

(REPRINTED WITH ADOPTED AMENDMENTS)
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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 and appropriation of ground water. (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; extending to all counties 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; revising certain provisions governing permits for wells and temporary permits to appropriate 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 533.024 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 ***which are*** caused by municipal,
10 quasi-municipal or industrial uses ~~and~~ ***and which cannot reasonably be***
11 ***mitigated.***



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

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

- (a) That the application has been filed.
- (b) The date of the filing.
- (c) The name and address of the applicant.
- (d) The name of the source from which the appropriation is to be made.
- (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.

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

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

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

3. If the application is for a proposed well:

- (a) ~~In a county whose population is less than 400,000;~~
- ~~(b)~~ For municipal, quasi-municipal or industrial use; and
- ~~(c)~~ (b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

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

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

Sec. 3. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and



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1 (c) The applicant provides proof satisfactory to the state engineer of:

2 (1) His intention in good faith to construct any work necessary to
3 apply the water to the intended beneficial use with reasonable diligence;
4 and

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

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

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

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

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

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

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

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

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

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

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

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



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1 the application is approved, the applicant may, on receipt thereof, proceed
2 with the construction of the necessary works and take all steps required to
3 apply the water to beneficial use and to perfect the proposed appropriation.
4 If the application is rejected the applicant may take no steps toward the
5 prosecution of the proposed work or the diversion and use of the public
6 water while the rejection continues in force.

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

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

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

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

18 534.110 1. The state engineer shall administer this chapter and shall
19 prescribe all necessary regulations within the terms of this chapter for its
20 administration.

21 2. The state engineer may:

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

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

28 3. The state engineer shall determine whether there is unappropriated
29 water in the area affected and may issue permits only if the determination
30 is affirmative. The state engineer ~~shall~~ **may** require each applicant to
31 whom a permit is issued for a well:

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

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

34 ~~(c)~~ **(b)** Whose reasonably expected rate of diversion is one-half cubic
35 foot per second or more,

36 to report periodically to the state engineer concerning the effect of that well
37 on other previously existing wells that are located within 2,500 feet of the
38 well.

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

47 5. This section does not prevent the granting of permits to applicants
48 later in time on the ground that the diversions under the proposed later
49 appropriations may cause the water level to be lowered at the point of



1 diversion of a prior appropriator, so long as *any protectible interests in*
2 *existing domestic wells as set forth in NRS 533.024 and* the rights of
3 holders of existing appropriations can be satisfied under such express
4 conditions. At the time a permit is granted for a well:

5 (a) ~~In a county whose population is less than 400,000;~~
6 ~~(b)~~ For municipal, quasi-municipal or industrial use; and
7 ~~(c)~~ (b) Whose reasonably expected rate of diversion is one-half cubic
8 foot per second or more,
9 the state engineer shall include as a condition of the permit that pumping
10 water pursuant to the permit may be limited or prohibited to prevent any
11 unreasonable adverse effects on an existing domestic well located within
12 2,500 feet of the well, unless the holder of the permit and the owner of the
13 domestic well have agreed to alternative measures that mitigate those
14 adverse affects.

15 6. The state engineer shall conduct investigations in any basin or
16 portion thereof where it appears that the average annual replenishment to
17 the ground water supply may not be adequate for the needs of all
18 permittees and all vested-right claimants, and if his findings so indicate the
19 state engineer may order that withdrawals be restricted to conform to
20 priority rights.

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

27 **Sec. 5.** NRS 534.120 is hereby amended to read as follows:

28 534.120 1. Within an area that has been designated by the state
29 engineer, as provided for in this chapter , where, in his judgment, the
30 ground water basin is being depleted, the state engineer in his
31 administrative capacity is herewith empowered to make such rules,
32 regulations and orders as are deemed essential for the welfare of the area
33 involved.

34 2. In the interest of public welfare, the state engineer is authorized and
35 directed to designate preferred uses of water within the respective areas so
36 designated by him and from which the ground water is being depleted, and
37 in acting on applications to appropriate ground water he may designate
38 such preferred uses in different categories with respect to the particular
39 areas involved within the following limits:

40 (a) Domestic, municipal, quasi-municipal, industrial, irrigation, mining
41 and stock-watering uses ; and ~~any~~

42 (b) *Any* uses for which a county, city, town, public water district or
43 public water company furnishes the water.

44 3. Except as otherwise provided in subsection 5, the state engineer
45 may:

46 (a) Issue temporary permits to appropriate ground water which can be
47 limited as to time and which may, except as limited by subsection 4, be
48 revoked if and when water can be furnished by an entity such as a water



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1 district or a municipality presently engaged in furnishing water to the
2 inhabitants thereof.

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

5 (c) Limit the depth of domestic wells.

6 (d) Prohibit the drilling of wells for domestic use, as defined in NRS
7 534.013 and 534.0175, in areas where water can be furnished by an entity
8 such as a water district or a municipality presently engaged in furnishing
9 water to the inhabitants thereof.

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

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

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

22 (c) The holder of the permit will be offered financial assistance to pay
23 *at least 50 percent but* not more than 85 percent, as determined by the
24 entity providing the financial assistance, of the cost of the local and
25 regional connection fees and capital improvements necessary for making
26 the connection to the proposed source of water.

27 In a basin that has a water authority that has a ground water management
28 program, the state engineer shall not revoke the temporary permit unless
29 the water authority abandons and plugs the well and pays the costs related
30 thereto. If there is not a water authority in the basin that has a ground water
31 management program, the person shall abandon and plug his well in
32 accordance with the rules of the state engineer.

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

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

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

45 (c) The person proposing to deepen or repair the well will be offered
46 financial assistance to pay *at least 50 percent but* not more than 85 percent,
47 as determined by the entity providing the financial assistance, of the cost of
48 the local and regional connection fees and capital improvements necessary
49 for making the connection to the proposed source of water.



- 1 In a basin that has a water authority that has a ground water management
2 program, the state engineer shall not prohibit the deepening or repair of a
3 well unless the water authority abandons and plugs the well and pays the
4 costs related thereto. If there is not a water authority in the basin that has a
5 ground water management program, the person shall abandon and plug his
6 well in accordance with the rules of the state engineer.
- 7 6. For good and sufficient reasons , the state engineer may exempt the
8 provisions of this section with respect to public housing authorities.
- 9 **Sec. 6.** 1. This act becomes effective on July 1, 2001.
- 10 2. Section 5 of this act expires by limitation on July 1, 2005.

