

**Amendment No. CA44**

First Conference Committee Amendment to Senate Bill No. 62 Second Reprint (BDR 48-681)

**Proposed by:** First Conference Committee

**Amendment Box:** Replaces Amendment No. CA20.

**Resolves Conflicts with:** N/A

**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Amend sec. 3, page 4, by deleting lines 12 through 32 and inserting:

“**Sec. 3.** Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. There is hereby created in the State Treasury a fund to be designated as the Water Rights Technical Support Fund to be administered by the Board for Financing Water Projects.*

*2. The Water Rights Technical Support Fund is a continuing fund without reversion. 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 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 Board for Financing Water Projects may accept gifts, grants and donations from any source for deposit in the Water Rights Technical Support Fund.*

*4. Except as otherwise provided in subsection 5, money in the Water Rights Technical Support Fund must be used by the Board for Financing Water Projects only to make grants to a local government to:*

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JCB/SGW

Date: 6/6/2005

S.B. No. 62—Makes various changes concerning provisions governing water rights.



*(a) Obtain and provide expert and technical assistance to gather data to protect its existing water rights; or*

*(b) Fund projects to enhance or protect its existing water rights.*

*5. Any grant of money from the Water Rights Technical Support Fund must not be used by a local government to pay for any assistance or projects as set forth in subsection 4 if the only purpose of the assistance or project is to obtain evidence, including, without limitation, technical evidence and oral testimony or to pay for expert witnesses or attorney's fees for or in anticipation of any administrative or judicial proceeding, including, without limitation, hearings before the State Engineer or in any state or federal court.”.*

Amend the bill as a whole by renumbering sections 4 and 5 as sections 18 and 19 and adding new sections designated sections 4 through 17, following sec. 3, to read as follows:

“**Sec. 4.** Chapter 540 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Section consists of the Chief and any other necessary personnel.*

*2. The Chief is appointed by the State Engineer and is in the unclassified service of the State.*

**Sec. 5.** NRS 540.021 is hereby amended to read as follows:

540.021 As used in this chapter:

1. ~~["Administrator"]~~ *“Chief”* means the ~~[Administrator]~~ *Chief* of the ~~[Division.]~~ *Section.*

2. *“Department” means the State Department of Conservation and Natural Resources.*

3. “Division” means the Division of Water ~~[Planning in the State Department of Conservation and Natural Resources.]~~ *Resources of the Department.*

4. *“Section” means the Water Planning Section of the Division.*

**Sec. 6.** NRS 540.031 is hereby amended to read as follows:

540.031 The ~~{Division of}~~ Water Planning *Section* of the ~~{State Department of Conservation and Natural Resources}~~ *Division* is hereby created.

**Sec. 7.** NRS 540.041 is hereby amended to read as follows:

540.041 1. The ~~{Administrator:}~~ *Chief:*

(a) Must be selected with special reference to his training, experience, capability and interest in the field of water resource planning.

(b) ~~{Except as otherwise provided in NRS 284.143, shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.}~~

~~—(c)}~~ Shall coordinate the activities of the ~~{Division:}~~ *Section*.

2. The ~~{Administrator}~~ *Chief* is responsible for the administration of all provisions of law relating to the functions of the ~~{Division:}~~ *Section*.

3. The ~~{Administrator}~~ *Chief, with the approval of the State Engineer,* may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of his duties.

4. The ~~{Administrator}~~ *Chief, through the State Engineer,* shall, not later than the fifth calendar day of each regular session of the Legislature, submit to the Director of the Legislative Counsel Bureau for distribution to the Legislature a written report summarizing the actions of the ~~{Division}~~ *Section* taken pursuant to the provisions of NRS 540.051 ~~{and 540.101}~~ during the preceding biennium.

**Sec. 8.** NRS 540.051 is hereby amended to read as follows:

540.051 The ~~{Division}~~ *Section* shall:

1. ~~{Provide political subdivisions and private enterprises in arid regions with information, alternatives and recommendations bearing upon regional shortages of water including feasible selections or courses of planning and action for acquiring additional water or for conserving water now available, or both.~~

~~—2.}~~ Include in its planning:

(a) ~~{The investigation of new sources of water such as desalinization, importation and conservation, and means of transporting existing water;~~

~~—(b)}~~ Recognition and protection of existing water rights consistent with chapters 533 and 534 of NRS; and

~~{(e)}~~ (b) Consideration of the factors relating to the quality of water in this State and the importance of considering the issues of quantity and quality simultaneously, but the State Environmental Commission and Division of Environmental Protection of the ~~{State Department of Conservation and Natural Resources}~~ *Department* retain full responsibility for the management of water quality.

~~{3.—Evaluate previous studies and compile existing information to assist in determining the suitability of potential sites as facilities for the storage of water upstream.~~

~~—4.—Develop forecasts of supply and demand for future needs.~~

~~—5.—Advise the State Department of Conservation and Natural Resources and the Legislature concerning economic and social effects of water policy.~~

~~—6.}~~ 2. Suggest to the Legislature changes in water policy which may be necessary to meet new requirements of law or of the people of the State.

~~{7.—Cooperate with}~~

3. *Assist* the State Engineer in dealings with the Federal Government and other states, but the State Engineer is solely responsible for the allocation of water resources and litigation.

~~{8.— Provide the Board for Financing Water Projects and the Director of the Department of Business and Industry with necessary technical and clerical assistance in financing water projects.}~~

4. *Review local and federal documents regarding water planning that are relevant to the use of water in Nevada, including, without limitation, local water and resource plans. Reviews conducted pursuant to this subsection must consider, without limitation:*

- (a) The accuracy of information relating to water use and water planning;*
- (b) Compliance with the water law of this State; and*
- (c) General advice relating to water planning.*

5. *Compile and update summarized data relating to hydrographic basins to support decisions that the State Engineer makes regarding such basins, and provide summarized information regarding such basins to the public. The Section shall cause to be generated and updated a summary for each hydrographic basin to show critical information regarding that basin, including, without limitation:*

- (a) Whether the basin is designated;*
- (b) All appurtenant or associated studies related to the availability of water;*
- (c) Rulings and orders affecting new appropriations of water;*
- (d) The availability of crop and pumpage inventories;*
- (e) The availability of data regarding water levels; and*
- (f) Current commitments of water from the basin that are attributable to existing water rights.*

↪ *The information described in this subsection must, insofar as practicable, be provided in an electronic format and made available on the website of the State Engineer on the Internet or its successor.*

*6. Upon request, provide technical assistance to the Board for Financing Water Projects created by NRS 349.957, including, without limitation, the review of letters of intent and applications for grants.*

*7. Promote water conservation by:*

*(a) Consulting with suppliers of water concerning:*

*(1) Community water conservation plans; and*

*(2) The content and scope of water plans; and*

*(b) Reviewing plans for compliance with the applicable provisions of NRS 540.121 to 540.151, inclusive.*

*8. Assist federal, state and local governments and the general public in obtaining information regarding water planning, the availability of water and issues relating to water rights.*

*9. Support activities in response to drought as provided for under the drought plan established for the State.*

*10. Administer the statewide program established for the management of floodplains.*

*11. Upon request, provide updates to local governments on water issues relevant to this State, changes in policy and the availability of new information concerning water resources.*

**Sec. 9.** NRS 540.061 is hereby amended to read as follows:

540.061 It is the intent of the Legislature, in accordance with the state policy set forth in NRS 540.011, to provide for the reporting of all projects to the ~~Administrator~~ *Chief* to ensure effective coordination by the State in its effort to plan water use.

**Sec. 10.** NRS 540.091 is hereby amended to read as follows:

540.091 1. A local governmental officer or agency that is required to approve a project shall file a report of each project the officer or agency approves on a form provided by the

~~Administrator~~ *Chief*.

2. Each report of an approved project must include:

- (a) The name and mailing address of the owner or developer of the project;
- (b) A legal description of the location of the project;
- (c) A description of the project, including a summary of the amount of water required annually for the project;

- (d) A statement concerning how the water will be supplied; and

- (e) If the water is self-supplied, the source of the water and identification of the water rights.

3. A local governmental officer or agency may require the owner or developer of an approved project to fill out the report.

4. The local governmental officer or agency shall file all reports for projects approved during a quarter of a calendar year on or before 15 days after the last day of the quarter. The local governmental officer or agency shall submit a fee with each report in the amount of \$75 plus 50 cents per acre-foot of water, or fraction thereof, required by the project. The local governmental officer or agency shall collect the fee from the owner or developer of the project, plus an additional administrative fee of \$10 which may be retained by the local government.

5. The ~~[Administrator]~~ *Chief* shall deposit all fees he receives pursuant to this section with the State Treasurer for credit to the State General Fund.

**Sec. 11.** NRS 540.111 is hereby amended to read as follows:

540.111 1. The Advisory Board on Water Resources Planning and Development, consisting of 15 members appointed by the Governor, is hereby created within the Division.

2. The Governor shall appoint to the Advisory Board:

(a) ~~[Six]~~ *Five* members who are representatives of the governing bodies of the county with the largest population in the State and the cities in that county;

(b) One member who is a representative of the largest water utility in the county with the largest population in the State;

(c) Two members who are representatives of the county with the second largest population in the State and the cities in that county;

(d) One member who is a representative of the largest water utility in the county with the second largest population in the State;

(e) *One member who is a representative of the governing body of a county whose population is less than 50,000;*

(f) One member who is representative of the general public; and

~~[(g)]~~ (g) Four members, each of whom represents a different one of the following interests:

(1) Farming;

(2) Mining;

(3) Ranching; and

(4) Wildlife.



↪ The Governor shall make the appointments required by this subsection so that at least ~~seven~~ *six* members of the Advisory Board are residents of the county with the largest population in the State, at least three members are residents of the county with the second largest population in the State and at least ~~three~~ *four* members are residents of a county whose population is less than 100,000.

3. The members of the Advisory Board serve at the pleasure of the Governor.

4. All vacancies on the Advisory Board must be filled in the same manner of appointment as the member who created the vacancy.

5. The members of the Advisory Board are entitled to receive a salary of \$60 for each day's attendance at a meeting of the Advisory Board and the travel and subsistence allowances provided by law for state officers and employees generally.

6. The Advisory Board shall, at its first meeting and annually thereafter, elect a Chairman from among its members.

7. The Advisory Board may meet at least once in each calendar quarter and at other times upon the call of the Chairman or a majority of the members.

8. A majority of the members of the Advisory Board constitutes a quorum. A quorum may exercise all of the powers and duties of the Advisory Board.

9. The Advisory Board shall:

(a) Advise the ~~Administrator~~ *Chief* on matters relating to the planning and development of water resources;

(b) Be informed on and interested in the administrative duties of the ~~Division~~ *Section* and any legislation recommended by the ~~Division;~~ *Section;*

(c) Advise and make recommendations through the *Section and the* Division ~~[and the State Department of Conservation and Natural Resources]~~ to the Governor and the Legislature concerning policies for water planning ; and ~~[the development of water resources in this State;]~~

(d) Advise the ~~[Administrator]~~ *Chief* concerning the policies of the ~~[Division]~~ *Section* and areas of emphasis for the planning of water resources . ~~[; and~~

~~—(e) Review, and provide written recommendations to the Division regarding, the plan developed pursuant to NRS 540.101.]~~

**Sec. 12.** NRS 540.131 is hereby amended to read as follows:

540.131 1. Except as otherwise provided in subsection 5, each supplier of water which supplies water for municipal, industrial or domestic purposes shall, on or before July 1, 1992, adopt a plan of water conservation based on the climate and the living conditions of its service area in accordance with the provisions of NRS 540.141 ~~[;]~~ , *and shall update the plan pursuant to paragraph (c) of subsection 4.* The provisions of the plan must apply only to the supplier's property and its customers. The supplier of water ~~[may request assistance from the Division to develop the plan.]~~ *shall submit the plan to the Section for review by the Section pursuant to subsection 3.*

2. As part of the procedure of adopting a plan, the supplier of water shall provide an opportunity for any interested person, including, but not limited to, any private or public entity that supplies water for municipal, industrial or domestic purposes, to submit written views and recommendations on the plan.

3. The plan must be reviewed by the ~~[Division]~~ *Section* within 30 days after its submission and approved for compliance with this section before it is adopted by the supplier of water.

4. The plan:

- (a) Must be available for inspection by members of the public during office hours at the offices of the supplier of water; ~~and~~
- (b) May be revised from time to time to reflect the changing needs and conditions of the service area. Each such revision must be made available for inspection by members of the public ~~H~~; and
- (c) *Must be updated every 5 years and comply with the requirements of this section and NRS 540.141.*

5. Suppliers of water:

- (a) Who are required to adopt a plan of water conservation pursuant to this section; and
  - (b) Whose service areas are located in a common geographical area,
- ↪ may adopt joint plans of water conservation based on the climate and living conditions of that common geographical area. Such a plan must comply with the requirements of this section and NRS 540.141.

6. The board of county commissioners of a county, the governing body of a city and the town board or board of county commissioners having jurisdiction of the affairs of a town shall:

- (a) Adopt any ordinances necessary to carry out a plan of conservation adopted pursuant to this section which applies to property within its jurisdiction;
- (b) Establish a schedule of fines for the violation of any ordinances adopted pursuant to this subsection; and
- (c) Hire such employees as it deems necessary to enforce the provisions of any ordinances it adopts pursuant to this subsection.

**Sec. 13.** NRS 540.141 is hereby amended to read as follows:

540.141 1. A plan or joint plan of water conservation submitted to the ~~[Division]~~ *Section* for review must include provisions relating to:

(a) Methods of public education to:

(1) Increase public awareness of the limited supply of water in this State and the need to conserve water.

(2) Encourage reduction in the size of lawns and encourage the use of plants that are adapted to arid and semiarid climates.

(b) Specific conservation measures required to meet the needs of the service area, including, but not limited to, any conservation measures required by law.

(c) The management of water to:

(1) Identify and reduce leakage in water supplies, inaccuracies in water meters and high pressure in water supplies; and

(2) ~~Increase~~ *Where applicable, increase* the reuse of effluent.

(d) A contingency plan for drought conditions that ensures a supply of potable water.

(e) A schedule for carrying out the plan.

(f) Measures to evaluate the effectiveness of the plan.

2. A plan or joint plan submitted for review must be accompanied by an analysis of the feasibility of charging variable rates for the use of water to encourage the conservation of water.

3. The ~~[Division]~~ *Section* shall review any plan or joint plan submitted to it within 30 days after its submission and approve the plan if it is based on the climate and living conditions of the service area and complies with the requirements of this section.

4. The ~~[Administrator]~~ *Chief* may exempt wholesale water purveyors from the provisions of this section which do not reasonably apply to wholesale supply.

**Sec. 14.** NRS 540.151 is hereby amended to read as follows:

540.151 1. Except as otherwise provided in subsection 5, each supplier of water which supplies water for municipal, industrial or domestic purposes shall adopt a plan to provide incentives:

(a) To encourage water conservation in its service area;

(b) To retrofit existing structures with plumbing fixtures designed to conserve the use of water;

and

(c) For the installation of landscaping that uses a minimal amount of water.

↪ The supplier of water may request assistance from the ~~[Division]~~ *Section* to develop ~~[the]~~ *its* plan.

2. As part of the procedure of adopting a plan, the supplier of water shall provide an opportunity for any interested person to submit written views and recommendations on the plan.

3. The supplier of water shall file a copy of the plan with the ~~[Division]~~ *Section* for informational purposes.

4. The plan:

(a) Must be available for inspection by members of the public during office hours at the offices of the supplier of water; and

(b) May be revised from time to time to reflect the changing needs and conditions of the service area. Each such revision must be made available for inspection by members of the public.

5. Suppliers of water:

(a) Who are required to adopt a plan for incentives pursuant to this section; and

(b) Whose service areas are located in a common geographical area,

↪ may adopt joint plans.

**Sec. 15.** NRS 540A.090 is hereby amended to read as follows:

540A.090 In addition to the voting members, the commission includes the following nonvoting members:

1. One member appointed by the Public Utilities Commission of Nevada;
2. One member appointed by the *Consumer's* Advocate ~~[for Customers of Public Utilities]~~ *of the Bureau of Consumer Protection* in the Office of the Attorney General;
3. One member appointed by the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;
4. One member appointed by the State Engineer;
5. One member appointed by the ~~[Administrator]~~ *Chief* of the ~~[Division of]~~ Water Planning *Section of the Division of Water Resources* of the State Department of Conservation and Natural Resources;
6. One member appointed by the board of directors of the water conservancy district which is largest in area which includes any part of the region;
7. One member appointed by the county or district board of health;
8. One member of the public at large appointed by the affirmative vote of a majority of the voting members; and
9. Additional members with expertise in an area that the majority of the voting members determines is necessary, appointed by the affirmative vote of a majority of the voting members.

**Sec. 16.** NRS 232.090 is hereby amended to read as follows:

232.090 1. The Department consists of the Director and the following divisions:

- (a) The Division of Water Resources.
- (b) The Division of State Lands.
- (c) The Division of Forestry.
- (d) The Division of State Parks.
- (e) The Division of Conservation Districts.
- (f) The Division of Environmental Protection.
- (g) ~~The Division of Water Planning.~~

~~(h)~~ Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the Commission for the Preservation of Wild Horses, the Nevada Natural Heritage Program and the Board to Review Claims are within the Department.

**Sec. 17.** NRS 232.137 and 540.101 are hereby repealed.”.

Amend sec. 4, page 4, by deleting lines 33 through 35 and inserting:

“**Sec. 18.** There is hereby appropriated from the State General Fund to the Water Rights Technical Support Fund, created by section 3 of this act, the sum of \$1,000,000.”.

Amend sec. 5, page 4, by deleting lines 36 through 38 and inserting:

“**Sec. 19.** The Legislature declares that it intends by sections 1 and 2 of this act to clarify rather than change the operation of chapter 533 of NRS with respect to the ownership of water rights.”.

Amend the bill as a whole by renumbering sec. 6 as sec. 22 and adding new sections designated sections 20 and 21, following sec. 5, to read as follows:

“**Sec. 20.** As soon as practicable after July 1, 2005, the Governor shall:

1. Terminate the appointment of one of the six persons whom the Governor appointed to the Advisory Board on Water Resources Planning and Development pursuant to paragraph (a) of subsection 2 of NRS 540.111. The six existing members of the Board who were appointed pursuant to that paragraph shall draw lots to determine which member's appointment will be terminated.

2. Appoint to the Advisory Board on Water Resources Planning and Development a new member of the Board who is a representative of the governing body of a county whose population is less than 50,000, as described in paragraph (e) of subsection 2 of NRS 540.111, as amended by this act.

**Sec. 21.** The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.”.

Amend sec. 6, pages 4 and 5, by deleting lines 39 through 41 on page 4 and lines 1 and 2 on page 5, and inserting:

“**Sec. 22.** 1. This section and sections 1, 2 and 19 of this act become effective upon passage and approval and apply retroactively.

2. Sections 3 to 18, inclusive, 20 and 21 of this act become effective on July 1, 2005.”.



Amend the bill as a whole by adding the text of repealed sections, following sec. 6, to read as follows:

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## **TEXT OF REPEALED SECTIONS**

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### **232.137 Division of Water Planning: Composition; appointment of Administrator.**

1. The Division of Water Planning consists of the Administrator and any other necessary personnel.
2. The Administrator is appointed by the Director and is in the unclassified service of the State.

### **540.101 Plan to provide guidance and coordination for development, management, conservation and use of water resources: Development; contents; no effect upon law of State; not binding upon certain state and local agencies; submission to Legislature.**

1. The Division shall develop a plan to provide guidance and coordination for the development, management, conservation and use of water resources within the State.
2. The Division shall coordinate with local governments in developing the plan pursuant to subsection 1. Upon request of the Division, each local government shall cooperate with and assist the Division in the development of the plan.
3. The water plan developed pursuant to subsection 1 must include provisions designed to protect the identified needs for water for current and future development in the rural areas of the State, giving consideration to relevant factors, including, but not limited to, the economy of the affected areas and the quality of life in the affected areas.

4. The provisions of the plan developed pursuant to subsection 1 must not be construed to supersede, replace, amend or add to the law of the State of Nevada.

5. A state or local governmental agency:

(a) Shall consider the plan developed pursuant to subsection 1 when developing or implementing its mission, programs, plans and responsibilities regarding water resources; and

(b) Is not bound by a recommendation or provision of the plan developed pursuant to subsection 1 unless it formally adopts the recommendation or provision.

6. The Division shall submit to the Legislature for its review and consideration:

(a) The plan developed pursuant to subsection 1; and

(b) The recommendations regarding the plan provided to the Division by the advisory board on water resources planning and development pursuant to NRS 540.111.

7. As used in this section, “local government” means a political subdivision of this State, including, without limitation, a city, county, irrigation district, water district or water conservancy district.”.

Amend the title of the bill, third line, after “rights;” by inserting:

“eliminating the Division of Water Planning of the State Department of Conservation and Natural Resources; creating the Water Planning Section of the Division of Water Resources of the Department; transferring the former duties of the Division of Water Planning to the Water Planning Section;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes concerning provisions governing water. (BDR 48-681)”.

**If this amendment is adopted, the Legislative**

**Counsel's Digest will be deleted.**