

SENATE BILL NO. 62—SENATOR RHOADS

FEBRUARY 16, 2005

Referred to Committee on Natural Resources

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

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; clarifying provisions governing the duties of the State Engineer concerning water rights; revising the provisions concerning the approval or rejection of an application to change the point of diversion of water in certain circumstances; creating a fund to be used to protect existing water rights; 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; making an appropriation; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 533.024 is hereby amended to read as follows:
- 2     533.024 The Legislature declares that ~~HH~~:
- 3     ***1. It*** is the policy of this State:
- 4     ~~HH~~ ***(a)*** To encourage and promote the use of effluent, where
- 5     that use is not contrary to the public health, safety or welfare, and
- 6     where that use does not interfere with federal obligations to deliver
- 7     water of the Colorado River.
- 8     ~~H2~~ ***(b)*** To recognize the importance of domestic wells as
- 9     appurtenances to private homes, to create a protectible interest in
- 10    such wells and to protect their supply of water from unreasonable



1 adverse effects which are caused by municipal, quasi-municipal or  
2 industrial uses and which cannot reasonably be mitigated.

3 *2. The procedures in this chapter for changing the place of*  
4 *diversion, manner of use or place of use of water, and for*  
5 *confirming a report of conveyance, are not intended to have the*  
6 *effect of quieting title to or changing ownership of a water right*  
7 *and that only a court of competent jurisdiction has the power to*  
8 *determine conflicting claims to ownership of a water right.*

9 **Sec. 2.** NRS 533.360 is hereby amended to read as follows:

10 533.360 1. Except as otherwise provided in subsection 4,  
11 NRS 533.345 and subsection ~~4~~ 5 of NRS 533.370, when an  
12 application is filed in compliance with this chapter, the State  
13 Engineer shall, within 30 days, publish or cause to be published  
14 once a week for 4 consecutive weeks in a newspaper of general  
15 circulation and printed and published in the county where the water  
16 is sought to be appropriated, a notice of the application which sets  
17 forth:

18 (a) That the application has been filed.

19 (b) The date of the filing.

20 (c) The name and address of the applicant.

21 (d) The name of the source from which the appropriation is to be  
22 made.

23 (e) The location of the place of diversion, described by legal  
24 subdivision or metes and bounds and by a physical description of  
25 that place of diversion.

26 (f) The purpose for which the water is to be appropriated.

27 ➔ The publisher shall add thereto the date of the first publication  
28 and the date of the last publication.

29 2. Except as otherwise provided in subsection 4, proof of  
30 publication must be filed within 30 days after the final day of  
31 publication. The State Engineer shall pay for the publication from  
32 the application fee. If the application is cancelled for any reason  
33 before publication, the State Engineer shall return to the applicant  
34 that portion of the application fee collected for publication.

35 3. If the application is for a proposed well:

36 (a) For municipal, quasi-municipal or industrial use; and

37 (b) Whose reasonably expected rate of diversion is one-half  
38 cubic foot per second or more,

39 ➔ the applicant shall mail a copy of the notice of application to each  
40 owner of real property containing a domestic well that is within  
41 2,500 feet of the proposed well, to his address as shown in the latest  
42 records of the county assessor. If there are not more than six such  
43 wells, notices must be sent to each owner by certified mail, return  
44 receipt requested. If there are more than six such wells, at least six  
45 notices must be sent to owners by certified mail, return receipt



1 requested. The return receipts from these notices must be filed with  
2 the State Engineer before he may consider the application.

3 4. The provisions of this section do not apply to an  
4 environmental permit.

5 **Sec. 3.** NRS 533.370 is hereby amended to read as follows:

6 533.370 1. Except as otherwise provided in this section and  
7 NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer  
8 shall approve an application submitted in proper form which  
9 contemplates the application of water to beneficial use if:

10 (a) The application is accompanied by the prescribed fees;

11 (b) The proposed use or change, if within an irrigation district,  
12 does not adversely affect the cost of water for other holders of water  
13 rights in the district or lessen the efficiency of the district in its  
14 delivery or use of water; and

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

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

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

23 2. Except as otherwise provided in this subsection and  
24 ~~[subsection 7.]~~ *and subsections 3 and 8*, the State Engineer shall  
25 approve or reject each application within 1 year after the final date  
26 for filing a protest. The State Engineer may:

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

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

32 (c) In areas where studies of water supplies have been  
33 determined to be necessary by the State Engineer pursuant to NRS  
34 533.368 or where court actions are pending, withhold action until it  
35 is determined there is unappropriated water or the court action  
36 becomes final.

37 3. *Except as otherwise provided in subsection 8, the State  
38 Engineer shall approve or reject, within 6 months after the final  
39 date for filing a protest, an application filed to change the point of  
40 diversion of water already appropriated when the existing and  
41 proposed points of diversion are on the same property for which  
42 the water has already been appropriated under the existing water  
43 right or the proposed point of diversion is on real property that is  
44 proven to be owned by the applicant and is contiguous to the place  
45 of use of the existing water right. The State Engineer may:*



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

4       (b) *In areas where studies of water supplies have been*  
5 *determined to be necessary by the State Engineer pursuant to NRS*  
6 *533.368 or where court actions are pending, withhold action until*  
7 *it is determined there is unappropriated water or the court action*  
8 *becomes final.*

9       4. If the State Engineer does not act upon an application within  
10 1 year after the final date for filing a protest, the application remains  
11 active until acted upon by the State Engineer.

12       ~~4-1~~ 5. Except as otherwise provided in subsection ~~7-1~~ 8, where  
13 there is no unappropriated water in the proposed source of supply,  
14 or where its proposed use or change conflicts with existing rights or  
15 with protectible interests in existing domestic wells as set forth in  
16 NRS 533.024, or threatens to prove detrimental to the public  
17 interest, the State Engineer shall reject the application and refuse to  
18 issue the requested permit. If a previous application for a similar use  
19 of water within the same basin has been rejected on those grounds,  
20 the new application may be denied without publication.

21       ~~5-1~~ 6. In determining whether an application for an interbasin  
22 transfer of ground water must be rejected pursuant to this section,  
23 the State Engineer shall consider:

24       (a) Whether the applicant has justified the need to import the  
25 water from another basin;

26       (b) If the State Engineer determines that a plan for conservation  
27 of water is advisable for the basin into which the water is to be  
28 imported, whether the applicant has demonstrated that such a plan  
29 has been adopted and is being effectively carried out;

30       (c) Whether the proposed action is environmentally sound as it  
31 relates to the basin from which the water is exported;

32       (d) Whether the proposed action is an appropriate long-term use  
33 which will not unduly limit the future growth and development in  
34 the basin from which the water is exported; and

35       (e) Any other factor the State Engineer determines to be  
36 relevant.

37       ~~6-1~~ 7. If a hearing is held regarding an application, the decision  
38 of the State Engineer must be in writing and include findings of fact,  
39 conclusions of law and a statement of the underlying facts  
40 supporting the findings of fact. The written decision may take the  
41 form of a transcription of an oral ruling. The rejection or approval of  
42 an application must be endorsed on a copy of the original  
43 application, and a record must be made of the endorsement in the  
44 records of the State Engineer. The copy of the application so  
45 endorsed must be returned to the applicant. Except as otherwise



1 provided in subsection ~~[8.]~~ 9, if the application is approved, the  
2 applicant may, on receipt thereof, proceed with the construction of  
3 the necessary works and take all steps required to apply the water to  
4 beneficial use and to perfect the proposed appropriation. If the  
5 application is rejected, the applicant may take no steps toward  
6 the prosecution of the proposed work or the diversion and use of the  
7 public water while the rejection continues in force.

8 ~~[7.]~~ 8. The provisions of subsections 1 to ~~[5.]~~ 6, inclusive, do  
9 not apply to an application for an environmental permit.

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

15 ~~[9.]~~ 10. As used in this section, "interbasin transfer of ground  
16 water" means a transfer of ground water for which the proposed  
17 point of diversion is in a different basin than the proposed place of  
18 beneficial use.

19 **Sec. 4.** NRS 533.386 is hereby amended to read as follows:

20 533.386 1. The State Engineer shall confirm that the report of  
21 conveyance required by paragraph (a) of subsection 1 of NRS  
22 533.384 includes all material required by that subsection and that:

23 (a) The report is accompanied by the prescribed fee;

24 (b) No conflict exists in the chain of title that can be determined  
25 by the State Engineer from the conveyance documents or ~~[from]~~  
26 other information on file in the Office of the State Engineer; and

27 (c) The State Engineer is able to determine the rate of diversion  
28 and the amount of water conveyed in acre-feet or million gallons  
29 from the conveyance documents or ~~[from]~~ other information on file  
30 in the Office of the State Engineer.

31 2. If the State Engineer confirms a report of conveyance  
32 pursuant to subsection 1, he shall in a timely manner provide a  
33 notice of the confirmation to the person who submitted the report of  
34 conveyance. The notice must include, without limitation ~~[a.]~~ :

35 (a) A statement indicating that neither the confirmation of the  
36 report of conveyance nor the report of conveyance, if the report sets  
37 forth the amount of water conveyed, guarantees that:

38 ~~[(a)]~~ (1) The water right is in good standing with the Office of  
39 the State Engineer; or

40 ~~[(b)]~~ (2) The amount of water referenced in the notice or in the  
41 report of conveyance is the actual amount of water that a person is  
42 entitled to use upon conveyance of the application or permit to  
43 appropriate any of the public waters, the certificate of appropriation,  
44 the adjudicated or unadjudicated water right, or the application or



1 permit to change the place of diversion, manner of use or place of  
2 use of water.

3 *(b) A statement that the confirmation of the report of*  
4 *conveyance is not a determination of ownership and that only a*  
5 *court of competent jurisdiction may adjudicate conflicting claims*  
6 *to ownership of a water right.*

7 3. If the State Engineer determines that the report of  
8 conveyance is deficient, he shall reject the report of conveyance and  
9 return it to the person who submitted it, *together* with:

10 (a) An explanation of the deficiency; and

11 (b) A notice stating that the State Engineer will not confirm a  
12 report of conveyance that has been rejected unless the report is  
13 resubmitted with the material required to cure the deficiency.  
14 The notice must also include a statement of the provisions of  
15 subsection ~~[4.]~~ 5.

16 4. *If, from the conveyance documents or other information in*  
17 *the Office of the State Engineer, it appears to the State Engineer*  
18 *that there is a conflict in the chain of title, the State Engineer shall*  
19 *reject the report of conveyance and return it to the person who*  
20 *submitted it, together with:*

21 (a) *An explanation that a conflict appears to exist in the chain*  
22 *of title; and*

23 (b) *A notice stating that the State Engineer will not take*  
24 *further action with respect to the report of conveyance until a*  
25 *court of competent jurisdiction has determined the conflicting*  
26 *claims to ownership of the water right and the determination has*  
27 *become final or until a final resolution of the conflicting claims*  
28 *has otherwise occurred. The notice must also include a statement*  
29 *of the provisions of subsection 5.*

30 5. The State Engineer shall not consider or treat the person to  
31 whom:

32 (a) An application or permit to appropriate any of the public  
33 waters;

34 (b) A certificate of appropriation;

35 (c) An adjudicated or unadjudicated water right; or

36 (d) An application or permit to change the place of diversion,  
37 manner of use or place of use of water,

38 ➔ is conveyed as the owner or holder of the application, right,  
39 certificate or permit for the purposes of this chapter, including,  
40 without limitation, all advisements and other notices required of the  
41 State Engineer and the granting of permits to change the place of  
42 diversion, manner of use or place of use of water, until a report of  
43 the conveyance is confirmed pursuant to subsection 1.

44 6. *If the State Engineer is notified that a court of competent*  
45 *jurisdiction has entered a judgment confirming ownership of a*



1 *water right or resolving a conflict in a chain of title, and that the*  
2 *judgment has become final, the State Engineer shall take such*  
3 *administrative action as is appropriate or necessary to conform the*  
4 *records of the Office of the State Engineer with the judgment of*  
5 *the court, including, without limitation, amending or withdrawing*  
6 *a permit or certificate that was previously approved by the State*  
7 *Engineer.*

8 **Sec. 5.** Chapter 534 of NRS is hereby amended by adding  
9 thereto a new section to read as follows:

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

13 2. *The Water Rights Technical Support Fund is a continuing*  
14 *fund without reversion. Money in the Fund must be invested as*  
15 *the money in other funds is invested. The interest and income*  
16 *earned on the money in the Fund, after deducting any applicable*  
17 *charges, must be credited to the Fund. Claims against the Fund*  
18 *must be paid as other claims against the State are paid.*

19 3. *The Board for Financing Water Projects may accept gifts,*  
20 *grants and donations from any source for deposit in the Water*  
21 *Rights Technical Support Fund.*

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

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

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

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

39 **Sec. 6.** NRS 538.171 is hereby amended to read as follows:

40 538.171 1. The Commission shall receive, protect and  
41 safeguard and hold in trust for the State of Nevada all water and  
42 water rights, and all other rights, interests or benefits in and to the  
43 waters described in NRS 538.041 to 538.251, inclusive, and to the  
44 power generated thereon, held by or which may accrue to the State  
45 of Nevada under and by virtue of any Act of the Congress of the





1 United States or any agreements, compacts or treaties to which the  
2 State of Nevada may become a party, or otherwise.

3 2. Except as otherwise provided in this subsection, applications  
4 for the original appropriation of such waters, or to change the place  
5 of diversion, manner of use or place of use of water covered by the  
6 original appropriation, must be made to the Commission in  
7 accordance with the regulations of the Commission. In considering  
8 such an application, the Commission shall use the criteria set forth  
9 in subsection ~~[4]~~ 6 of NRS 533.370. The Commission's action on  
10 the application constitutes the recommendation of the State of  
11 Nevada to the United States for the purposes of any federal action  
12 on the matter required by law. The provisions of this subsection do  
13 not apply to supplemental water.

14 3. The Commission shall furnish to the State Engineer a copy  
15 of all agreements entered into by the Commission concerning the  
16 original appropriation and use of such waters. It shall also furnish to  
17 the State Engineer any other information it possesses relating to the  
18 use of water from the Colorado River which the State Engineer  
19 deems necessary to allow him to act on applications for permits for  
20 the subsequent appropriation of these waters after they fall within  
21 the State Engineer's jurisdiction.

22 4. Notwithstanding any provision of chapter 533 of NRS, any  
23 original appropriation and use of the waters described in subsection  
24 1 by the Commission or by any entity to whom or with whom the  
25 Commission has contracted the water is not subject to regulation by  
26 the State Engineer.

27 **Sec. 7.** Chapter 540 of NRS is hereby amended by adding  
28 thereto a new section to read as follows:

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

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

33 **Sec. 8.** NRS 540.021 is hereby amended to read as follows:  
34 540.021 As used in this chapter:

35 1. ~~["Administrator"]~~ "Chief" means the ~~[Administrator]~~ Chief  
36 of the ~~[Division.]~~ Section.

37 2. "Department" means the State Department of  
38 Conservation and Natural Resources.

39 3. "Division" means the Division of Water ~~[Planning in the~~  
40 ~~State Department of Conservation and Natural Resources.]~~  
41 *Resources of the Department.*

42 4. "Section" means the Water Planning Section of the  
43 Division.





1     **Sec. 9.** NRS 540.031 is hereby amended to read as follows:  
2     540.031 The ~~{Division of}~~ Water Planning *Section* of the ~~{State~~  
3 ~~Department of Conservation and Natural Resources}~~ *Division* is  
4 hereby created.

5     **Sec. 10.** NRS 540.041 is hereby amended to read as follows:

6     540.041 1. The ~~{Administrator}~~ *Chief*:

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

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

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

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

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

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

29     **Sec. 11.** NRS 540.051 is hereby amended to read as follows:

30     540.051 The ~~{Division}~~ *Section* shall:

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

36     ~~—2.}~~ Include in its planning:

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

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

42     ~~{(e)}~~ (b) Consideration of the factors relating to the quality of  
43 water in this State and the importance of considering the issues of  
44 quantity and quality simultaneously, but the State Environmental  
45 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*



1 *available on the website of the State Engineer on the Internet or*  
2 *its successor.*

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

7 *7. Promote water conservation by:*

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

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

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

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

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

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

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

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

23 **Sec. 12.** NRS 540.061 is hereby amended to read as follows:

24 540.061 It is the intent of the Legislature, in accordance with  
25 the state policy set forth in NRS 540.011, to provide for the  
26 reporting of all projects to the ~~Administrator~~ **Chief** to ensure  
27 effective coordination by the State in its effort to plan water use.

28 **Sec. 13.** NRS 540.091 is hereby amended to read as follows:

29 540.091 1. A local governmental officer or agency that is  
30 required to approve a project shall file a report of each project the  
31 officer or agency approves on a form provided by the  
32 ~~Administrator~~ **Chief**.

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

34 (a) The name and mailing address of the owner or developer of  
35 the project;

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

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

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

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

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

44 4. The local governmental officer or agency shall file all  
45 reports for projects approved during a quarter of a calendar year on



1 or before 15 days after the last day of the quarter. The local  
2 governmental officer or agency shall submit a fee with each report  
3 in the amount of \$75 plus 50 cents per acre-foot of water, or fraction  
4 thereof, required by the project. The local governmental officer or  
5 agency shall collect the fee from the owner or developer of the  
6 project, plus an additional administrative fee of \$10 which may be  
7 retained by the local government.

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

11 **Sec. 14.** NRS 540.111 is hereby amended to read as follows:

12 540.111 1. The Advisory Board on Water Resources  
13 Planning and Development, consisting of 15 members appointed by  
14 the Governor, is hereby created within the Division.

15 2. The Governor shall appoint to the Advisory Board:

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

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

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

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

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

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

28 ~~(f)~~ (g) Four members, each of whom represents a different one  
29 of the following interests:

30 (1) Farming;

31 (2) Mining;

32 (3) Ranching; and

33 (4) Wildlife.

34 ➔ The Governor shall make the appointments required by this  
35 subsection so that at least ~~seven~~ *six* members of the Advisory  
36 Board are residents of the county with the largest population in the  
37 State, at least three members are residents of the county with the  
38 second largest population in the State and at least ~~three~~ *four*  
39 members are residents of a county whose population is less than  
40 100,000.

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

43 4. All vacancies on the Advisory Board must be filled in the  
44 same manner of appointment as the member who created the  
45 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. 15.** 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 ~~and~~ *; 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. 16.** 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. 17.** 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. 18.** 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. 19.** 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.



1     **Sec. 20.** NRS 232.137 and 540.101 are hereby repealed.

2     **Sec. 21.** There is hereby appropriated from the State General  
3 Fund to the Water Rights Technical Support Fund, created by  
4 section 5 of this act, the sum of \$1,000,000.

5     **Sec. 22.** The Legislature declares that it intends by sections 1  
6 and 4 of this act to clarify rather than change the operation of  
7 chapter 533 of NRS with respect to the ownership of water rights.

8     **Sec. 23.** As soon as practicable after July 1, 2005, the  
9 Governor shall:

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

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

21     **Sec. 24.** The Legislative Counsel shall:

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

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

32     **Sec. 25.** 1. This section and sections 1, 4 and 22 of this act  
33 become effective upon passage and approval and apply  
34 retroactively.

35     2. Sections 2, 3 and 5 to 21, inclusive, 23 and 24 of this act  
36 become effective on July 1, 2005.



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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.



