(b) By not more than 15 single-family dwellings; and*

46 *(c) By each dwelling served by the well to draw not more than 1,800*
47 *gallons of water in a day.*



* A B 2 3 1 *

1 **Sec. 3.** NRS 534.110 is hereby amended to read as follows:
2 534.110 1. The state engineer shall administer this chapter and shall
3 prescribe all necessary regulations within the terms of this chapter for its
4 administration.
5 2. The state engineer may:
6 (a) Require periodical statements of water elevations, water used, and
7 acreage on which water was used from all holders of permits and claimants
8 of vested rights.
9 (b) Upon his own initiation, conduct pumping tests to determine if
10 overpumping is indicated, to determine the specific yield of the aquifers
11 and to determine permeability characteristics.
12 3. The state engineer shall determine whether there is unappropriated
13 water in the area affected and may issue permits only if the determination
14 is affirmative. The state engineer shall require each applicant to whom a
15 permit is issued for a well:
16 (a) ~~In a county whose population is less than 400,000;~~
17 ~~(b)~~ For municipal, quasi-municipal or industrial use; and
18 ~~(c)~~ (b) Whose reasonably expected rate of diversion is one-half cubic
19 foot per second or more,
20 to report periodically to the state engineer concerning the effect of that well
21 on other previously existing wells that are located within 2,500 feet of the
22 well.
23 4. It is a condition of each appropriation of ground water acquired
24 under this chapter that the right of the appropriator relates to a specific
25 quantity of water and that the right must allow for a reasonable lowering of
26 the static water level at the appropriator's point of diversion. In
27 determining a reasonable lowering of the static water level in a particular
28 area, the state engineer shall consider the economics of pumping water for
29 the general type of crops growing and may also consider the effect of using
30 water on the economy of the area in general.
31 5. This section does not prevent the granting of permits to applicants
32 later in time on the ground that the diversions under the proposed later
33 appropriations may cause the water level to be lowered at the point of
34 diversion of a prior appropriator, so long as the rights of holders of existing
35 appropriations can be satisfied under such express conditions. At the time a
36 permit is granted for a well:
37 (a) ~~In a county whose population is less than 400,000;~~
38 ~~(b)~~ For municipal, quasi-municipal or industrial use; and
39 ~~(c)~~ (b) Whose reasonably expected rate of diversion is one-half cubic
40 foot per second or more,
41 the state engineer shall include as a condition of the permit that pumping
42 water pursuant to the permit may be limited or prohibited to prevent any
43 unreasonable adverse effects on an existing domestic well located within
44 2,500 feet of the well, unless the holder of the permit and the owner of the
45 domestic well have agreed to alternative measures that mitigate those
46 adverse affects.
47 6. The state engineer shall conduct investigations in any basin or
48 portion thereof where it appears that the average annual replenishment to
49 the ground water supply may not be adequate for the needs of all



* A B 2 3 1 *

1 permittees and all vested-right claimants, and if his findings so indicate the
2 state engineer may order that withdrawals be restricted to conform to
3 priority rights.

4 7. In any basin or portion thereof in the state designated by the state
5 engineer, the state engineer may restrict drilling of wells in any portion
6 thereof if he determines that additional wells would cause an undue
7 interference with existing wells. Any order or decision of the state engineer
8 so restricting drilling of such wells may be reviewed by the district court of
9 the county pursuant to NRS 533.450.

10 8. *As used in this section, "domestic well" means a well used:*

11 *(a) Solely for culinary and household purposes, including, without*
12 *limitation, the watering of gardens, lawns and domestic animals;*

13 *(b) By not more than 15 single-family dwellings; and*

14 *(c) By each dwelling served by the well to draw not more than 1,800*
15 *gallons of water in a day.*

16 **Sec. 4.** NRS 534.120 is hereby amended to read as follows:

17 534.120 1. Within an area that has been designated by the state
18 engineer, as provided for in this chapter where, in his judgment, the ground
19 water basin is being depleted, the state engineer in his administrative
20 capacity is herewith empowered to make such rules, regulations and orders
21 as are deemed essential for the welfare of the area involved.

22 2. In the interest of public welfare, the state engineer is authorized and
23 directed to designate preferred uses of water within the respective areas so
24 designated by him and from which the ground water is being depleted, and
25 in acting on applications to appropriate ground water he may designate
26 such preferred uses in different categories with respect to the particular
27 areas involved within the following limits: Domestic, municipal, quasi-
28 municipal, industrial, irrigation, mining and stock-watering uses and any
29 uses for which a county, city, town, public water district or public water
30 company furnishes the water.

31 3. Except as otherwise provided in subsection 5, the state engineer
32 may:

33 (a) Issue temporary permits to appropriate ground water which can be
34 limited as to time and which may, except as limited by subsection 4, be
35 revoked if and when water can be furnished by an entity such as a water
36 district or a municipality presently engaged in furnishing water to the
37 inhabitants thereof.

38 (b) Deny applications to appropriate ground water for any use in areas
39 served by such an entity.

40 (c) Limit the depth of domestic wells.

41 (d) Prohibit the drilling of wells for domestic use, as defined in NRS
42 534.013 and 534.0175, in areas where water can be furnished by an entity
43 such as a water district or a municipality presently engaged in furnishing
44 water to the inhabitants thereof.

45 4. The state engineer may revoke a temporary permit issued pursuant
46 to subsection 3 for residential use, and require a person to whom ground
47 water was appropriated pursuant to the permit to obtain water from an
48 entity such as a water district or a municipality engaged in furnishing water
49 to the inhabitants of the designated area, only if:



* A B 2 3 1 *

1 (a) The distance from the property line of any parcel served by a well
2 pursuant to a temporary permit to the pipes and other appurtenances of the
3 proposed source of water to which the property will be connected is not
4 more than 180 feet;

5 (b) The well providing water pursuant to the temporary permit needs to
6 be redrilled or have repairs made which require the use of a well-drilling
7 rig; and

8 (c) The holder of the permit will be offered financial assistance to pay
9 not *less than 50 percent or* more than 85 percent, as determined by the
10 entity providing the financial assistance, of the cost of the local and
11 regional connection fees and capital improvements necessary for making
12 the connection to the proposed source of water.

13 In a basin that has a water authority that has a ground water management
14 program, the state engineer shall not revoke the temporary permit unless
15 the water authority abandons and plugs the well and pays the costs related
16 thereto. If there is not a water authority in the basin that has a ground water
17 management program, the person shall abandon and plug his well in
18 accordance with the rules of the state engineer.

19 5. The state engineer may, in an area in which he has issued temporary
20 permits pursuant to subsection 3, limit the depth of a domestic well
21 pursuant to paragraph (c) of subsection 3 or prohibit repairs from being
22 made to a well, and may require the person proposing to deepen or repair
23 the well to obtain water from an entity such as a water district or a
24 municipality engaged in furnishing water to the inhabitants of the
25 designated area, only if:

26 (a) The distance from the property line of any parcel served by the well
27 to the pipes and other appurtenances of the proposed source of water to
28 which the property will be connected is not more than 180 feet;

29 (b) The deepening or repair of the well would require the use of a well-
30 drilling rig; and

31 (c) The person proposing to deepen or repair the well will be offered
32 financial assistance to pay not *less than 50 percent or* more than 85
33 percent, as determined by the entity providing the financial assistance,
34 of the cost of the local and regional connection fees and capital
35 improvements necessary for making the connection to the proposed source
36 of water.

37 In a basin that has a water authority that has a ground water management
38 program, the state engineer shall not prohibit the deepening or repair of a
39 well unless the water authority abandons and plugs the well and pays the
40 costs related thereto. If there is not a water authority in the basin that has a
41 ground water management program, the person shall abandon and plug his
42 well in accordance with the rules of the state engineer.

43 6. For good and sufficient reasons the state engineer may exempt the
44 provisions of this section with respect to public housing authorities.

45 **Sec. 5.** Section 5 of chapter 636, Statutes of Nevada 1999, at page
46 3545, is hereby amended to read as follows:

47 Sec. 5. 1. This section and sections 2 and 4 of this act become
48 effective on July 1, 1999.



1 2. Sections 1 and 3 of this act become effective on October 1,
2 1999.
3 ~~{3. Section 2 of this act expires by limitation on July 1, 2005.}~~
4 **Sec. 6.** This act becomes effective upon passage and approval.

