

ASSEMBLY BILL NO. 253—ASSEMBLYMAN GOICOECHEA

MARCH 21, 2005

Referred to Committee on Growth and Infrastructure

SUMMARY—Makes various changes concerning provisions governing water. (BDR 48-548)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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; creating the Interbasin Transfer Adjudication Fund to be used to support the adjudication of certain existing water rights related to interbasin transfers of ground water; requiring the State Engineer to adjudicate certain existing rights to water before approving an application for an interbasin transfer of ground water; making an appropriation to the Interbasin Transfer Adjudication Fund; making an appropriation to conduct an inventory of water resources in this State; providing for a legislative study of water resources and management; and providing other matters properly relating thereto.

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Interbasin Transfer Adjudication Fund is hereby created in the State Treasury as a special revenue fund, to be administered by the State Engineer.

2. The Interbasin Transfer Adjudication Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other funds is invested. The interest and income earned on the money in the Interbasin Transfer



Adjudication Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. The State Engineer may accept gifts, grants and donations from any source for deposit in the Interbasin Transfer Adjudication Fund.

4. Money in the Interbasin Transfer Adjudication Fund must be used by the State Engineer only to pay salaries and expenses to support the adjudication of existing rights to ground water and any surface water that is related to or would be impacted by a proposed interbasin transfer of ground water pursuant to subsection 6 of NRS 533.370.

Sec. 2. 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

(c) The applicant provides proof satisfactory to the State Engineer of:

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

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

2. Except as otherwise provided in this subsection and subsection ~~7~~ 8, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.



3. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

4. Except as otherwise provided in subsection ~~17.1~~ 8, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

5. 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.

6. *Before approving an application for an interbasin transfer of ground water, the State Engineer shall, at the expense of the applicant for the interbasin transfer as determined by the State Engineer, adjudicate any existing rights to the ground water and to any surface water that are related to or would be impacted by the proposed transfer.*

7. 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 must be 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 ~~18.1~~ 9, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of



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

6 ~~{7-}~~ 8. The provisions of subsections 1 to ~~{5-}~~ 6, inclusive, do
7 not apply to an application for an environmental permit.

8 ~~{8-}~~ 9. The provisions of subsection ~~{6-}~~ 7 do not authorize the
9 recipient of an approved application to use any state land
10 administered by the Division of State Lands of the State Department
11 of Conservation and Natural Resources without the appropriate
12 authorization for that use from the State Land Registrar.

13 ~~{9-}~~ 10. As used in this section, "interbasin transfer of ground
14 water" means a transfer of ground water for which the proposed
15 point of diversion is in a different basin than the proposed place of
16 beneficial use.

17 **Sec. 3.** There is hereby appropriated from the State General
18 Fund to the Interbasin Transfer Adjudication Fund created pursuant
19 to section 1 of this act the sum of \$3,000,000.

20 **Sec. 4.** 1. There is hereby appropriated from the State
21 General Fund to the State Department of Conservation and Natural
22 Resources the sum of \$12,000,000 to carry out the project described
23 in this section.

24 2. The State Department of Conservation and Natural
25 Resources shall perform an inventory of water resources in this
26 State and submit a report of the inventory to the Legislature on or
27 before January 15, 2007. The report must include, without
28 limitation:

29 (a) An evaluation of the state of the technical information
30 related to the surface water and ground water resources in this State;

31 (b) A quantification, using existing information, of the ground
32 water reserves in this State;

33 (c) An assessment of statewide water use and the efficiency of
34 urban water use, including, without limitation:

35 (1) Per capita water consumption;

36 (2) Water use by economic sector; and

37 (3) A valuation of the water used; and

38 (d) Identification of, and prioritized recommendations for the
39 amelioration of, the weaknesses in the information examined during
40 the creation of the report which could hinder the administration and
41 management of water resources.

42 3. In performing the inventory and creating the report pursuant
43 to this section, the State Department of Conservation and Natural
44 Resources shall consult and accept input from representatives of:

45 (a) Industry;



- (b) Conservation organizations;
- (c) Local governments;
- (d) Other agencies of this State; and
- (e) The Federal Government.

4. Any remaining balance of the appropriation made by this section must not be committed for expenditure after June 30, 2007, and must be reverted to the State General Fund on or before September 21, 2007.

Sec. 5. 1. The Legislative Commission shall appoint a subcommittee consisting of three Senators and three Assemblyman to conduct an interim study concerning water resources.

2. The study conducted pursuant to this section must include, without limitation, an analysis of and recommendations concerning:

(a) The nature of the public interest of this State in allocating and managing water resources;

(b) The effectiveness of existing systems for administering, controlling, allocating, distributing and protecting water resources;

(c) Previous state water plans and updates thereto; and

(d) The potential for the government of this State to provide technical and policy advice regarding water resources to:

(1) Local governments, businesses and other organizations; and

(2) Persons who consume water.

3. Any recommended legislation proposed by the subcommittee must be approved by a majority of the members of the Assembly appointed to the subcommittee and a majority of the members of the Senate appointed to the subcommittee.

4. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 74th Session of the Nevada Legislature.

Sec. 6. This act becomes effective on July 1, 2005.



