

ASSEMBLY BILL NO. 62—COMMITTEE ON NATURAL
RESOURCES, AGRICULTURE, AND MINING

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

PREFILED NOVEMBER 19, 2018

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions related to water. (BDR 48-215)

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

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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; requiring the State Engineer to adopt regulations relating to the time for the completion of work and the application of water to beneficial use; requiring the State Engineer to conduct a survey relating to extensions of time to perfect a water right; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Upon approving an application for a permit to appropriate water, existing law: (1) requires the State Engineer to set a deadline by which the construction related to the appropriation of water must be completed and application of water to beneficial use must be made; and (2) authorizes the State Engineer to extend those deadlines under certain circumstances. With limited exceptions, any number of extensions may be granted, but a single extension may not exceed 5 years. (NRS 533.380, 533.390, 533.410)

Section 1.5 of this bill requires the State Engineer to adopt regulations to carry out these provisions.

Section 4 of this bill requires the State Engineer to conduct a survey during the 2019-2020 interim to determine how other jurisdictions in the United States manage extensions of time to perfect a water right.



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

Section 1. (Deleted by amendment.)

Sec. 1.5. 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,

↪ must not be less than 5 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 must not exceed 5 years. 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 good faith and 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



1 that the applicant is proceeding in good faith and with reasonable
2 diligence to perfect the application. The failure to provide the proof
3 and evidence required pursuant to this subsection is prima facie
4 evidence that the holder is not proceeding in good faith and with
5 reasonable diligence to perfect the application.

6 4. Except as otherwise provided in subsection 5 and NRS
7 533.395, whenever the holder of a permit issued for any municipal
8 or quasi-municipal use of water on any land referred to in paragraph
9 (b) of subsection 1, or for any use which may be served by a county,
10 city, town, public water district or public water company, requests
11 an extension of time to apply the water to a beneficial use, the State
12 Engineer shall, in determining whether to grant or deny the
13 extension, consider, among other factors:

14 (a) Whether the holder has shown good cause for not having
15 made a complete application of the water to a beneficial use;

16 (b) The number of parcels and commercial or residential units
17 which are contained in or planned for the land being developed or
18 the area being served by the county, city, town, public water district
19 or public water company;

20 (c) Any economic conditions which affect the ability of the
21 holder to make a complete application of the water to a beneficial
22 use;

23 (d) Any delays in the development of the land or the area being
24 served by the county, city, town, public water district or public
25 water company which were caused by unanticipated natural
26 conditions; and

27 (e) The period contemplated in the:

28 (1) Plan for the development of a project approved by the
29 local government pursuant to NRS 278.010 to 278.460, inclusive; or

30 (2) Plan for the development of a planned unit development
31 recorded pursuant to chapter 278A of NRS,

32 ↪ if any, for completing the development of the land.

33 5. The provisions of subsections 1 and 4 do not apply to an
34 environmental permit or a temporary permit issued pursuant to NRS
35 533.436 or 533.504.

36 6. For the purposes of this section, the measure of reasonable
37 diligence is the steady application of effort to perfect the application
38 in a reasonably expedient and efficient manner under all the facts
39 and circumstances. When a project or integrated system is
40 composed of several features, work on one feature of the project or
41 system may be considered in finding that reasonable diligence has
42 been shown in the development of water rights for all features of the
43 entire project or system.

44 ***7. The State Engineer shall:***



* A B 6 2 R 3 *

1 (a) *Adopt any regulation necessary to carry out the provisions*
2 *of this section; and*

3 (b) *Provide a copy of such regulations to any person upon*
4 *request.*

5 **Sec. 2.** (Deleted by amendment.)

6 **Sec. 3.** (Deleted by amendment.)

7 **Sec. 4.** 1. The State Engineer shall conduct a survey during
8 the 2019-2020 interim to determine the manner in which other
9 jurisdictions within the United States manage extensions of time for
10 the perfection of a right to appropriate water.

11 2. The State Engineer shall, on or before January 1, 2021,
12 submit a report of his or her findings and conclusions to the Director
13 of the Legislative Counsel Bureau for transmittal to the 81st Session
14 of the Nevada Legislature.

15 **Sec. 5.** This act becomes effective upon passage and approval.

