

SENATE BILL NO. 66—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF DOUGLAS COUNTY)

PREFILED DECEMBER 9, 2008

Referred to Committee on Government Affairs

SUMMARY—Allows for longer periods to complete work and apply water to a beneficial use for certain municipal and quasi-municipal uses. (BDR 48-618)

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; allowing longer periods for the completion of work and the application of water to a beneficial use for certain municipal and quasi-municipal uses; authorizing the State Engineer to grant extensions of time for not more than a certain period to complete the work or apply the water to those uses; revising the circumstances under which the fee for filing an application for an extension of time must be paid; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires an applicant for water rights to complete construction of
- 2 work and put water to beneficial use within specified periods, with extensions of
- 3 time allowed under certain circumstances. (NRS 533.380) **Section 1** of this bill
- 4 allows for more time to complete the work associated with certain municipal and
- 5 quasi-municipal uses of water and to file proof of beneficial use of the water.
- 6 **Section 1** also allows the State Engineer to approve extensions of up to 5 years to
- 7 complete the work or file that proof.
- 8 Existing law sets forth the fee for filing an application for an extension of time
- 9 to file a proof of completion of work or proof of beneficial use. (NRS 533.435)
- 10 **Section 2** of this bill specifies that the fee must be paid for each year for which an
- 11 extension of time is sought.



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

- 1 **Section 1.** NRS 533.380 is hereby amended to read as follows:
2 533.380 1. Except as otherwise provided in ~~{subsection 5,}~~
3 *subsections 2, 3 and 7*, in his endorsement of approval upon any
4 application, the State Engineer shall:
5 (a) Set a time before which the construction of the work must be
6 completed, which must be within 5 years after the date of approval.
7 (b) ~~{Except as otherwise provided in this paragraph, set}~~ *Set* a
8 time before which the complete application of water to a beneficial
9 use must be made, which must not exceed 10 years after the date of
10 ~~{the}~~ approval.
11 2. The time set under ~~{this paragraph respecting an application~~
12 ~~for a permit to apply water to}~~ *paragraph (a) of subsection 1 for the*
13 *completion of construction of the work must be within 10 years*
14 *after the date of approval for* a municipal or quasi-municipal use on
15 any land:
16 ~~{(1)}~~ (a) For which a final subdivision map has been
17 recorded pursuant to chapter 278 of NRS;
18 ~~{(2)}~~ (b) For which a plan for the development of a project
19 has been approved by the local government pursuant to NRS
20 278.010 to 278.460, inclusive; or
21 ~~{(3) On any land for}~~
22 (c) *For* which a plan for the development of a planned unit
23 development has been recorded pursuant to chapter 278A of NRS .
24 ~~{}~~
25 3. *The time set under paragraph (b) of subsection 1 with*
26 *regard to an application for a permit to apply water to a municipal*
27 *or quasi-municipal use on any land referred to in subsection 2*
28 must not be less than 5 years ~~{~~
29 ~~—2.}~~ *or more than 20 years.*
30 4. The State Engineer may limit the applicant to a smaller
31 quantity of water, to a shorter time for the completion of *the* work
32 ~~{}~~ and, except as otherwise provided in ~~{paragraph (b) of subsection~~
33 ~~4.}~~ *subsection 3*, to a shorter time for the perfecting of the
34 application than named in the application.
35 ~~{3.}~~ 5. Except as otherwise provided in subsection ~~{4}~~ 6 and
36 NRS 533.395 and 533.4377, the State Engineer may, for good cause
37 shown, extend the time within which construction work must be
38 completed, or water must be applied to a beneficial use under any
39 permit therefor issued by him, but an application for the extension
40 must in all cases be:



(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

➤ The State Engineer shall not grant an extension of time unless he determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

~~[4.]~~ 6. Except as otherwise provided in subsection ~~[5.]~~ 7 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in ~~[paragraph (b) of subsection 1,]~~ *subsections 2 and 3*, or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to *complete construction of the work or to* apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

➤ if any, for completing the development of the land.

~~[5.]~~ *Each extension of time granted to a holder of a permit pursuant to this subsection must not exceed 5 years after the holder was required to complete construction of the work or to apply the water to a beneficial use, or after the time to which the*



period for completion of construction or application to beneficial use has been previously extended.

7. The provisions of subsections 1 and ~~4~~ 6 do not apply to an environmental permit.

~~6~~ 8. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is ~~comprised~~ *composed* of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

Sec. 2. NRS 533.435 is hereby amended to read as follows:

533.435 1. The State Engineer shall collect the following fees:

For examining and filing an application for a permit to appropriate water\$250.00
This fee includes the cost of publication, which is \$50.

For examining and acting upon plans and specifications for construction of a dam500.00

For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right150.00

This fee includes the cost of the publication of the application, which is \$50.

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes150.00
plus \$2 per acre-foot approved or fraction thereof.

For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only, or for irrigational purposes which change the point of diversion or place of use only100.00
plus \$2 per acre-foot approved or fraction thereof.



1	For issuing and recording each permit to change	
2	the point of diversion or place of use only of an	
3	existing right whether temporary or permanent	
4	for irrigational purposes.....	\$200.00
5	For issuing and recording each permit to	
6	appropriate or change the point of diversion or	
7	place of use of an existing right only whether	
8	temporary or permanent for watering livestock	
9	or wildlife purposes for each second-foot of	
10	water approved or fraction thereof.....	50.00
11	For issuing and recording each permit to	
12	appropriate or change an existing right whether	
13	temporary or permanent for water for	
14	generating hydroelectric power which results in	
15	nonconsumptive use of the water for each	
16	second-foot of water approved or fraction	
17	thereof	100.00
18	This fee must not exceed \$1,000.	
19	For filing a secondary application under a reservoir	
20	permit	200.00
21	For approving and recording a secondary permit	
22	under a reservoir permit	200.00
23	For reviewing each tentative subdivision map	150.00
24	plus \$1 per lot.	
25	For storage approved under a dam permit for	
26	privately owned nonagricultural dams which	
27	store more than 50 acre-feet.....	100.00
28	plus \$1 per acre-foot storage capacity. This	
29	fee includes the cost of inspection and	
30	must be paid annually.	
31	For filing proof of completion of work	10.00
32	For filing proof of beneficial use	50.00
33	For filing any protest	25.00
34	For filing any application for extension of time	
35	within which to file proofs , <i>for each year for</i>	
36	<i>which the extension of time is sought</i>	100.00
37	For examining and filing a report of conveyance	
38	filed pursuant to paragraph (a) of subsection 1	
39	of NRS 533.384	25.00
40	plus \$10 per conveyance document	
41	For filing any other instrument	1.00
42	For making <i>a</i> copy of any document recorded or	
43	filed in his office, for the first page.....	1.00
44	For each additional page	.20



1 For certifying to copies of documents, records or
2 maps, for each certificate\$1.00
3 For each blueprint copy of any drawing or map, per
4 square foot..... .50
5 The minimum charge for a blueprint copy, per print3.00
6

7 2. When fees are not specified in subsection 1 for work
8 required of his office, the State Engineer shall collect the actual cost
9 of the work.

10 3. Except as otherwise provided in this subsection, all fees
11 collected by the State Engineer under the provisions of this section
12 must be deposited in the State Treasury for credit to the **State**
13 General Fund. All fees received for blueprint copies of any drawing
14 or map must be kept by him and used only to pay the costs of
15 printing, replacement and maintenance of printing equipment. Any
16 publication fees received which are not used by him for publication
17 expenses must be returned to the persons who paid the fees. If, after
18 exercising due diligence, the State Engineer is unable to make the
19 refunds, he shall deposit the fees in the State Treasury for credit to
20 the **State** General Fund. The State Engineer may maintain, with the
21 approval of the State Board of Examiners, a checking account in any
22 bank or credit union qualified to handle state money to carry out the
23 provisions of this subsection. The account must be secured by a
24 depository bond satisfactory to the State Board of Examiners to the
25 extent the account is not insured by the Federal Deposit Insurance
26 Corporation, the National Credit Union Share Insurance Fund or a
27 private insurer approved pursuant to NRS 678.755.

28 **Sec. 3.** This act becomes effective on July 1, 2009.

