

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:**

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



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

1       **Section 1.** NRS 536.040 is hereby amended to read as follows:  
2       536.040 **1.** In all cases where ~~{ditches-are}~~ *a ditch is* owned  
3 by two or more persons, and one or more of ~~{such}~~ *those* persons  
4 ~~{shall-fail}~~ *fails* or ~~{neglect}~~ *neglects* to do a proportionate share of  
5 the work necessary for the ~~{proper}~~ maintenance and operation of  
6 ~~{such}~~ *the* ditch , ~~{or-ditches,}~~ or to construct suitable headgates or  
7 other devices at the point where water is diverted from the main  
8 ditch, ~~{such}~~ *the* owner or owners desiring the performance of  
9 ~~{such}~~ *the* work may, after giving 10 days' written notice to ~~{such}~~  
10 *the* other owner or owners who have failed to perform ~~{such}~~ *the*  
11 proportionate share of the work necessary for the operation and  
12 maintenance of ~~{such}~~ *the* ditch , ~~{or-ditches,}~~ perform ~~{such}~~ *the*  
13 share of the work, and recover therefor from ~~{such}~~ *each* person ~~{or~~  
14 ~~persons}~~ in default the reasonable expense of ~~{such}~~ *the* work. *In all*  
15 *cases where a ditch is owned, operated or maintained by an entity,*  
16 *the entity may perform any work necessary for the maintenance*  
17 *and operation of the ditch and recover therefor from each person*  
18 *receiving water through the ditch his proportionate share of the*  
19 *reasonable expense of the work.*

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

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

25       536.050 Upon the failure of any co-owner *or person receiving*  
26 *water through a ditch* to pay his proportionate share of such  
27 expense, as mentioned in NRS 536.040, within 30 days after  
28 receiving a statement of the same as performed by his co-owner or  
29 co-owners ~~{-such}~~ *or by the entity owning, operating or*  
30 *maintaining the ditch, each* person or ~~{persons}~~ *entity* so  
31 performing ~~{such}~~ *the* labor *or other work* may secure payment of  
32 ~~{such}~~ *the* claim by filing an itemized and sworn statement thereof,  
33 setting forth the date of the performance and the nature of the labor  
34 *or other work* so performed, with the county clerk of the county  
35 wherein the ditch is situated, and when so filed it ~~{shall-constitute}~~  
36 *constitutes* a valid lien against the interest of ~~{such}~~ *each* person ~~{or~~  
37 ~~persons}~~ in default ~~{-which}~~ *and against any property to which*  
38 *water is delivered through the ditch. The* lien may be established  
39 and enforced in the same manner as provided by law for the  
40 enforcement of mechanics' liens.



- 1       **Sec. 3.** NRS 536.080 is hereby amended to read as follows:  
2       536.080 ~~{The}~~ *Each* person or ~~{persons}~~ *entity* constructing ,  
3       *operating* or maintaining a ditch or flume under the provisions of  
4       NRS 536.060 to 536.090, inclusive, ~~{shall have}~~ *has* the undisturbed  
5       right and privilege of flowing water through the same, to the full  
6       extent of its capacity, for mining, milling, manufacturing,  
7       agricultural and other domestic purposes, *whether for use by the*  
8       *person or entity or for delivery to others*, and to use the same at any  
9       necessary and convenient point or points along the line thereof , ~~{}~~  
10      but nothing contained in NRS 536.060 to 536.090, inclusive, shall  
11      be so construed as to interfere with any prior or existing claim or  
12      right.  
13      **Sec. 4.** This act becomes effective on July 1, 2009.

