

Amendment No. 128

Senate Amendment to Senate Bill No. 170

(BDR 48-1059)

Proposed by: Senate Committee on Natural Resources**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

JRS/TMC



Date: 4/1/2009

S.B. No. 170—Revises provisions governing payment for work performed for the operation and maintenance of ditches. (BDR 48-1059)



SENATE BILL NO. 170—SENATOR AMODEI

MARCH 4, 2009

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing payment for work performed for the operation and maintenance of ditches. (BDR 48-1059)

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 conduits; authorizing an entity that owns, operates or maintains a ditch to recover from certain persons the reasonable expense of any work performed by the entity that is necessary for the operation and maintenance of the ditch; providing for the imposition of a lien against any property to which water is delivered through the ditch; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes an entity that owns, operates or maintains a ditch to perform any work necessary for the maintenance and operation of the ditch and to recover the reasonable expense of that work from each person who receives water through the ditch. ***Section 1 specifies that any such work includes, without limitation, labor and any accounting, legal or other administrative service performed for the maintenance and operation of the ditch.*** **Section 2** of this bill provides for the imposition of a lien against any property to which water is delivered through the ditch if a person who receives water through the ditch fails to pay his proportionate share of the expense of maintenance or operation. **Section 3** of this bill provides that each person or entity constructing, operating or maintaining a ditch or flume has a right to the full flow of water through the ditch or flume, regardless of whether the water is for use by the person or entity or for delivery to others.

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

Section 1. NRS 536.040 is hereby amended to read as follows:
536.040 ***1.*** In all cases where ~~ditches are~~ ***a ditch is*** owned by two or more persons, and one or more of ~~such~~ ***those*** persons ~~shall fail~~ ***fails*** or ~~neglects~~ ***neglects*** to do a proportionate share of the work necessary for the ~~proper~~ maintenance and operation of ~~such~~ ***the*** ditch, ~~for ditches,~~ or to construct suitable headgates or other devices at the point where water is diverted from the main ditch, ~~such~~ ***the*** owner or owners desiring the performance of ~~such~~ ***the*** work may, after giving 10 days' written notice to ~~such~~ ***the*** other owner or owners who have failed to perform ~~such~~ ***the*** proportionate share of the work necessary for the operation

1 and maintenance of ~~{such} the~~ ditch , ~~{or ditches,}~~ perform ~~{such} the~~ share of the
2 work, and recover therefor from ~~{such} each~~ person ~~{or persons}~~ in default the
3 reasonable expense of ~~{such} the~~ work. *In all cases where a ditch is owned,*
4 *operated or maintained by an entity, the entity may perform any work necessary*
5 *for the maintenance and operation of the ditch and recover therefor from each*
6 *person receiving water through the ditch his proportionate share of the*
7 *reasonable expense of the work.*

8 2. As used in this section, "work" includes, without limitation, labor and
9 any accounting, legal or other administrative service performed for the
10 maintenance and operation of a ditch specified in subsection 1.

11 **Sec. 2.** NRS 536.050 is hereby amended to read as follows:

12 536.050 Upon the failure of any co-owner *or person receiving water through*
13 *a ditch* to pay his proportionate share of such expense, as mentioned in NRS
14 536.040, within 30 days after receiving a statement of the same as performed by his
15 co-owner or co-owners ~~{such}~~ *or by the entity owning, operating or maintaining*
16 *the ditch, each* person or ~~{persons}~~ *entity* so performing ~~{such} the~~ labor *or other*
17 *work* may secure payment of ~~{such} the~~ claim by filing an itemized and sworn
18 statement thereof, setting forth the date of the performance and the nature of the
19 labor *or other work* so performed, with the county clerk of the county wherein the
20 ditch is situated, and when so filed it ~~{shall constitute}~~ *constitutes* a valid lien
21 against the interest of ~~{such} each~~ person ~~{or persons}~~ in default ~~{, which}~~ *and*
22 *against any property to which water is delivered through the ditch. The* lien may
23 be established and enforced in the same manner as provided by law for the
24 enforcement of mechanics' liens.

25 **Sec. 3.** NRS 536.080 is hereby amended to read as follows:

26 536.080 ~~{The}~~ *Each* person or ~~{persons}~~ *entity* constructing , *operating* or
27 maintaining a ditch or flume under the provisions of NRS 536.060 to 536.090,
28 inclusive, ~~{shall have}~~ *has* the undisturbed right and privilege of flowing water
29 through the same, to the full extent of its capacity, for mining, milling,
30 manufacturing, agricultural and other domestic purposes, *whether for use by the*
31 *person or entity or for delivery to others*, and to use the same at any necessary and
32 convenient point or points along the line thereof , ~~{,}~~ but nothing contained in NRS
33 536.060 to 536.090, inclusive, shall be so construed as to interfere with any prior or
34 existing claim or right.

35 **Sec. 4.** This act becomes effective on July 1, 2009.