

SENATE BILL NO. 485—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 23, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to water. (BDR 48-708)

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; revising provisions relating to the adjudication of vested water rights; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, water rights for surface water, artesian groundwater and percolating groundwater that were initiated by applying water to beneficial use before the statutes regulating those water sources were enacted by the Nevada Legislature in 1905, 1913 and 1939, respectively, are known as vested water rights. Existing law provides a procedure for determining the extent of all vested water rights on a water source, which is called an adjudication. As part of that procedure, claimants of vested rights are required to file proofs of appropriation with the State Engineer, which is known in existing law as the procedure of taking proofs. (NRS 533.090-533.320)

Section 1 of this bill requires any claimant of a pre-statutory water right to submit proof of the claim to the State Engineer on or before December 31, 2025, regardless of whether an adjudication has been ordered for a water source. If a claimant fails to submit such proof, the claim is deemed to be extinguished. **Section 1** requires the State Engineer to provide notice of this requirement in various manners during the 10-year period before the deadline. **Sections 2 and 5-8** of this bill conform provisions in existing law governing the procedure of the State Engineer taking proofs to reflect the submission of any proofs pursuant to **section 1** to the State Engineer before an adjudication has been ordered. **Sections 3, 4, 9 and 11** of this bill eliminate the procedure of the State Engineer taking proofs in an adjudication on and after January 1, 2026, because **section 1** requires proofs of all pre-statutory water rights to be on file with the State Engineer by December 31, 2025, or such claims are extinguished.



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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:

1. A claimant of any vested water right must submit, on a form prescribed by the State Engineer, proof of the claim to the State Engineer on or before December 31, 2025. If a claimant fails to file such proof on or before December 31, 2025, the claim shall be deemed to be extinguished.

2. Until December 31, 2025, the State Engineer shall cause notice of the provisions of subsection 1 to be:

(a) Published annually for 4 consecutive weeks in four or more newspapers of general circulation throughout the State.

(b) Posted on the Internet website maintained by the State Engineer.

Sec. 2. NRS 533.095 is hereby amended to read as follows:

533.095 1. As soon as practicable after the State Engineer shall make and enter the order granting the petition or selecting the streams upon which the determination of rights is to begin, the State Engineer shall prepare a notice setting forth the fact of the entry of the order and of the pendency of the proceedings.

2. The notice shall:

(a) Name a date when the State Engineer or the State Engineer's assistants shall begin the examination.

(b) Set forth that all claimants to rights in the waters of the stream system are required, as provided in this chapter, to make proof of their claims ~~to~~, *except claimants who submitted proof of their claims pursuant to section 1 of this act.*

3. The notice shall be published for a period of 4 consecutive weeks in one or more newspapers of general circulation within the boundaries of the stream system.

Sec. 3. NRS 533.095 is hereby amended to read as follows:

533.095 1. As soon as practicable after the State Engineer shall make and enter the order granting the petition or selecting the streams upon which the determination of rights is to begin, the State Engineer shall prepare a notice setting forth the fact of the entry of the order and of the pendency of the proceedings.

2. The notice shall ~~to~~:

~~—(a) Name~~ *name* a date when the State Engineer or the State Engineer's assistants shall begin the examination.

~~[(b) Set forth that all claimants to rights in the waters of the stream system are required, as provided in this chapter, to make proof of their claims, except claimants who submitted proof of their claims pursuant to section 1 of this act.]~~



3. The notice shall be published for a period of 4 consecutive weeks in one or more newspapers of general circulation within the boundaries of the stream system.

Sec. 4. NRS 533.105 is hereby amended to read as follows:

533.105 1. If satisfactory data are available from the measurements and areas compiled by the United States Geological Survey or other persons, the State Engineer may dispense with the execution of such surveys and the preparation of such maps and stream measurements, except insofar as is necessary to prepare them to conform with the rules and regulations, as provided in NRS 533.100.

2. If the surveys are executed and maps are prepared and filed with the State Engineer at the instance of the person claiming a right to the use of water, the proportionate cost thereof, as determined by the State Engineer, to be assessed and collected for the adjudication of the relative rights, as provided in this chapter, shall be remitted to the claimant after the completion of the determination; but the map must conform with the rules and regulations of the State Engineer and shall be accepted only after the State Engineer is satisfied that the data shown thereon are substantially correct. Such measurements, maps and determinations shall be exhibited for inspection ~~{at the time of taking proofs and}~~ during the period during which ~~[such]~~ proofs *of claims* and evidence are kept open for inspection in accordance with the provisions of this chapter.

Sec. 5. NRS 533.110 is hereby amended to read as follows:

533.110 1. Upon the filing of such measurements, maps and determinations, the State Engineer shall prepare a notice setting forth the date when the State Engineer is to commence the taking of proofs , *except proofs submitted pursuant to section 1 of this act*, as to the rights in and to the waters of the stream system, and the date prior to which the same must be filed. The date set prior to which the proofs must be filed shall not be less than 60 days from the date set for the commencement of the taking of proofs. The notice shall be deemed to be an order of the State Engineer as to its contents. The State Engineer shall cause the notice to be published for a period of 4 consecutive weeks in one or more newspapers of general circulation within the boundaries of the stream system, the date of the last publication of the notice to be not less than 15 days prior to the date fixed for the commencement of the taking of proofs by the State Engineer.

2. At or near the time of the first publication of the notice, the State Engineer shall send by registered or certified mail to each person, or deliver to each person, in person, hereinafter designated as claimant, claiming rights in or to the waters of the stream system, insofar as such claimants can be reasonably ascertained, *who has*



1 *not submitted proof pursuant to section 1 of this act*, a notice
2 equivalent in terms to the published notice setting forth the date
3 when the State Engineer will commence the taking of proofs, and
4 the date prior to which proofs must be filed with the State Engineer.
5 The notice must be mailed at least 30 days prior to the date fixed for
6 the commencement of the taking of proofs.

7 **Sec. 6.** NRS 533.115 is hereby amended to read as follows:

8 533.115 The State Engineer shall, in addition, enclose with the
9 notice to be mailed as provided in NRS 533.110, blank forms upon
10 which ~~the~~ *a claimant who has not submitted proof pursuant to*
11 *section 1 of this act* shall present in writing all particulars necessary
12 for the determination of the claimant's right in or to the waters of
13 the stream system, the statement to include the following:

14 1. The name and post office address of the claimant.

15 2. The nature of the right or use on which the claim for
16 appropriation is based.

17 3. The time of the initiation of such right and a description of
18 works of diversion and distribution.

19 4. The date of beginning of construction.

20 5. The date when completed.

21 6. The dates of beginning and completion of enlargements.

22 7. The dimensions of the ditch as originally constructed and as
23 enlarged.

24 8. The date when water was first used for irrigation or other
25 beneficial purposes and, if used for irrigation, the amount of land
26 reclaimed the first year, the amount in subsequent years, with the
27 dates of reclamation, and the area and location of the lands which
28 are intended to be irrigated.

29 9. The character of the soil and the kind of crops cultivated, the
30 number of acre-feet of water per annum required to irrigate the land,
31 and such other facts as will show the extent and nature of the right
32 and compliance with the law in acquiring the same, as may be
33 required by the State Engineer.

34 **Sec. 7.** NRS 533.120 is hereby amended to read as follows:

35 533.120 1. Each claimant shall be required to certify to his or
36 her statement *completed pursuant to NRS 533.115* under oath. The
37 State Engineer and the State Engineer's assistants authorized to take
38 proofs are hereby authorized to administer such oaths.

39 2. Oaths shall be administered and blank forms furnished by
40 the State Engineer and the State Engineer's assistants without
41 charge.

42 **Sec. 8.** NRS 533.125 is hereby amended to read as follows:

43 533.125 1. The State Engineer shall commence the taking of
44 *any* proofs *not submitted pursuant to section 1 of this act* on the
45 date fixed and named in the notice provided for in NRS 533.110 for



1 the commencement of the taking of proofs. The State Engineer shall
2 proceed therewith during the period fixed by the State Engineer and
3 named in the notice, after which no proofs shall be received by or
4 filed by the State Engineer. The State Engineer may, in his or her
5 discretion, for cause shown, extend the time in which proofs may be
6 filed.

7 2. Upon neglect or refusal of any person to make proof of his
8 or her claim or rights in or to the waters of such stream system, as
9 required by this chapter, prior to the expiration of the period fixed
10 by the State Engineer during which proofs may be filed, the State
11 Engineer shall determine the right of such person from such
12 evidence as the State Engineer may obtain or may have on file in the
13 Office of the State Engineer in the way of maps, plats, surveys and
14 transcripts, and exceptions to such determination may be filed in
15 court, as provided in this chapter.

16 **Sec. 9.** NRS 533.140 is hereby amended to read as follows:

17 533.140 1. As soon as practicable , ~~{after the expiration of~~
18 ~~the period fixed in which proofs may be filed,}~~ the State Engineer
19 shall assemble all proofs *related to the stream or stream system*
20 which have been filed with the State Engineer ~~{}~~ and prepare,
21 certify and have printed an abstract of all such proofs. The State
22 Engineer shall also prepare from the proofs and evidence taken or
23 given before the State Engineer, or obtained by the State Engineer, a
24 preliminary order of determination establishing the several rights of
25 claimants to the waters of the stream.

26 2. When the abstract of proofs and the preliminary order of
27 determination is completed, the State Engineer shall then prepare a
28 notice fixing and setting a time and place when and where the
29 evidence taken by or filed with the State Engineer and the proofs of
30 claims must be open to the inspection of all interested persons, the
31 period of inspection to be not less than 20 days. The notice shall be
32 deemed an order of the State Engineer as to the matters contained
33 therein.

34 3. A copy of the notice, together with a printed copy of the
35 preliminary order of determination and a printed copy of the abstract
36 of proofs, must be delivered by the State Engineer, or sent by
37 registered or certified mail, at least 30 days before the first day of
38 such period of inspection, to each person who has ~~{appeared and}~~
39 filed proof ~~{, as provided in this section,}~~ *related to the stream or*
40 *stream system.*

41 4. The State Engineer shall be present at the time and place
42 designated in the notice and allow, during that period, any persons
43 interested to inspect such evidence and proof as have been filed with
44 ~~{or taken by}~~ the State Engineer in accordance with this chapter.



Sec. 10. NRS 533.250 is hereby amended to read as follows:

533.250 1. Any and all maps, plats, surveys and evidence on file in the Office of the State Engineer relating to any proof of appropriation involved in the proceeding for the determination of the relative rights in and to the waters of any stream system, obtained or filed under the provisions of this chapter or any preceding act relating to the Office of State Engineer, shall be admissible in court and shall have the same force and effect as though obtained and submitted under the provisions of this chapter.

2. At least 90 days prior to the rendering of his or her order of determination of the relative rights in and to the waters of any stream system, the State Engineer shall notify all parties in interest of his or her intention to consider such maps, plats and evidence, and of his or her intention to submit the findings of the State Engineer to the court under the provisions of this chapter. ~~{The notice shall be given in the manner prescribed in NRS 533.110.}~~

3. Within 60 days after such notice, any party in interest may file with the State Engineer any additional or supplementary maps, plats, surveys or evidence, or objections to the admissibility of any evidence hitherto presented and on file in the office of the State Engineer, in relation to his or her claim of water right or adverse to the claim or claims of the water right of any other party or parties in interest, in order so to perfect his or her claim in accordance with the provisions of this chapter, and the State Engineer shall consider the whole thereof in rendering such order of determination, and the same shall become a part of the record which shall be submitted to the court as provided by NRS 533.165 to 533.235, inclusive.

Sec. 11. NRS 533.364 is hereby amended to read as follows:

533.364 1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater from a basin which the State Engineer has not previously inventoried or for which the State Engineer has not conducted, or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported. The inventory must include:

(a) The total amount of surface water and groundwater appropriated in accordance with a decreed, certified or permitted right;

(b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and

(c) The name of each owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.



1 2. The provisions of this section do not:

2 (a) Require the State Engineer to initiate or complete a
3 determination of the surface water or groundwater rights pursuant to
4 NRS 533.090 to 533.320, inclusive, *and section 1 of this act*, or to
5 otherwise quantify any vested claims of water rights in the basin
6 before approving an application for an interbasin transfer of
7 groundwater from the basin; or

8 (b) Prohibit the State Engineer from considering information
9 received from or work completed by another person to include in the
10 inventory, if the inventory is otherwise conducted in accordance
11 with the provisions of subsection 1.

12 3. The State Engineer shall charge the applicant a fee to cover
13 the cost of the inventory. The amount of the fee must not exceed the
14 cost to the State Engineer of conducting the inventory.

15 4. The State Engineer shall complete any inventory conducted
16 pursuant to subsection 1 within 1 year after commencing the
17 inventory.

18 **Sec. 12.** NRS 533.110, 533.115, 533.120, 533.125 are hereby
19 repealed.

20 **Sec. 13.** 1. This section and sections 1, 2, 5 to 8, inclusive,
21 and 11 of this act become effective on July 1, 2015.

22 2. Sections 3, 4, 9, 10 and 12 of this act become effective on
23 January 1, 2026.

LEADLINES OF REPEALED SECTIONS

533.110 Notice of commencement of taking of proofs as to rights; time for filing; publication and mailing of notice.

533.115 Blank forms enclosed with notice; contents of statement.

533.120 Statements to be certified under oath; no fee for administering or furnishing blank form.

533.125 Commencement of taking of proofs; extension of time; determination of rights if claimant neglects or refuses to make proof.

