

SENATE BILL NO. 73—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF WATER RESOURCES  
OF THE STATE DEPARTMENT OF  
CONSERVATION AND NATURAL RESOURCES)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to water. (BDR 48-177)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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 certain provisions relating to domestic wells; declaring the policy of this State to manage conjunctively all sources of water in this State; revising certain provisions relating to groundwater management plans and critical management areas; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the State Engineer has various powers and duties relating to managing the water resources of this State. (Chapters 533 and 534 of NRS) **Section 1** of this bill declares the policy of this State to manage conjunctively the appropriation, use and administration of all water in the State, regardless of the source.

Under existing law, the Legislature has declared that water supplied by a domestic well is protected from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses which cannot be reasonably mitigated. **Section 1** instead declares that water supplied by a domestic well is protected from adverse effects which are caused by new appropriations of water or changes to existing water rights.

Under existing law, the State Engineer is required to designate certain basins as a critical management area upon receipt of a petition signed by a majority of the holders of permits or certificates to appropriate water in the basin. (NRS 534.110) Existing law further provides that in a basin that has been designated a critical management area, a petition for the approval of a groundwater management plan may be submitted to the State Engineer. The petition must be signed by a majority of the holders of permits or certificates to appropriate water in the basin. (NRS 534.037) **Sections 2 and 3** of this bill revise the majority requirements to instead



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require these petitions be signed by a number of the holders of such permits or certificates and the owners of domestic wells in the basin who together hold at least two-thirds of the total amount of groundwater committed in the basin. If the petition for a groundwater management plan is approved, **section 2** provides that the plan is binding on all groundwater users in the basin. Additionally, **section 2** provides a number of management options which may be included in a groundwater management plan. Further, **section 2** authorizes any holder of a water right or owner of a domestic well in certain designated basins to submit a petition for the approval of a groundwater management plan, which, if approved, is binding on only those parties who signed the petition.

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

**Section 1.** NRS 533.024 is hereby amended to read as follows:

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by ~~municipal, quasi-municipal or industrial uses and~~ *new appropriations of water or changes to existing water rights* which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

(d) To encourage and promote the use of water to prevent or reduce the spread of wildfire or to rehabilitate areas burned by wildfire, including, without limitation, through the establishment of vegetative cover that is resistant to fire.

*(e) To manage conjunctively the appropriation, use and administration of all waters of this State, regardless of the source of the water, and to encourage the use of augmentation plans to maximize the beneficial use of the water.*

2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.



1     **Sec. 2.** NRS 534.037 is hereby amended to read as follows:

2     534.037 1. In a basin that has been designated as a critical  
3 management area by the State Engineer pursuant to subsection 7 of  
4 NRS 534.110, a petition for the approval of a groundwater  
5 management plan for the basin may be submitted to the State  
6 Engineer. The petition must be signed by a ~~majority~~ *number* of the  
7 holders of permits or certificates to appropriate water in the basin  
8 that are on file in the Office of the State Engineer and *owners of*  
9 *domestic wells in the basin who together hold at least two-thirds of*  
10 *the total groundwater committed in the basin. The petition* must be  
11 accompanied by a groundwater management plan which must set  
12 forth the necessary steps for removal of the basin's designation as a  
13 critical management area. *For the purposes of determining the*  
14 *amount of groundwater held by an owner of a domestic well, it*  
15 *shall be deemed that each owner of a domestic well holds 2 acre-*  
16 *feet of water per year. A groundwater management plan submitted*  
17 *pursuant to this subsection which is approved by the State*  
18 *Engineer is binding on all groundwater users in the basin.*

19     2. *In a groundwater basin that has been designated by the*  
20 *State Engineer pursuant to NRS 534.030, a petition for the*  
21 *approval of a groundwater management plan for the basin may be*  
22 *submitted to the State Engineer by any holder of a water right or*  
23 *owner of a domestic well. The petition may be signed by any other*  
24 *water user in the basin, including, without limitation, any owner*  
25 *of a domestic well. In determining whether to approve a*  
26 *groundwater management plan submitted pursuant to this*  
27 *subsection, the State Engineer shall consider, without limitation,*  
28 *the percentage of holders of water rights and domestic well users*  
29 *in the basin in support of the groundwater management plan who*  
30 *signed the petition. A groundwater management plan submitted*  
31 *pursuant to this subsection which is approved by the State*  
32 *Engineer is binding on only those water users who signed the*  
33 *petition.*

34     3. *In addition to any other power granted by law, the State*  
35 *Engineer may consider any reasonable action set forth in a*  
36 *groundwater management plan submitted pursuant to subsection*  
37 *1 or 2, including, without limitation:*

38     (a) *Limiting the quantity of water that may be withdrawn*  
39 *under any permit or certificate or from a domestic well on a basis*  
40 *other than priority;*

41     (b) *Limiting the movement of water rights, particularly those*  
42 *water rights which have not been used for 5 successive years;*

43     (c) *Designating preferred uses of existing water rights;*

44     (d) *Establishing a program for the voluntary relinquishment of*  
45 *a water right to revert to the groundwater source of the water;*



1 *(e) Establishing mandatory timelines to require the filing of*  
2 *proofs of beneficial use pursuant to NRS 533.400;*

3 *(f) Adopting rules or regulations to further a groundwater*  
4 *management plan; and*

5 *(g) Any other action deemed appropriate by the State Engineer*  
6 *to remove the basin's designation as a critical management area*  
7 *or remove the need for a groundwater management plan in a*  
8 *designated basin, as applicable.*

9 **4.** In determining whether to approve a groundwater  
10 management plan submitted pursuant to subsection 1 ~~H~~ **or 2**, the  
11 State Engineer shall consider, without limitation:

12 (a) The hydrology of the basin;

13 (b) The physical characteristics of the basin;

14 (c) The geographic spacing and location of the withdrawals of  
15 groundwater in the basin;

16 (d) The quality of the water in the basin;

17 (e) The wells located in the basin, including, without limitation,  
18 domestic wells;

19 *(f) The timeline for carrying out the plan, including, without*  
20 *limitation, any benchmarks established for the plan;*

21 *(g) Whether a groundwater management plan already exists for*  
22 *the basin; and*

23 ~~H(g)~~ **(h)** Any other factor deemed relevant by the State  
24 Engineer.

25 ~~B-1~~ **5.** *The State Engineer shall not approve a groundwater*  
26 *management plan submitted pursuant to subsection 1, if the State*  
27 *Engineer determines that the plan will not return the basin to the*  
28 *appropriate level of sustainability as determined by the State*  
29 *Engineer.*

30 **6.** Before approving or disapproving a groundwater  
31 management plan submitted pursuant to subsection 1 ~~H~~ **or 2**, the  
32 State Engineer shall hold a public hearing to take testimony on the  
33 plan in the county where the basin lies or, if the basin lies in more  
34 than one county, within the county where the major portion of the  
35 basin lies. The State Engineer shall cause notice of the hearing to be:

36 (a) Given once each week for 2 consecutive weeks before the  
37 hearing in a newspaper of general circulation in the county or  
38 counties in which the basin lies.

39 (b) Posted on the Internet website of the State Engineer for at  
40 least 2 consecutive weeks immediately preceding the date of the  
41 hearing.

42 ~~H-1~~ **7.** The decision of the State Engineer on a groundwater  
43 management plan may be reviewed by the district court of the  
44 county pursuant to NRS 533.450.



~~15-1~~ 8. An amendment to a groundwater management plan must be proposed and approved in the same manner as an original groundwater management plan is proposed and approved pursuant to this section.

**Sec. 3.** NRS 534.110 is hereby amended to read as follows:

534.110 1. The State Engineer shall administer this chapter and shall prescribe all necessary regulations within the terms of this chapter for its administration.

2. The State Engineer may:

(a) Require periodical statements of water elevations, water used, and acreage on which water was used from all holders of permits and claimants of vested rights.

(b) Upon his or her own initiation, conduct pumping tests to determine if overpumping is indicated, to determine the specific yield of the aquifers and to determine permeability characteristics.

3. The State Engineer shall determine whether there is unappropriated water in the area affected and may issue permits only if the determination is affirmative. The State Engineer may require each applicant to whom a permit is issued for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

to report periodically to the State Engineer concerning the effect of that well on other previously existing wells that are located within 2,500 feet of the well.

4. It is a condition of each appropriation of groundwater acquired under this chapter that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. In determining a reasonable lowering of the static water level in a particular area, the State Engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of using water on the economy of the area in general.

5. This section does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectable interests in existing domestic wells as set forth in NRS 533.024 and the rights of holders of existing appropriations can be satisfied under such express conditions. At the time a permit is granted for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,



1    ➤ the State Engineer shall include as a condition of the permit that  
2    pumping water pursuant to the permit may be limited or prohibited  
3    to prevent any unreasonable adverse effects on an existing domestic  
4    well located within 2,500 feet of the well, unless the holder of the  
5    permit and the owner of the domestic well have agreed to alternative  
6    measures that mitigate those adverse effects.

7    6. Except as otherwise provided in subsection 7, the State  
8    Engineer shall conduct investigations in any basin or portion thereof  
9    where it appears that the average annual replenishment to the  
10   groundwater supply may not be adequate for the needs of all  
11   permittees and all vested-right claimants, and if the findings of the  
12   State Engineer so indicate, the State Engineer may order that  
13   withdrawals, including, without limitation, withdrawals from  
14   domestic wells, be restricted to conform to priority rights.

15   7. The State Engineer:

16   (a) May designate as a critical management area any basin in  
17   which withdrawals of groundwater consistently exceed the perennial  
18   yield of the basin.

19   (b) Shall designate as a critical management area any basin in  
20   which withdrawals of groundwater consistently exceed the perennial  
21   yield of the basin upon receipt of a petition for such a designation  
22   which is signed by a ~~majority~~ *number* of the holders of certificates  
23   or permits to appropriate water in the basin that are on file in the  
24   Office of the State Engineer ~~and~~ *and owners of domestic wells in the*  
25   *basin, who together hold at least two-thirds of the total*  
26   *groundwater committed in the basin. For the purposes of*  
27   *determining the amount of groundwater held by an owner of a*  
28   *domestic well, it shall be deemed that each owner of a domestic*  
29   *well holds 2 acre-feet of water per year.*

30   ➤ The designation of a basin as a critical management area pursuant  
31   to this subsection may be appealed pursuant to NRS 533.450. If a  
32   basin has been designated as a critical management area for at least  
33   10 consecutive years, the State Engineer shall order that  
34   withdrawals, including, without limitation, withdrawals from  
35   domestic wells, be restricted in that basin to conform to priority  
36   rights, unless a groundwater management plan has been approved  
37   for the basin pursuant to NRS 534.037.

38   8. In any basin or portion thereof in the State designated by the  
39   State Engineer, the State Engineer may restrict drilling of wells in  
40   any portion thereof if the State Engineer determines that additional  
41   wells would cause an undue interference with existing wells. Any  
42   order or decision of the State Engineer so restricting drilling of such  
43   wells may be reviewed by the district court of the county pursuant to  
44   NRS 533.450.



1      **Sec. 4.**    This act becomes effective on July 1, 2017.

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