

SENATE BILL NO. 35—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON PUBLIC LANDS)

PREFILED FEBRUARY 4, 2005

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing certain transfers of water. (BDR 48-425)

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; 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:

- 1 Under existing law, a county may impose an annual tax on the transfer of
- 2 groundwater to another county or state.
- 3 This bill redesignates the tax as a fee. This bill also increases the amount of the
- 4 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:

- 1 **Section 1.** NRS 533.438 is hereby amended to read as follows:
- 2 533.438 1. Except as otherwise provided in subsection 4, if
- 3 an appropriation of groundwater pursuant to a permit to appropriate
- 4 groundwater results in the transfer to and beneficial use of water in a
- 5 county in this State other than the county in which the water is
- 6 appropriated or in another state, the county of origin may impose a
- 7 ~~tax~~ **fee** of \$6 per acre-foot per year on the transfer.
- 8 2. A county of origin shall not impose a ~~tax~~ **fee** pursuant to
- 9 subsection 1 without the prior approval of the State Engineer. The
- 10 county of origin shall notify the State Engineer in writing of its



1 intent to impose the ~~{tax,}~~ fee. The State Engineer shall review the
2 notice of intent to impose the ~~{tax,}~~ fee to determine:

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

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

8 (1) Subject to the proposed ~~{tax,}~~ fee because of that transfer
9 and beneficial use; or

10 (2) Not subject to the proposed ~~{tax,}~~ fee pursuant to
11 subsection 4.

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

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

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

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

38 7. As used in this section:

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

41 (b) "Origin" means the place where water is taken from
42 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 ~~the 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



1 amount of water transferred from it. The State Engineer shall
2 determine the respective proportions.

3 7. As used in this section:

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

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

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

9 533.4385 1. If a county of origin has not imposed a ~~tax~~ *fee*
10 on the transfer of water pursuant to NRS 533.438, an applicant and
11 the governing body of the county of origin may execute a plan to
12 mitigate the adverse economic effects caused by the transfer of
13 water from the county of origin to another county. If such a plan is
14 executed, the plan is binding on the county of origin and the
15 applicant or his successor.

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

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

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

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

26 (a) Violates a specific statute; or

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

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

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

