

SENATE BILL NO. 159—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF PUBLIC LANDS SUBCOMMITTEE TO STUDY
DOMESTIC AND MUNICIPAL WATER WELLS)

FEBRUARY 15, 2001

Referred to Committee on Natural Resources

SUMMARY—Makes various changes concerning protectible interests in domestic water wells. (BDR 48-309)

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

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

AN ACT relating to water; extending to all counties the recognition of the importance of domestic wells as appurtenances to private homes and the creation of a protectible interest in such wells; eliminating the requirement for a copy of the notice of application for certain proposed wells to be mailed to certain owners of real property containing domestic wells; requiring the state engineer to reject certain applications to apply water to a beneficial use if the proposed use or change conflicts with protectible interests in existing domestic wells; eliminating certain provisions governing permits for 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 The legislature declares that it is the policy of this state:
3 1. To encourage and promote the use of effluent, where that use is not
4 contrary to the public health, safety or welfare, and where that use does not
5 interfere with federal obligations to deliver water of the Colorado River.
6 2. ~~In a county whose population is less than 400,000, to~~ **To** recognize
7 the importance of domestic wells as appurtenances to private homes, to
8 create a protectible interest in such wells and to protect their supply of
9 water from unreasonable adverse effects caused by municipal, quasi-
10 municipal or industrial uses.
11 **Sec. 2.** NRS 533.360 is hereby amended to read as follows:
12 533.360 1. Except as otherwise provided in subsection ~~4~~ **3**, NRS
13 533.345 and subsection 3 of NRS 533.370, when an application is filed in
14 compliance with this chapter , the state engineer shall, within 30 days,



1 publish or cause to be published once a week for 4 consecutive weeks in a
2 newspaper of general circulation and printed and published in the county
3 where the water is sought to be appropriated, a notice of the application,
4 which sets forth:

- 5 (a) That the application has been filed.
 - 6 (b) The date of the filing.
 - 7 (c) The name and address of the applicant.
 - 8 (d) The name of the source from which the appropriation is to be made.
 - 9 (e) The location of the place of diversion, described by legal subdivision
10 or metes and bounds and by a physical description of that place of
11 diversion.
 - 12 (f) The purpose for which the water is to be appropriated.
- 13 The publisher shall add thereto the date of the first publication and the date
14 of the last publication.

15 2. Except as otherwise provided in subsection ~~4.1~~ 3, proof of
16 publication must be filed within 30 days after the final day of publication.
17 The state engineer shall pay for the publication from the application fee. If
18 the application is canceled for any reason before publication, the state
19 engineer shall return to the applicant that portion of the application fee
20 collected for publication.

21 3. ~~If the application is for a proposed well:~~
22 ~~—(a) In a county whose population is less than 400,000;~~
23 ~~—(b) For municipal, quasi-municipal or industrial use; and~~
24 ~~—(c) Whose reasonably expected rate of diversion is one-half cubic-foot~~
25 ~~per second or more;~~
26 ~~the applicant shall mail a copy of the notice of application to each owner of~~
27 ~~real property containing a domestic well that is within 2,500 feet of the~~
28 ~~proposed well, to his address as shown in the latest records of the county~~
29 ~~assessor. If there are not more than six such wells, notices must be sent to~~
30 ~~each owner by certified mail, return receipt requested. If there are more~~
31 ~~than six such wells, at least six notices must be sent to owners by certified~~
32 ~~mail, return receipt requested. The return receipts from these notices must~~
33 ~~be filed with the state engineer before he may consider the application.~~
34 ~~4.1~~ The provisions of this section do not apply to an environmental
35 permit.

36 **Sec. 3.** NRS 533.370 is hereby amended to read as follows:
37 533.370 1. Except as otherwise provided in this section and NRS
38 533.345, 533.371, 533.372 and 533.503, the state engineer shall approve an
39 application submitted in proper form which contemplates the application of
40 water to beneficial use if:

- 41 (a) The application is accompanied by the prescribed fees;
- 42 (b) The proposed use or change, if within an irrigation district, does not
43 adversely affect the cost of water for other holders of water rights in the
44 district or lessen the efficiency of the district in its delivery or use of water;
45 and
- 46 (c) The applicant provides proof satisfactory to the state engineer of:
 - 47 (1) His intention in good faith to construct any work necessary to
48 apply the water to the intended beneficial use with reasonable diligence;
49 and



1 (2) His financial ability and reasonable expectation actually to
2 construct the work and apply the water to the intended beneficial use with
3 reasonable diligence.

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

7 (a) Action may be postponed by the state engineer upon written
8 authorization to do so by the applicant or, if an application is protested, by
9 the protestant and the applicant; and

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

14 3. Except as otherwise provided in subsection 6, where there is no
15 unappropriated water in the proposed source of supply, or where its
16 proposed use or change conflicts with existing rights ~~H~~ *or with protectible*
17 *interests in existing domestic wells as set forth in NRS 533.024*, or
18 threatens to prove detrimental to the public interest, the state engineer shall
19 reject the application and refuse to issue the requested permit. If a previous
20 application for a similar use of water within the same basin has been
21 rejected on those grounds, the new application may be denied without
22 publication.

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

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

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

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

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

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

38 5. If a hearing is held regarding an application, the decision of the state
39 engineer must be in writing and include findings of fact, conclusions of law
40 and a statement of the underlying facts supporting the findings of fact. The
41 written decision may take the form of a transcription of an oral ruling. The
42 rejection or approval of an application must be endorsed on a copy of the
43 original application, and a record made of the endorsement in the records
44 of the state engineer. The copy of the application so endorsed must be
45 returned to the applicant. Except as otherwise provided in subsection 7, if
46 the application is approved, the applicant may, on receipt thereof, proceed
47 with the construction of the necessary works and take all steps required to
48 apply the water to beneficial use and to perfect the proposed appropriation.
49 If the application is rejected the applicant may take no steps toward the



1 prosecution of the proposed work or the diversion and use of the public
2 water while the rejection continues in force.

3 6. The provisions of subsections 1 to 4, inclusive, do not apply to an
4 application for an environmental permit.

5 7. The provisions of subsection 5 do not authorize the recipient of an
6 approved application to use any state land administered by the division of
7 state lands of the state department of conservation and natural resources
8 without the appropriate authorization for that use from the state land
9 registrar.

10 8. As used in this section, “interbasin transfer of ground water” means
11 a transfer of ground water for which the proposed point of diversion is in a
12 different basin than the proposed place of beneficial use.

13 **Sec. 4.** NRS 534.110 is hereby amended to read as follows:

14 534.110 1. The state engineer shall administer this chapter and shall
15 prescribe all necessary regulations within the terms of this chapter for its
16 administration.

17 2. The state engineer may:

18 (a) Require periodical statements of water elevations, water used, and
19 acreage on which water was used from all holders of permits and claimants
20 of vested rights.

21 (b) Upon his own initiation, conduct pumping tests to determine if
22 overpumping is indicated, to determine the specific yield of the aquifers
23 and to determine permeability characteristics.

24 3. The state engineer shall determine whether there is unappropriated
25 water in the area affected and may issue permits only if the determination
26 is affirmative. ~~[The state engineer shall require each applicant to whom a
27 permit is issued for a 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) Whose reasonably expected rate of diversion is one-half cubic foot
31 per second or more;~~

32 ~~to report periodically to the state engineer concerning the effect of that well
33 on other previously existing wells that are located within 2,500 feet of the
34 well.]~~

35 4. It is a condition of each appropriation of ground water acquired
36 under this chapter that the right of the appropriator relates to a specific
37 quantity of water and that the right must allow for a reasonable lowering of
38 the static water level at the appropriator’s point of diversion. In
39 determining a reasonable lowering of the static water level in a particular
40 area, the state engineer shall consider the economics of pumping water for
41 the general type of crops growing and may also consider the effect of using
42 water on the economy of the area in general.

43 5. This section does not prevent the granting of permits to applicants
44 later in time on the ground that the diversions under the proposed later
45 appropriations may cause the water level to be lowered at the point of
46 diversion of a prior appropriator, so long as *any protectible interests in
47 existing domestic wells as set forth in NRS 533.024* and the rights of
48 holders of existing appropriations can be satisfied under such express
49 conditions. ~~[At the time a permit is granted for a well:~~



1 ~~— (a) In a county whose population is less than 400,000;~~
2 ~~— (b) For municipal, quasi municipal or industrial use; and~~
3 ~~— (c) Whose reasonably expected rate of diversion is one half cubic foot~~
4 ~~per second or more;~~
5 ~~the state engineer shall include as a condition of the permit that pumping~~
6 ~~water pursuant to the permit may be limited or prohibited to prevent any~~
7 ~~unreasonable adverse effects on an existing domestic well located within~~
8 ~~2,500 feet of the well, unless the holder of the permit and the owner of the~~
9 ~~domestic well have agreed to alternative measures that mitigate those~~
10 ~~adverse affects.]~~
11 6. The state engineer shall conduct investigations in any basin or
12 portion thereof where it appears that the average annual replenishment to
13 the ground water supply may not be adequate for the needs of all
14 permittees and all vested-right claimants, and if his findings so indicate the
15 state engineer may order that withdrawals be restricted to conform to
16 priority rights.
17 7. In any basin or portion thereof in the state designated by the state
18 engineer, the state engineer may restrict drilling of wells in any portion
19 thereof if he determines that additional wells would cause an undue
20 interference with existing wells. Any order or decision of the state engineer
21 so restricting drilling of such wells may be reviewed by the district court of
22 the county pursuant to NRS 533.450.
23 **Sec. 5.** This act becomes effective on July 1, 2001.

