

SENATE BILL NO. 216—SENATOR TITUS

MARCH 21, 2005

Referred to Committee on Natural Resources

SUMMARY—Eliminates Division of Water Planning of State Department of Conservation and Natural Resources and transfers former duties of Division to newly created Water Planning Section. (BDR 18-469)

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

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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 the administration of public agencies; 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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, the Division of Water Planning is part of the State
 - 2 Department of Conservation and Natural Resources. (NRS 232.090) The State
 - 3 Engineer is the executive head of the Division of Water Resources of the
 - 4 Department. (NRS 232.100)
 - 5 This bill changes the name of the Division of Water Planning to the Water
 - 6 Planning Section and transfers it from the State Department of Conservation and
 - 7 Natural Resources to the Division of Water Resources of the Department.
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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 232.090 is hereby amended to read as follows:
- 2 232.090 1. The Department consists of the Director and the
- 3 following divisions:
- 4 (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. 2. 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. 3. 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. 4. 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. 5. 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. 6. 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

~~{(c)}~~ (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}~~



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

4 ~~[8. Provide the Board for Financing Water Projects and the~~
5 ~~Director of the Department of Business and Industry with necessary~~
6 ~~technical and clerical assistance in financing water projects.]~~

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

12 (a) *The accuracy of information relating to water use and*
13 *water planning;*

14 (b) *Compliance with the water law of this State; and*

15 (c) *General advice relating to water planning.*

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

23 (a) *Whether the basin is designated;*

24 (b) *All appurtenant or associated studies related to the*
25 *availability of water;*

26 (c) *Rulings and orders affecting new appropriations of water;*

27 (d) *The availability of crop and pumpage inventories;*

28 (e) *The availability of data regarding water levels; and*

29 (f) *Current commitments of water from the basin that are*
30 *attributable to existing water rights.*

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

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

39 7. *Promote water conservation by:*

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

41 (1) *Community water conservation plans; and*

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

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



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

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

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

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

11 **Sec. 7.** NRS 540.061 is hereby amended to read as follows:

12 540.061 It is the intent of the Legislature, in accordance with
13 the state policy set forth in NRS 540.011, to provide for the
14 reporting of all projects to the ~~Administrator~~ *Chief* to ensure
15 effective coordination by the State in its effort to plan water use.

16 **Sec. 8.** NRS 540.091 is hereby amended to read as follows:

17 540.091 1. A local governmental officer or agency that is
18 required to approve a project shall file a report of each project the
19 officer or agency approves on a form provided by the
20 ~~Administrator~~ *Chief*.

21 2. Each report of an approved project must include:

22 (a) The name and mailing address of the owner or developer of
23 the project;

24 (b) A legal description of the location of the project;

25 (c) A description of the project, including a summary of the
26 amount of water required annually for the project;

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

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

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

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

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



Sec. 9. 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

~~[(f)]~~ (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.



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

4 9. The Advisory Board shall:

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

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

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

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

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

20 **Sec. 10.** NRS 540.131 is hereby amended to read as follows:

21 540.131 1. Except as otherwise provided in subsection 5,
22 each supplier of water which supplies water for municipal, industrial
23 or domestic purposes shall, on or before July 1, 1992, adopt a plan
24 of water conservation based on the climate and the living conditions
25 of its service area in accordance with the provisions of NRS 540.141
26 ~~[-]~~ , and shall update the plan pursuant to paragraph (c) of
27 subsection 4. The provisions of the plan must apply only to the
28 supplier's property and its customers. The supplier of water ~~[may~~
29 ~~request assistance from the Division to develop the plan.]~~ shall
30 submit the plan to the *Section for review by the Section pursuant*
31 *to subsection 3.*

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

37 3. The plan must be reviewed by the ~~[Division]~~ *Section* within
38 30 days after its submission and approved for compliance with this
39 section before it is adopted by the supplier of water.

40 4. The plan:

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

43 (b) May be revised from time to time to reflect the changing
44 needs and conditions of the service area. Each such revision must be
45 made available for inspection by members of the public ~~[-]~~ ; and



1 (c) *Must be updated every 5 years and comply with the*
2 *requirements of this section and NRS 540.141.*

3 5. Suppliers of water:

4 (a) Who are required to adopt a plan of water conservation
5 pursuant to this section; and

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

8 ➔ may adopt joint plans of water conservation based on the climate
9 and living conditions of that common geographical area. Such a plan
10 must comply with the requirements of this section and
11 NRS 540.141.

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

15 (a) Adopt any ordinances necessary to carry out a plan of
16 conservation adopted pursuant to this section which applies to
17 property within its jurisdiction;

18 (b) Establish a schedule of fines for the violation of any
19 ordinances adopted pursuant to this subsection; and

20 (c) Hire such employees as it deems necessary to enforce the
21 provisions of any ordinances it adopts pursuant to this subsection.

22 **Sec. 11.** NRS 540.141 is hereby amended to read as follows:

23 540.141 1. A plan or joint plan of water conservation
24 submitted to the ~~Division~~ *Section* for review must include
25 provisions relating to:

26 (a) Methods of public education to:

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

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

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

34 (c) The management of water to:

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

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

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

42 (e) A schedule for carrying out the plan.

43 (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. 12. 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. 13. 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~~ *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. 14. NRS 232.137 and 540.101 are hereby repealed.

Sec. 15. 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.

Sec. 16. 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



- 1 transferred pursuant to the provisions of this act to refer to the
- 2 appropriate officer, agency or other entity.
- 3 **Sec. 17.** This act becomes effective on July 1, 2005.

TEXT OF REPEALED SECTIONS

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.

