

CHAPTER.....

AN ACT relating to water; redesignating the tax that a county of origin may impose for intercounty and interstate transfers of groundwater as a fee; increasing the amount of the fee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a county may impose an annual tax on the transfer of groundwater to another county or state.

This bill redesignates the tax as a fee. This bill also increases the amount of the fee from \$6 to \$10 per acre-foot effective January 1, 2007.

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

Section 1. NRS 533.438 is hereby amended to read as follows:
533.438 1. Except as otherwise provided in subsection 4, if an appropriation of groundwater pursuant to a permit to appropriate groundwater results in the transfer to and beneficial use of water in a county in this State other than the county in which the water is appropriated or in another state, the county of origin may impose a ~~tax~~ fee of \$6 per acre-foot per year on the transfer.

2. A county of origin shall not impose a ~~tax~~ fee pursuant to subsection 1 without the prior approval of the State Engineer. The county of origin shall notify the State Engineer in writing of its intent to impose the ~~tax~~ fee. The State Engineer shall review the notice of intent to impose the ~~tax~~ fee to determine:

(a) Whether the appropriation of groundwater pursuant to the permit specified in subsection 1 results in a transfer to and beneficial use of water in a county in this State other than the county of origin or in another state; and

(b) The amount of water, if any, that is:

(1) Subject to the proposed ~~tax~~ fee because of that transfer and beneficial use; or

(2) Not subject to the proposed ~~tax~~ fee pursuant to subsection 4.

3. Within 30 days after reviewing the notice of intent to impose the ~~tax~~ fee, the State Engineer shall send a written notice to the county of origin that includes the results of his review. If the State Engineer determines that the appropriation of groundwater pursuant to the permit results in a transfer to and beneficial use of water in a county in this State other than the county of origin or in another state, the State Engineer shall include in the notice the amount of water that is subject to the proposed ~~tax~~ fee. The county may, upon such a determination, impose the ~~tax~~ fee on the transfer.

4. A ~~tax~~ fee may not be imposed pursuant to this section on water that is appropriated and beneficially used pursuant to a permit to appropriate groundwater which is issued for a point of diversion and a place of beneficial use in the county of origin and which, after the water is diverted and beneficially used, is discharged or migrates into a county in this State other than the county of origin or into another state.

5. All money collected from a ~~tax~~ fee imposed pursuant to this section must be deposited in a trust fund for the county. The principal and interest of the trust fund may be used by the county only for the purposes of economic development, health care and education.

6. For the purposes of this section, if a basin includes land lying in more than one county, each county any part of whose land is included is a county of origin to the extent of the proportionate amount of water transferred from it. The State Engineer shall determine the respective proportions.

7. As used in this section:

(a) A "basin" is one designated by the State Engineer for the purposes of chapter 534 of NRS.

(b) "Origin" means the place where water is taken from underground.

Sec. 2. NRS 533.438 is hereby amended to read as follows:

533.438 1. Except as otherwise provided in subsection 4, if an appropriation of groundwater pursuant to a permit to appropriate groundwater results in the transfer to and beneficial use of water in a county in this State other than the county in which the water is appropriated or in another state, the county of origin may impose a fee of ~~\$6~~ \$10 per acre-foot per year on the transfer.

2. A county of origin shall not impose a fee pursuant to subsection 1 without the prior approval of the State Engineer. The county of origin shall notify the State Engineer in writing of its intent to impose the fee. The State Engineer shall review the notice of intent to impose the fee to determine:

(a) Whether the appropriation of groundwater pursuant to the permit specified in subsection 1 results in a transfer to and beneficial use of water in a county in this State other than the county of origin or in another state; and

(b) The amount of water, if any, that is:

(1) Subject to the proposed fee because of that transfer and beneficial use; or

(2) Not subject to the proposed fee pursuant to subsection 4.

3. Within 30 days after reviewing the notice of intent to impose the fee, the State Engineer shall send a written notice to the county of origin that includes the results of his review. If the State Engineer determines that the appropriation of groundwater pursuant to the

permit results in a transfer to and beneficial use of water in a county in this State other than the county of origin or in another state, the State Engineer shall include in the notice the amount of water that is subject to the proposed fee. The county may, upon such a determination, impose the fee on the transfer.

4. A fee may not be imposed pursuant to this section on water that is appropriated and beneficially used pursuant to a permit to appropriate groundwater which is issued for a point of diversion and a place of beneficial use in the county of origin and which, after the water is diverted and beneficially used, is discharged or migrates into a county in this State other than the county of origin or into another state.

5. All money collected from a fee imposed pursuant to this section must be deposited in a trust fund for the county. The principal and interest of the trust fund may be used by the county only for the purposes of economic development, health care and education.

6. For the purposes of this section, if a basin includes land lying in more than one county, each county any part of whose land is included is a county of origin to the extent of the proportionate amount of water transferred from it. The State Engineer shall determine the respective proportions.

7. As used in this section:

(a) A "basin" is one designated by the State Engineer for the purposes of chapter 534 of NRS.

(b) "Origin" means the place where water is taken from underground.

Sec. 3. NRS 533.4385 is hereby amended to read as follows:

533.4385 1. If a county of origin has not imposed a ~~tax~~ fee on the transfer of water pursuant to NRS 533.438, an applicant and the governing body of the county of origin may execute a plan to mitigate the adverse economic effects caused by the transfer of water from the county of origin to another county. If such a plan is executed, the plan is binding on the county of origin and the applicant or his successor.

2. A plan to mitigate the adverse economic effects caused by the transfer of water from the county of origin to another county may include, but is not limited to, provisions concerning:

(a) The reservation of designated water rights to the county of origin; and

(b) Compensation for the foreseeable effects of the transfer.

3. If a plan is executed pursuant to subsection 1, the applicant shall submit the plan to the State Engineer. The State Engineer may modify a plan executed pursuant to subsection 1 if a provision of the plan:

(a) Violates a specific statute; or

(b) Becomes impossible or impracticable to put into effect.

Sec. 4. 1. This section and sections 1 and 3 of this act become effective on July 1, 2005.

2. Section 2 of this act becomes effective on January 1, 2007.