

SENATE BILL NO. 65—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF
ENVIRONMENTAL PROTECTION)

PREFILED DECEMBER 20, 2012

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to public water systems and certain laboratories. (BDR 40-349)

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

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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; providing for the issuance of certain nonemergency orders by the Division of Environmental Protection of the State Department of Conservation and Natural Resources; authorizing the recovery of civil penalties and the imposition of administrative fines for certain violations by a laboratory for the analysis of water; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the Division of Environmental Protection of the State
2 Department of Conservation and Natural Resources is authorized to issue an
3 emergency order requiring a supplier of water immediately to take action
4 necessary to protect the public health if the Division determines that such order is
5 necessary to eliminate an imminent hazard to a public water system. (NRS
6 445A.930) **Sections 2, 3 and 5** of this bill expand the authority of the
7 Division to issue orders other than emergency orders to correct violations by
8 operators of public water systems and laboratories for the analysis of water.
9 **Section 2** also authorizes, under certain circumstances, the Division to issue a
10 summary order against any person, directing the person to cease and desist from
11 any further acts that constitute or would constitute a violation of certain
12 provisions of law and regulations, or a term or condition of certain permits or
13 certifications.

14 Under existing law, a person who owns, controls or operates a public water
15 system is liable for a civil penalty and may be subject to an administrative fine per
16 day for certain violations. (NRS 445A.950) **Section 3** of this bill authorizes the



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17 imposition of the same daily monetary penalties against a laboratory for the
18 analysis of water for certain violations.

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

1 **Section 1.** Chapter 445A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *If the Division has reason to believe that a person*
4 *is engaging or has engaged in any act or practice which violates*
5 *the provisions of NRS 445A.800 to 445A.955, inclusive, and*
6 *sections 2 and 3 of this act, or a regulation adopted or order issued*
7 *pursuant thereto, or any term or condition of a permit to operate a*
8 *public water system issued pursuant to NRS 445A.860 or a*
9 *certification of a laboratory for the analysis of water issued*
10 *pursuant to NRS 445A.863, the Division may, in addition to any*
11 *other action authorized or required by NRS 445A.800 to 445A.955,*
12 *inclusive, and sections 2 and 3 of this act, issue an order:*

13 (a) *Specifying the provision or provisions which the Division*
14 *believes or has reason to believe the person is violating or has*
15 *violated;*

16 (b) *Setting forth the facts alleged to constitute the violation;*

17 (c) *Prescribing the actions the person must take to correct the*
18 *violation and the period during which the violation must be*
19 *corrected; and*

20 (d) *Requiring the person to appear before the Administrator of*
21 *the Division or a hearing officer appointed by the Administrator to*
22 *show cause why the Division should not commence an action*
23 *against the person in district court for appropriate relief.*

24 2. *If the Division has reasonable cause to believe, based on*
25 *evidence satisfactory to it, that any person is about to violate the*
26 *provisions of this section and NRS 445A.800 to 445A.955,*
27 *inclusive, and section 3 of this act, or a regulation adopted or*
28 *order issued pursuant thereto, or any term or condition of a permit*
29 *to operate a public water system issued pursuant to NRS 445A.860*
30 *or a certification of a laboratory for the analysis of water issued*
31 *pursuant to NRS 445A.863, the Division may, without a prior*
32 *hearing, issue a summary order against the person, directing the*
33 *person to cease and desist from any further acts that constitute or*
34 *would constitute a violation. The summary order to cease and*
35 *desist must specify the provision of this section and NRS 445A.800*
36 *to 445A.955, inclusive, and section 3 of this act, or a regulation*
37 *adopted or order issued pursuant thereto, or the term or condition*
38 *of a permit or certification which the Division reasonably believes*
39 *is about to be violated.*



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1 3. *An order issued by the Division pursuant to subsection 1 or*
2 *2 is effective immediately and is not subject to review unless the*
3 *person to whom the order is directed, not later than 30 days after*
4 *the order is issued, submits a written petition to the Commission*
5 *for a hearing.*

6 **Sec. 3. 1. A laboratory for the analysis of water that:**

7 (a) *Violates any regulation adopted by the Commission*
8 *pursuant to NRS 445A.863; or*

9 (b) *Violates or fails to comply with an order issued pursuant to*
10 *subsection 1 or 2 of section 2 of this act,*

11 *↪ is liable for a civil penalty, to be recovered by the Attorney*
12 *General in the name of the Division, of not more than \$5,000 for*
13 *each day of the violation.*

14 2. *In addition to the civil penalty described in subsection 1,*
15 *the Division may impose an administrative fine of not more than*
16 *\$2,500 per day for each violation described in subsection 1.*

17 3. *The civil penalty and administrative fine authorized by this*
18 *section are in addition to any other penalties or relief prescribed*
19 *by NRS 445A.800 to 445A.955, inclusive, and sections 2 and 3 of*
20 *this act.*

21 **Sec. 4.** NRS 445A.805 is hereby amended to read as follows:

22 445A.805 As used in NRS 445A.800 to 445A.955, inclusive,
23 *and sections 2 and 3 of this act,* unless the context otherwise
24 requires, the words and terms defined in NRS 445A.807 to
25 445A.850, inclusive, have the meanings ascribed to them in those
26 sections.

27 **Sec. 5.** NRS 445A.950 is hereby amended to read as follows:

28 445A.950 1. Any supplier of water who:

29 (a) Violates any standard established pursuant to
30 NRS 445A.855;

31 (b) Violates or fails to comply with an ~~emergency~~ order issued
32 pursuant to NRS 445A.930 ~~§~~ *or subsection 1 or 2 of section 2 of*
33 *this act;*

34 (c) Violates any condition imposed by the Commission upon
35 granting a variance or exemption under NRS 445A.935;

36 (d) Violates a regulation adopted by the Commission pursuant to
37 NRS 445A.860 ~~§~~ *or 445A.880; or*

38 (e) Fails to give a notice as required by NRS 445A.940,
39 ↪ is liable for a civil penalty, to be recovered by the Attorney
40 General in the name of the Division, of not more than \$5,000 for
41 each day of the violation.

42 2. In addition to the civil penalty prescribed in subsection 1,
43 the Division may impose an administrative fine against a supplier of
44 water who commits any violation enumerated in subsection 1. The



1 administrative fine imposed may not be more than \$2,500 per day
2 for each such violation.

3 3. The civil penalty and administrative fine prescribed in this
4 section may be imposed in addition to any other penalties or relief
5 prescribed in NRS 445A.800 to 445A.955, inclusive ~~H~~ , *and*
6 *sections 2 and 3 of this act.*

7 **Sec. 6.** This act becomes effective upon passage and approval.

