

Amendment No. 48

Assembly Amendment to Assembly Bill No. 95	(BDR 48-504)
Proposed by: Assembly Committee on Natural Resources, Agriculture, and Mining	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.



ASSEMBLY BILL NO. 95—COMMITTEE ON NATURAL
RESOURCES, AGRICULTURE, AND MINING(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON PUBLIC LANDS)

PREFILED JANUARY 24, 2019

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions relating to water. (BDR 48-504)

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; requiring the State Engineer to continue to allow withdrawals of groundwater from domestic wells under certain circumstances in groundwater basins where withdrawals have been restricted to conform to priority rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Engineer to conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all permittees and vested rights claimants. If the State Engineer confirms that the average annual replenishment to the groundwater supply may not be adequate, he or she may order that withdrawals, including withdrawals from domestic wells, be restricted to conform to priority rights. (NRS 534.110)

Existing law: (1) authorizes the State Engineer to designate as a critical management area any groundwater basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin; and (2) requires the State Engineer to designate as a critical management area any groundwater basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such designation. If a groundwater basin is designated as a critical management area for at least 10 consecutive years, the State Engineer is required to order that withdrawals, including withdrawals from domestic wells, be restricted to conform to priority rights. (NRS 534.110)

This bill provides that **if a court of competent jurisdiction orders the State Engineer to restrict withdrawals to conform to priority rights or** if the State Engineer orders that withdrawals be restricted to conform to priority rights in any of these groundwater basins, ~~he or she~~ **the State Engineer** must limit the restriction on withdrawals from domestic wells to allow a domestic well to continue to withdraw 0.5 acre-feet of water per year if the owner of the domestic well installs or has installed a water meter to record the withdrawal.

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

Section 1. 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,

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

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

7. The State Engineer:

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

3 (b) Shall designate as a critical management area any basin in which
4 withdrawals of groundwater consistently exceed the perennial yield of the basin
5 upon receipt of a petition for such a designation which is signed by a majority of
6 the holders of certificates or permits to appropriate water in the basin that are on
7 file in the Office of the State Engineer.

8 ➤ The designation of a basin as a critical management area pursuant to this
9 subsection may be appealed pursuant to NRS 533.450. If a basin has been
10 designated as a critical management area for at least 10 consecutive years, *except as*
11 *otherwise provided in subsection 9*, the State Engineer shall order that withdrawals,
12 including, without limitation, withdrawals from domestic wells, be restricted in that
13 basin to conform to priority rights, unless a groundwater management plan has been
14 approved for the basin pursuant to NRS 534.037.

15 8. In any basin or portion thereof in the State designated by the State
16 Engineer, the State Engineer may restrict drilling of wells in any portion thereof if
17 the State Engineer determines that additional wells would cause an undue
18 interference with existing wells. Any order or decision of the State Engineer so
19 restricting drilling of such wells may be reviewed by the district court of the county
20 pursuant to NRS 533.450.

21 *9. If a court of competent jurisdiction orders the State Engineer to restrict*
22 *withdrawals to conform to priority rights or if pursuant to subsection 6 or 7 the*
23 *State Engineer orders ~~pursuant to subsection 6 or 7~~ that withdrawals be*
24 *restricted to conform to priority rights, the State Engineer must limit the*
25 *restriction of withdrawals from a domestic well to allow a domestic well to*
26 *continue to withdraw 0.5 acre-feet of water per year, which must be recorded by a*
27 *water meter.*

28 **Sec. 2.** This act becomes effective on July 1, 2019.