

Amendment No. 825

Assembly Amendment to Assembly Bill No. 52 First Reprint (BDR 48-258)

Proposed by: Assemblyman Frierson

Amendment Box: Replaces Amendment No. 632.

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 52 R1 (§ 19).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of *green bold underlining* is language proposed to be added 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 proposed to be retained in this amendment.

EMR/HAC



Date: 5/19/2017

A.B. No. 52—Establishes provisions relating to dissolved mineral resources.
(BDR 48-258)



ASSEMBLY BILL NO. 52—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE COMMISSION ON MINERAL RESOURCES)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Natural Resources,
Agriculture, and MiningSUMMARY—Establishes provisions relating to dissolved mineral resources.
(BDR 48-258)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Executive Budget.

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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; defining certain terms relating to dissolved mineral resources; setting forth certain provisions relating to the drilling and operation of a dissolved mineral resource exploration well ~~;~~ ~~and the operation of a dissolved mineral resource exploration project;~~ establishing certain requirements for an application to drill ~~for operate~~ a dissolved mineral resource exploration well ~~;~~ ~~for wells;~~ providing that certain losses of water by a dissolved mineral exploration well or wells are not subject to certain appropriation procedures; requiring the Commission on Mineral Resources to establish a fee for the issuance of a permit to drill ~~for operate~~ a dissolved mineral resource exploration well; requiring the Commission, in coordination with the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources, to adopt certain regulations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes provisions governing exploration for dissolved mineral resources. **Section 1.4** of this bill provides that the provisions of this bill apply only to the exploration for dissolved mineral resources and not the ownership of such resources. **Sections 3** ~~and 12-14~~ 12 and 14 of this bill define the terms "dissolved mineral resource," "dissolved mineral resource exploration borehole," ~~and "dissolved mineral resource exploration project,"~~ and "dissolved mineral resource exploration well." **Sections 16 and 17** of this bill provide for the issuance by the Administrator of the Division of Minerals of the Commission on Mineral Resources of a permit to drill a dissolved mineral resource exploration well ~~for operate a dissolved mineral resource exploration project~~. **Section 18** of this bill provides that the reasonable loss of water of not more than 5 acre-feet during the testing and sampling of water pumped by a dissolved mineral resource exploration well or dissolved mineral resource

exploration project is not subject to the appropriation procedures of chapters 533 and 534 of NRS, but a dissolved mineral resource exploration well or a dissolved mineral resource exploration project that pumps more than 5 acre-feet of water is required to follow such procedures. Section 18 also defines the term "dissolved mineral resource exploration project." Section 19 of this bill requires the Commission on Mineral Resources to establish a fee of not more than \$1,500 for the issuance of a permit to drill a dissolved mineral resource exploration well. ~~for operate a dissolved mineral resource exploration project.~~ Section 20 of this bill requires the Commission, in coordination with the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources, to adopt regulations to carry out a program for regulating the drilling or operation of dissolved mineral resource exploration boreholes ~~and~~ and dissolved mineral resource exploration wells. ~~and dissolved mineral resource exploration projects.~~ Section 21 of this bill provides that a person who violates any provision of this bill or any regulations adopted pursuant thereto or an order of the Division of Minerals is subject to a penalty.

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

Section 1. (Deleted by amendment.)

Sec. 1.2. Title 48 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 1.4 to 21, inclusive, of this act.

Sec. 1.4. *1. The provisions of this chapter govern exploration for dissolved mineral resources.*

2. Ownership of dissolved mineral resources is determined by the applicable federal and state laws or regulations.

3. Except as expressly provided, nothing in this chapter shall be construed to abrogate the provisions of chapter ~~445A, 519A,~~ 533, 534 or 534A of NRS.

Sec. 1.6. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2 to 15, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2. *"Administrator" means the Administrator of the Division of Minerals of the Commission on Mineral Resources.*

Sec. 3. *"Dissolved mineral resource" means all dissolved or entrained minerals that may be obtained from the naturally occurring liquid or brine in which they are found, including, without limitation, lithium. The term does not include a geothermal resource as defined in NRS 534A.010.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. *"Dissolved mineral resource exploration borehole" means a penetration in the ground that is made to sample or obtain water or chemical, geologic, geophysical or geotechnical information about a dissolved mineral resource and which cannot be pumped as a well.*

Sec. 13. ~~["Dissolved mineral resource exploration project" means a project, which may consist of one or more dissolved mineral resource exploration wells, that is conducted on:~~

~~1. Private land owned or controlled by a natural person or an exploration or mining company; or~~

~~2. Public land in relation to a mining claim. (Deleted by amendment.)~~

Sec. 14. "Dissolved mineral resource exploration well" means a well drilled to measure, test or sample water, including, without limitation, pumping tests, to determine whether dissolved mineral resources are present in concentrations and volumes sufficient to justify production.

Sec. 15. "Division" means the Division of Minerals of the Commission on Mineral Resources.

Sec. 16. 1. A person may not drill a dissolved mineral resource exploration well ~~for operate a dissolved mineral resource exploration project~~ without first obtaining a permit from the Administrator and complying with the conditions of the permit.

2. To obtain a permit to drill a dissolved mineral resource exploration well ~~for operate a dissolved mineral resource exploration project~~, a person must submit an application for a permit to the Administrator in the form and containing such information as prescribed by the Administrator ~~++~~ in accordance with regulations adopted pursuant to this chapter.

3. An application submitted pursuant to subsection 2 must include:

(a) The location, design and expected depth of the well ~~for wells~~;

(b) The materials of construction for the well ~~for wells~~;

(c) The status of the land on which the well ~~for wells~~ will be constructed; ~~land~~

(d) A plan for monitoring the well ~~for wells~~ and a plan for plugging and abandoning the well ~~for wells~~ in accordance with any regulations adopted pursuant to this chapter ~~++~~;

(e) A plan for managing any fluids generated as part of testing or sampling, which must include, without limitation, a description of how the fluids will be managed in accordance with the requirements of chapter 445A of NRS and as required by the Division of Environmental Protection of the State Department of Conservation and Natural Resources; and

(f) Any other reporting, information or analysis necessary to prevent the migration of fluids between aquifers and the degradation of the water quality in accordance with any regulations adopted pursuant to this chapter.

4. In addition to any other requirement of this section, a dissolved mineral resource exploration well or a dissolved mineral resource exploration borehole must be drilled by a person who is licensed to drill wells pursuant to NRS 534.140.

5. A person ~~does~~ may not need to obtain a permit pursuant to this section to drill a dissolved mineral resource exploration borehole ~~++~~ without first obtaining a permit to drill a dissolved mineral resource exploration well.

6. The issuance of a permit pursuant to section 17 of this act does not authorize a person to produce dissolved mineral resources without a water right.

Sec. 17. 1. The Administrator shall approve or reject an application for a permit to drill a dissolved mineral resource exploration well ~~for operate a dissolved mineral resource exploration project~~ within 30 days after the Administrator receives an application in proper form, unless the Administrator determines that the application conflicts with the requirements of NRS 445A.300 to 445A.730, inclusive, and any regulations adopted pursuant thereto, or any other laws and regulations administered by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

2. A permit issued pursuant to this section must not be effective for more than 2 years, but may be extended one time by the Administrator for an additional 2 years if he or she determines that the permit complies with the requirements of this chapter and any regulations adopted pursuant thereto.

3. The Administrator and the Division of Minerals of the Commission on Mineral Resources may hold public hearings jointly or separately to gather such evidence or information as they deem necessary for a full understanding of all the rights involved and to properly guard the public interest. The Administrator must notify the applicant and the Administrators of the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources in advance of any hearing held pursuant to this section.

4. A permit issued pursuant to this section must include any conditions and reporting requirements deemed necessary by the Administrator.

5. The holder of any permit issued pursuant to this section must comply with the requirements of NRS 445A.300 to 445A.730, inclusive, and any regulations adopted pursuant thereto.

6. The Administrator shall post any permit which has been approved pursuant to this section on the Internet website of the Division of Minerals within 5 days after the permit has been approved.

Sec. 18. 1. The appropriation procedures of chapters 533 and 534 of NRS do not apply to the reasonable loss of water of not more than 5 acre-feet during the testing and sampling of water pumped by a dissolved mineral resource exploration well or dissolved mineral resource exploration project. ~~which is subject to the terms of a permit issued pursuant to section 17 of this act.~~

2. Any water pumped in excess of 5 acre-feet by a dissolved mineral resource exploration well or within a dissolved mineral resource exploration project is subject to the appropriation procedures of chapters 533 and 534 of NRS. An operator of a dissolved mineral resource exploration well or dissolved mineral resource exploration project must ensure that the well or project is in compliance with the appropriation requirements of chapters 533 and 534 of NRS before the well or project exceeds the threshold of 5-acre-feet.

3. As used in this section, "dissolved mineral resource exploration project" means a project, which may consist of one or more dissolved mineral resource exploration wells or boreholes or both, that is conducted on:

(a) Private land owned or controlled by a natural person or an exploration or mining company; or

(b) A mining claim on public land that is identified in an approved notice or plan required pursuant to 43 C.F.R §§ 3809.300 to 3809.336, inclusive, or 3809.400 to 3809.434, inclusive.

Sec. 19. 1. The Commission on Mineral Resources shall, by regulation, establish a fee to be collected by the Division for examining and filing an application for a permit to drill a dissolved mineral exploration well. ~~for operate a dissolved mineral resource exploration project.~~ The fee must not exceed \$1,500.

2. The money collected pursuant to this section:

(a) Must be deposited with the State Treasurer for credit to the Account for the Division of Minerals created in the State General Fund pursuant to 513.103.

(b) May be used only to administer the provisions of this chapter.

Sec. 20. The Commission on Mineral Resources:

1. Shall, in coordination with the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources, adopt regulations to carry out a program for regulating the drilling and operation of dissolved mineral resource exploration wells ~~and dissolved mineral resource exploration projects~~ and dissolved mineral resource exploration boreholes; and

1 **2. May adopt any other regulations necessary to carry out the provisions of**
2 **this chapter.**

3 **Sec. 21. Any person who willfully violates any provision of this chapter or**
4 **any regulation adopted pursuant thereto or an order of the Division issued**
5 **pursuant to this chapter is subject to a penalty of not more than \$1,000 for each**
6 **act or violation and for each day that the violation continues.**

7 **Sec. 22.** This act becomes effective:

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

11 2. On January 1, 2018, for all other purposes.