

Amendment No. 48

Senate Amendment to Senate Bill No. 153

(BDR 48-821)

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

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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 underlining* is newly added transitory language.

CAF/HAC



Date: 3/31/2011

S.B. No. 153—Revises provisions governing the appropriation of water by municipalities. (BDR 48-821)



SENATE BILL NO. 153—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE CITY OF CALIENTE)

FEBRUARY 16, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the appropriation of water by municipalities. (BDR 48-821)

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

~

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

AN ACT relating to water; ~~[declaring the appropriation of certain water by a municipality or public utility to serve the present and reasonably anticipated future municipal, industrial or domestic needs of the municipality or public utility to be a beneficial use of that water; providing that certain provisions governing consideration by the State Engineer of the consumptive use of a water right do not apply to an application to appropriate water filed by a municipality under certain circumstances;]~~ revising the period ~~[within]~~ **for which the State Engineer may grant an extension of time to complete** an application of water for a ~~[certain]~~ municipal or quasi-municipal use; ~~[must be made; setting forth the measure of reasonable diligence for determining whether a municipality is proceeding with good faith and reasonable diligence to perfect an appropriation of water for a beneficial use; revising the provisions which must be included in certain statements filed with the State Engineer concerning the application of water for municipal or quasi-municipal use; requiring the State Engineer to issue a certificate for a partially perfected application under certain circumstances;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 ~~[Existing law provides that, subject to existing rights, all water in this State may be~~
2 ~~appropriated for a beneficial use. Existing law specifically declares that certain uses of water~~
3 ~~are beneficial uses of that water. (NRS 522.020) Section 2 of this bill declares that the~~
4 ~~appropriation of water by a municipality or public utility to serve the needs of the customers~~
5 ~~of the municipality or public utility is a beneficial use of that water.~~

6 ~~Existing law authorizes the State Engineer to consider the consumptive use of a water~~
7 ~~right in determining whether a proposed change in the place of diversion, manner of use or~~
8 ~~place of use of appropriated water is in compliance with certain requirements governing the~~
9 ~~appropriation of that water. (NRS 522.2702) Section 4 of this bill exempts from such~~

~~consideration certain applications filed by a municipality for a change in the place or diversion, manner of use or place of use of appropriated water.]~~

Existing law requires the State Engineer, when endorsing an application for a permit to appropriate water for a municipal or quasi-municipal use on certain land, to establish a period of not less than 5 years within which the complete application of water to that use must be made. Existing law also authorizes the State Engineer to grant any number of extensions of time to complete that application but limits each single extension of time to 5 years or less. (NRS 533.380) ~~[Section 5 of this bill expands that period from not less than 5 years to not less than 15 years or more than 50 years. Section 5 also.]~~ This bill revises the period for which the State Engineer may grant an extension of time to complete that application from 5 years to 10 years. ~~[and revises the factors that the State Engineer must consider when granting or denying such an extension of time.]~~

~~Existing law requires the holder of a permit to appropriate water for a beneficial use to proceed in good faith and with reasonable diligence to perfect the appropriation. (NRS 533.395) Section 6 of this bill specifies that a municipality may show that it is proceeding in good faith and with reasonable diligence by the adoption of a master plan or a plan approved by the State Engineer which includes the development of the complete application of the water to a beneficial use and a duty to meet the present and reasonably anticipated future needs of the customers of the municipality.~~

~~Existing law requires a holder of a permit to appropriate water for a beneficial use to file a statement with the State Engineer, on or before the date endorsed on the permit, which includes certain information concerning the holder and the use of the water. (NRS 533.400) Section 7 of this bill provides that, for a municipality, if the amount of water beneficially used for a municipal or quasi-municipal purpose is less than the amount endorsed on the permit, the statement must indicate whether the remaining portion of the water is being considered under an extension for future development to meet the reasonably anticipated future needs of the municipality's customers for water.~~

~~Existing law requires the State Engineer to issue a certificate to a holder of a permit to appropriate water for a beneficial use if the State Engineer determines that the holder has perfected his or her application to appropriate water or to change the place of diversion, manner of use or place of use of water already appropriated. (NRS 533.425) Section 8 of this bill requires the State Engineer to issue such a certificate to a municipality if the municipality has perfected at least 25 percent of the application and the municipality proceeds in good faith and reasonable diligence to perfect the remainder of the application.~~

~~The provisions of chapter 534 of NRS govern the appropriation of underground water in this State. (NRS 534.020) Existing law governing the use of underground water generally provides that the failure for 5 successive years on the part of the holder of a right to appropriate underground water for a beneficial use works a forfeiture of that right. Existing law also confers upon the State Engineer the authority to grant an extension of time if requested by the holder. A single extension of time for that purpose must not exceed 1 year. (NRS 534.090) Section 11 of this bill provides that, for any municipal or quasi-municipal use for a public water system, the State Engineer may grant any number of extensions of time for any number of years if requested and for good cause shown. Section 11 also provides that a municipality may avoid a forfeiture by perfecting at least 25 percent of its application without losing its priority of right or without cancellation of any portion of its permit.]~~

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

Section 1. ~~[Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~“Planning horizon” means the length of time that the State Engineer determines to be reasonable for a municipality to hold a water right to serve the reasonably anticipated future municipal needs of its customers for water, as determined in accordance with a master plan adopted pursuant to chapter 278 of NRS or a plan approved by the State Engineer.]~~ (Deleted by amendment.)

8 **Sec. 2.** ~~[NRS 533.005 is hereby amended to read as follows:~~
9 ~~533.005 As used in this chapter, unless the context otherwise requires, the~~
10 ~~words and terms defined in NRS 533.007 to 533.023, inclusive, and section 1 of~~
11 ~~this act have the meanings ascribed to them in those sections.] (Deleted by~~
12 ~~amendment.)~~

13 **Sec. 3.** ~~[NRS 533.030 is hereby amended to read as follows:~~
14 ~~533.030 1. Subject to existing rights, and except as otherwise provided in~~
15 ~~this section, all water may be appropriated for beneficial use as provided in this~~
16 ~~chapter and not otherwise.~~

17 ~~2. The use of water, from any stream system as provided in this chapter and~~
18 ~~from underground water as provided in NRS 534.080, for any recreational purpose,~~
19 ~~or the use of water from the Muddy River or the Virgin River to create any~~
20 ~~developed shortage supply or intentionally created surplus, is hereby declared to be~~
21 ~~a beneficial use. As used in this subsection:~~

22 ~~(a) "Developed shortage supply" has the meaning ascribed to it in Volume 73~~
23 ~~of the Federal Register at page 19,884, April 11, 2008, and any subsequent~~
24 ~~amendment thereto.~~

25 ~~(b) "Intentionally created surplus" has the meaning ascribed to it in Volume 73~~
26 ~~of the Federal Register at page 19,884, April 11, 2008, and any subsequent~~
27 ~~amendment thereto.~~

28 ~~3. The appropriation of water or the acquisition or lease of water already~~
29 ~~appropriated from any:~~

30 ~~(a) Stream system as provided in this chapter; or~~

31 ~~(b) Underground water as provided in NRS 534.080,~~
32 ~~by a municipality or public utility, as defined in NRS 704.020, to serve the~~
33 ~~present and reasonably anticipated future municipal, industrial or domestic needs~~
34 ~~of the customers of the municipality or public utility is hereby declared to be a~~
35 ~~beneficial use.~~

36 ~~4. Except as otherwise provided in subsection [4.] 5, in any county whose~~
37 ~~population is 400,000 or more:~~

38 ~~(a) The board of county commissioners may prohibit or restrict by ordinance~~
39 ~~the use of water and effluent for recreational purposes in any artificially created~~
40 ~~lake or stream located within the unincorporated areas of the county.~~

41 ~~(b) The governing body of a city may prohibit or restrict by ordinance the use~~
42 ~~of water and effluent for recreational purposes in any artificially created lake or~~
43 ~~stream located within the boundaries of the city.~~

44 ~~[4.] 5. In any county whose population is 400,000 or more, the provisions of~~
45 ~~subsection 1 and of any ordinance adopted pursuant to subsection [3.] 4 do not apply~~
46 ~~to:~~

47 ~~(a) Water stored in an artificially created reservoir for use in flood control, in~~
48 ~~meeting peak water demands or for purposes relating to the treatment of sewage;~~

49 ~~(b) Water used in a mining reclamation project; or~~

50 ~~(c) A body of water located in a recreational facility that is open to the public~~
51 ~~and owned or operated by the United States or the State of Nevada.] (Deleted by~~
52 ~~amendment.)~~

53 **Sec. 4.** ~~[NRS 533.3703 is hereby amended to read as follows:~~

54 ~~533.3703 1. The State Engineer may consider the consumptive use of a~~
55 ~~water right and the consumptive use of a proposed beneficial use of water in~~
56 ~~determining whether a proposed change in the place of diversion, manner of use or~~
57 ~~place of use complies with the provisions of subsection 5 of NRS 533.370.~~

58 ~~2. The provisions of this section:~~

59 ~~(a) Must not be applied by the State Engineer in a manner that is inconsistent~~
60 ~~with any applicable federal or state decree concerning consumptive use.~~

~~(b) Do not apply to any decreed, certified or permitted right to appropriate water which originates in the Virgin River or the Muddy River.~~

~~(c) Do not apply to an application filed by a municipality for a change in the place of diversion, manner of use or place of use if the application is filed within the time set by the State Engineer for the municipality to apply the water to a municipal or quasi-municipal use or within any extension of time granted by the State Engineer for that purpose.~~ **(Deleted by amendment.)**

Sec. 5. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in an endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS; ~~for~~

~~(4) For which a municipality has a plan approved by the State Engineer for the management of the water resources on the land and for analyzing the present usage needs and reasonably anticipated future needs of its customers for water;~~

↪ must not be less than ~~5~~ ~~15~~ **10** years; ~~for more than 50 years;~~

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, grant any number of extensions of time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by the State Engineer, but a single extension of time for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235, must not exceed ~~5~~ ~~15~~ **10** years, and any other single extension of time must not exceed 1 year. An application for the extension 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 the State Engineer 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. Except as otherwise provided in subsection 5 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, 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 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 extent to which the holder has perfected the application;~~

~~—(f) The planning horizon for the holder, the reasonably anticipated future needs of the customers of the holder for water and the service area for which the holder is authorized or obligated to provide water; and~~

~~—(g) 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. The provisions of subsections 1 and 4 do not apply to an environmental permit.

6. 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 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. 6. ~~NRS 533.395 is hereby amended to read as follows:~~

~~—533.395 1. If, at any time in the judgment of the State Engineer, the holder of any permit to appropriate the public water is not proceeding in good faith and with reasonable diligence to perfect the appropriation, the State Engineer shall require the submission of such proof and evidence as may be necessary to show a compliance with the law. If, in the judgment of the State Engineer, the holder of a permit is not proceeding in good faith and with reasonable diligence to perfect the appropriation, the State Engineer shall cancel the permit, and advise the holder of its cancellation. 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 appropriation.~~

~~—2. If any permit is cancelled under the provisions of this section or NRS 533.390 or 533.410, the holder of the permit may within 60 days [of] after the cancellation of the permit file a written petition with the State Engineer requesting a review of the cancellation by the State Engineer at a public hearing. The State Engineer may, after receiving and considering evidence, affirm, modify or rescind the cancellation.~~

~~—3. If the decision of the State Engineer modifies or rescinds the cancellation of a permit, the effective date of the appropriation under the permit is vacated and replaced by the date of the filing of the written petition with the State Engineer.~~

~~4. The cancellation of a permit may not be reviewed or be the subject of any judicial proceedings unless a written petition for review has been filed and the cancellation has been affirmed, modified or rescinded pursuant to subsection 2.~~

~~5. For the purposes of this section, the measure of reasonable diligence [is]:~~

~~(a) Except as otherwise provided in paragraph (b), is the steady application of effort to perfect the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is comprised 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.~~

~~(b) For a municipality is the adoption of a master plan pursuant to chapter 278 of NRS or a plan approved by the State Engineer which includes the development of the complete application of water on the permit to beneficial use and a duty to meet the present and reasonably anticipated future needs of the customers in the service area for which the municipality is authorized or obligated to provide water.~~

~~6. The appropriation of water or the acquisition or lease of appropriated water from any:~~

~~(a) Stream system as provided for in this chapter; or~~

~~(b) Underground water as provided for in NRS 534.080;~~

~~by a political subdivision of this State or a public utility, as defined in NRS 704.020, to serve the present or the reasonably anticipated future municipal, industrial or domestic needs of its customers for water, as determined in accordance with a master plan adopted pursuant to chapter 278 of NRS or a plan approved by the State Engineer, must be considered when reviewing an extension of time.]~~

(Deleted by amendment.)

Sec. 7. [NRS 533.400 is hereby amended to read as follows:]

~~533.400 1. Except as otherwise provided in subsection 2, on or before the date set in the endorsement of a permit for the application of water to beneficial use, or on the date set by the State Engineer under a proper application for extension thereof, any person holding a permit from the State Engineer to appropriate the public waters of the State of Nevada, to change the place of diversion or the manner or place of use, shall file with the State Engineer a statement under oath, on a form prescribed by the State Engineer. The statement must include:~~

~~(a) The name and post office address of the person making the proof;~~

~~(b) The number and date of the permit for which proof is made;~~

~~(c) The source of the water supply;~~

~~(d) The name of the canal or other works by which the water is conducted to the place of use;~~

~~(e) The name of the original person to whom the permit was issued;~~

~~(f) The purpose for which the water is used;~~

~~(g) If for irrigation, the actual number of acres of land upon which the water granted in the permit has been beneficially used, giving the same by 40-acre legal subdivisions when possible;~~

~~(h) An actual measurement taken by a licensed state water right surveyor or an official or employee of the Office of the State Engineer of the water diverted for beneficial use;~~

~~(i) The capacity of the works of diversion;~~

~~(j) If for power, the dimensions and capacity of the flume, pipe, ditch or other conduit;~~

~~(k) The average grade and difference in elevation between the termini of any conduit.~~

~~(l) The number of months, naming them, in which water has been beneficially used.~~

~~(m) The amount of water beneficially used, taken from actual measurements, together with such other data as the State Engineer may require to become acquainted with the amount of the appropriation for which the proof is filed.~~

~~(n) If for municipal or quasi-municipal use and the amount of water beneficially used is less than the amount endorsed on the permit, whether the remaining portion is being considered under an extension for future development to meet the reasonably anticipated future needs of the municipality's customers for water.~~

~~2. The provisions of subsection 1 do not apply to a person holding an environmental permit.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 533.425 is hereby amended to read as follows:~~

~~533.425 1. Except as otherwise provided in NRS 533.503, as soon as practicable after satisfactory proof has been made to the State Engineer that any application to appropriate water or any application for permission to change the place of diversion, manner of use or place of use of water already appropriated has been perfected in accordance with the provisions of this chapter, the State Engineer shall issue to the holder or holders of the permit a certificate setting forth:~~

~~(a) The name and post office address of each holder of the permit;~~

~~(b) The date, source, purpose and amount of appropriation;~~

~~(c) If for irrigation, a description of the irrigated lands by legal subdivisions, when possible, to which the water is appurtenant;~~

~~(d) The number of the permit under which the certificate is issued;~~

~~2. If the water is appropriated from an underground source, the State Engineer shall issue with the certificate a notice of the provisions governing the forfeiture and abandonment of such water rights. The notice must set forth the provisions of NRS 534.090.~~

~~3. If water is appropriated for a municipal or quasi-municipal use, and if the municipality has perfected at least 25 percent of the application, the State Engineer shall issue a certificate for that portion of the permit. The municipality must proceed in good faith and with reasonable diligence to perfect the remainder of the application without losing its priority of right or cancellation of any portion of its permit.] (Deleted by amendment.)~~

Sec. 9. ~~[Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~“Public water system” has the meaning ascribed to it in NRS 445A.235.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 534.010 is hereby amended to read as follows:~~

~~534.010 1. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 534.0105 to 534.0175, inclusive, and section 9 of this act have the meanings ascribed to them in those sections.~~

~~2. As used in this chapter, the terms “underground water” and “groundwater” are synonymous.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 534.090 is hereby amended to read as follows:~~

~~534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. If the records of the State Engineer or any other documents specified by the State Engineer indicate at least 4~~

consecutive years, but less than 5 consecutive years, of nonuse of all or any part of a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that the owner has 1 year after the date of the notice in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of beneficial use is not sent to the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 532.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

2. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under that subsection if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension for any use which is not a municipal or quasi-municipal use for a public water system must not exceed 1 year. For any municipal or quasi-municipal use for a public water system, the State Engineer may grant, upon request and for good cause shown, any number of extensions, for any number of years. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has shown good cause for the holder's failure to use all or any part of the water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin; [and]

(e) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center pivot irrigation [..]; and

(f) If the holder is a municipality, the planning horizon for the holder, the reasonably anticipated future needs of the customers of the holder for water and the service area for which the holder is authorized or obligated to provide water.

The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection.

3. If the failure to use the water pursuant to subsection 1 is because of the use of center pivot irrigation before July 1, 1982, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year after the date of the notice to use the water beneficially or apply for additional relief pursuant to subsection 2 before forfeiture of the owner's right is declared by the State Engineer.

~~4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.~~

~~5. A municipality may avoid forfeiture by perfecting at least 25 percent of its application without losing its priority of right or cancellation of any portion of its permit.~~

~~6. As used in this section, "planning horizon" has the meaning ascribed to it in section 1 of this act.~~ **(Deleted by amendment.)**

Sec. 12. ~~{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 524.080.

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", "~~domestic~~" means a well used for culinary and household purposes in:

[(1)] (a) A single family dwelling; and

[(2)] (b) 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.

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

(Deleted by amendment.)

Sec. 13. This act becomes effective on July 1, 2011.