

ASSEMBLY BILL NO. 387—ASSEMBLYMAN OHRENSCHALL

MARCH 21, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to certain domestic wells.
(BDR 48-347)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to domestic wells; establishing certain requirements for conservation domestic wells; requiring owners of conservation domestic wells to submit reports to the State Engineer concerning the amount of water withdrawn from the conservation domestic wells; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law exempts wells used for domestic purposes where the draught does
2 not exceed 2 acre-feet per year from the requirements to obtain permits for the
3 development and use of underground water. (NRS 534.180) **Section 1** of this bill
4 creates conservation domestic wells, a subset of domestic wells where the draught
5 does not exceed 0.5 acre-feet per year, and establishes certain requirements for
6 these wells, including that: (1) they be equipped with a certain type of pump at the
7 time they are drilled which runs on renewable energy and does not allow water to
8 flow at a rate of more than 1 gallon per minute; (2) the owners of the conservation
9 domestic well install a water meter to measure the withdrawal of water from the
10 well and ensure the withdrawal from the conservation domestic well does not
11 exceed 0.5 acre-feet per year; and (3) the owner shall report the monthly
12 withdrawal to the State Engineer on the Internet website of the State Engineer.
13 **Section 1** also authorizes the State Engineer to establish reasonable fees by
14 regulation for issuing a password to an owner of a conservation domestic well to
15 sign on to the website to report his or her water withdrawal, for allowing an owner
16 to submit a written report rather than an online report and for failure of an owner to
17 submit his or her report in a timely manner. Finally, **section 1** requires any
18 subdivision which plans to provide water services through the use of conservation
19 domestic wells to obtain the right to appropriate not less than 1 acre-foot of water
20 per year for each parcel in the subdivision and entitles the developer to obtain a
21 credit for the 0.5 acre-feet of water not used by the conservation domestic well.



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

1 **Section 1.** NRS 534.180 is hereby amended to read as follows:
2 534.180 1. Except as otherwise provided in subsection 2 and
3 as to the furnishing of any information required by the State
4 Engineer, this chapter does not apply in the matter of obtaining
5 permits for the development and use of underground water from a
6 well for domestic purposes where the draught does not exceed 2
7 acre-feet per year.

8 2. The State Engineer may designate any groundwater basin or
9 portion thereof as a basin in which the registration of a well is
10 required if the well is drilled for the development and use of
11 underground water for domestic purposes. A driller who drills such
12 a well shall register the information required by the State Engineer
13 within 10 days after the completion of the well. The State Engineer
14 shall make available forms for the registration of such wells and
15 shall maintain a register of those wells.

16 3. The State Engineer may require the plugging of such a well
17 which is drilled on or after July 1, 1981, at any time not sooner than
18 1 year after water can be furnished to the site by:

19 (a) A political subdivision of this State; or

20 (b) A public utility whose rates and service are regulated by the
21 Public Utilities Commission of Nevada,
22 ➔ but only if the charge for making the connection to the service is
23 less than \$200.

24 4. If the development and use of underground water from a
25 well for an accessory dwelling unit of a single-family dwelling, as
26 defined in an applicable local ordinance, qualifies as a domestic use
27 or domestic purpose:

28 (a) The owner of the well shall:

29 (1) Obtain approval for that use or purpose from the local
30 governing body or planning commission in whose jurisdiction the
31 well is located;

32 (2) Install a water meter capable of measuring the total
33 withdrawal of water from the well; and

34 (3) Ensure the total withdrawal of water from the well does
35 not exceed 2 acre-feet per year;

36 (b) The local governing body or planning commission shall
37 report the approval of the accessory dwelling unit on a form
38 provided by the State Engineer;

39 (c) The State Engineer shall monitor the annual withdrawal of
40 water from the well; and

41 (d) The date of priority for the use of the domestic well to
42 supply water to the accessory dwelling unit is the date of approval



* A B 3 8 7 *

1 of the accessory dwelling unit by the local governing body or
2 planning commission.

3 *5. If a well that is drilled for the development and use of*
4 *underground water for domestic purposes qualifies as a*
5 *conservation domestic well:*

6 *(a) The well must have a pump installed at the time of drilling*
7 *which operates through the use of alternative energy and which*
8 *must not allow water to flow at a rate greater than 1 gallon per*
9 *minute; and*

10 *(b) The owner shall:*

11 *(1) Install a water meter capable of measuring the total*
12 *withdrawal of water from the well;*

13 *(2) Ensure that the total withdrawal of water from the well*
14 *does not exceed 0.5 acre-feet per year; and*

15 *(3) Not less than once each calendar month, submit the*
16 *amount of water withdrawn from the well based upon a reading of*
17 *the meter to the State Engineer on the Internet website of the State*
18 *Engineer.*

19 *6. If a subdivision or parcel map prepared pursuant to*
20 *chapter 278 of NRS provides for the use of conservation domestic*
21 *wells to provide water services, each parcel set forth on the map*
22 *must include a right to appropriate not less than 1 acre-foot of*
23 *water per year. The developer is entitled to receive a credit for the*
24 *0.5 acre-feet not used by the conservation domestic well. A county*
25 *may impose requirements more stringent than those required by*
26 *this subsection.*

27 *7. The State Engineer:*

28 *(a) Shall, upon payment of the appropriate fee, issue a*
29 *password to each owner of a conservation domestic well to access*
30 *the Internet website of the State Engineer in order to enter the*
31 *amount of water withdrawn from the well pursuant to*
32 *subparagraph (3) of paragraph (b) of subsection 5; and*

33 *(b) May by regulation establish reasonable fees for:*

34 *(1) Issuing the password required pursuant to*
35 *paragraph (a);*

36 *(2) Accepting a written report from the owner of a*
37 *conservation domestic well of the amount of water withdrawn*
38 *from the well in lieu of accepting an online report; and*

39 *(3) Failure of an owner to timely submit his or her report of*
40 *the amount of water withdrawn from the well.*

41 *8. As used in this section, "conservation domestic well"*
42 *means a well that is drilled for the development and use of*
43 *underground water for domestic purposes where the draught does*
44 *not exceed 0.5 acre-feet per year.*



Sec. 2. NRS 534.350 is hereby amended to read as follows:

534.350 1. The State Engineer shall adopt regulations establishing a program that allows a public water system to receive credits, as provided in this section, for the addition of new customers to the system. The program must be limited to public water systems in areas:

(a) Designated as groundwater basins by the State Engineer pursuant to the provisions of NRS 534.030; and

(b) In which the State Engineer has denied one or more applications for any municipal uses of groundwater.

2. Before the State Engineer adopts any regulations pursuant to this section regarding any particular groundwater basin, the State Engineer shall hold a public hearing:

(a) Within the basin to which the regulations will apply if adequate facilities to hold a hearing are available within that basin; or

(b) In all other cases, within the county where the major portion of that basin lies,
↳ to take testimony from any interested persons regarding the proposed regulations.

3. Upon adoption of the regulations required by this section regarding a particular groundwater basin, a public water system which provides service in that basin is entitled to receive a credit for each customer who is added to the system after the adoption of those regulations and:

(a) Voluntarily ceases to draw water from a domestic well located within that basin; or

(b) Is the owner of a lot or other parcel of land, other than land used or intended solely for use as a location for a domestic well, which:

(1) Is located within that basin;

(2) Was established as a separate lot or parcel before July 1, 1993;

(3) Was approved by a local governing body or planning commission for service by an individual domestic well before July 1, 1993; and

(4) Is subject to a written agreement which was voluntarily entered into by the owner with the public water system pursuant to which the owner agrees not to drill a domestic well on the land and the public water system agrees that it will provide water service to the land. Any such agreement must be acknowledged and recorded in the same manner as conveyances affecting real property are required to be acknowledged and recorded pursuant to chapter 111 of NRS.



4. If a county requires, by ordinance, the dedication to the county of a right to appropriate water from a domestic well which is located on a lot or other parcel of land that was established as a separate lot or parcel on or after July 1, 1993, the county may, by relinquishment to the State Engineer, allow the right to appropriate water to revert to the source of the water. The State Engineer shall not accept a relinquishment of a right to appropriate water pursuant to this subsection unless the right is in good standing as determined by the State Engineer. A right to appropriate water that is dedicated and relinquished pursuant to this subsection:

(a) Remains appurtenant only to the parcel of land in which it is located as specified on the parcel map; and

(b) Maintains its date of priority established pursuant to NRS 534.080.

5. If an owner of a parcel of land specified in subsection 4 becomes a new customer of a public water system for that parcel of land, the public water system is entitled to receive a credit in the same manner as the addition of any other customer to the public water system pursuant to this section.

6. The State Engineer may require a new customer, who voluntarily ceases to draw water from a domestic well as provided in paragraph (a) of subsection 3 or whose right to appropriate water is dedicated pursuant to subsection 4, to plug that well.

7. A credit granted pursuant to this section:

(a) Must be sufficient to enable the public water system to add one service connection for a single-family dwelling to the system, except that the credit may not exceed the increase in water consumption attributable to the additional service connection or 2 acre-feet per year, whichever is less.

(b) May not be converted to an appropriative water right.

8. This section does not:

(a) Require a public water system to extend its service area.

(b) Authorize any increase in the total amount of groundwater pumped in a groundwater basin.

(c) Affect any rights of an owner of a domestic well who does not voluntarily comply with the provisions of this section.

9. As used in this section:

(a) "Domestic well" means a well used for culinary and household purposes in:

(1) A single-family dwelling; and

(2) An accessory dwelling unit for a single-family dwelling if provided for in an applicable local ordinance,

including the watering of a garden, lawn and domestic animals and where the draught does not exceed 2 acre-feet per year. *The*



1 *term includes a conservation domestic well as defined in*
2 *NRS 534.180.*

3 (b) "Public water system" has the meaning ascribed to it in
4 NRS 445A.840.

5 **Sec. 3.** NRS 233B.039 is hereby amended to read as follows:

6 233B.039 1. The following agencies are entirely exempted
7 from the requirements of this chapter:

8 (a) The Governor.

9 (b) Except as otherwise provided in NRS 209.221, the
10 Department of Corrections.

11 (c) The Nevada System of Higher Education.

12 (d) The Office of the Military.

13 (e) The State Gaming Control Board.

14 (f) Except as otherwise provided in NRS 368A.140, the Nevada
15 Gaming Commission.

16 (g) The Division of Welfare and Supportive Services of the
17 Department of Health and Human Services.

18 (h) Except as otherwise provided in NRS 422.390, the Division
19 of Health Care Financing and Policy of the Department of Health
20 and Human Services.

21 (i) The State Board of Examiners acting pursuant to chapter 217
22 of NRS.

23 (j) Except as otherwise provided in NRS 533.365 ~~§~~ and
24 *534.180*, the Office of the State Engineer.

25 (k) The Division of Industrial Relations of the Department of
26 Business and Industry acting to enforce the provisions of
27 NRS 618.375.

28 (l) The Administrator of the Division of Industrial Relations of
29 the Department of Business and Industry in establishing and
30 adjusting the schedule of fees and charges for accident benefits
31 pursuant to subsection 2 of NRS 616C.260.

32 (m) The Board to Review Claims in adopting resolutions to
33 carry out its duties pursuant to NRS 590.830.

34 2. Except as otherwise provided in subsection 5 and NRS
35 391.323, the Department of Education, the Board of the Public
36 Employees' Benefits Program and the Commission on Professional
37 Standards in Education are subject to the provisions of this chapter
38 for the purpose of adopting regulations but not with respect to any
39 contested case.

40 3. The special provisions of:

41 (a) Chapter 612 of NRS for the distribution of regulations by
42 and the judicial review of decisions of the Employment Security
43 Division of the Department of Employment, Training and
44 Rehabilitation;



(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases,

➔ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; or

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 4. The State Engineer shall, on or before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 5. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2011, for all other purposes.

