

ASSEMBLY BILL NO. 285—ASSEMBLYMEN LESLIE, BOBZIEN,
CARPENTER, GOICOECHEA, KIRKPATRICK, MARVEL,
OHRENSCHALL, PIERCE AND SMITH

MARCH 12, 2007

JOINT SPONSOR: SENATOR RHODS

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the adjudication of
water rights. (BDR 48-913)

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 water; requiring the State Engineer to repeat the
notice of applications for permits to appropriate water
under certain circumstances; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth requirements for the State Engineer to provide certain
notice of an application for a permit to appropriate water. These requirements
include publishing the notice in a newspaper and if the application is for a well,
mailing a copy of the notice to owners of real property containing a domestic well
that is within 2,500 feet of the proposed well. (NRS 533.360) Existing law also
allows an interested person to file with the State Engineer a written protest to the
application. (NRS 533.365)

This bill requires that if the State Engineer fails to approve or deny an
application for a permit to appropriate water within 5 years after the date on which
the application was submitted, the State Engineer must repeat the notice that is
required by NRS 533.360. This bill also provides another opportunity for an
interested person to file a written protest with the State Engineer after the notice of
application is repeated.



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

Section 1. NRS 533.370 is hereby amended to read as follows:
533.370 1. Except as otherwise provided in this section and
NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer
shall approve an application submitted in proper form which
contemplates the application of water to beneficial use if:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

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

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

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

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

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

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



1 provided in subsection ~~10~~ 10, 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 8. The provisions of subsections 1 to 6, inclusive, do not apply
9 to an application for an environmental permit.

10 9. *If the State Engineer does not approve or reject an*
11 *application within 5 years after the date on which the application*
12 *is submitted, before the State Engineer may approve or deny such*
13 *application, he shall again comply with the notice requirements set*
14 *forth in NRS 533.360. Any person interested may, within 30 days*
15 *after the date of last publication of such notice, file with the State*
16 *Engineer a written protest pursuant to NRS 533.365.*

17 10. The provisions of subsection 7 do not authorize the
18 recipient of an approved application to use any state land
19 administered by the Division of State Lands of the State Department
20 of Conservation and Natural Resources without the appropriate
21 authorization for that use from the State Land Registrar.

22 ~~10~~ 11. As used in this section, "interbasin transfer of
23 groundwater" means a transfer of groundwater for which the
24 proposed point of diversion is in a different basin than the proposed
25 place of beneficial use.

26 Sec. 2. This act becomes effective on July 1, 2007.

