

SENATE BILL NO. 149—COMMITTEE ON NATURAL RESOURCES

FEBRUARY 25, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to groundwater boards.
(BDR 48-462)

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 groundwater boards; revising the authority to establish a groundwater board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a board of county commissioners to recommend to the State Engineer that the State Engineer establish a groundwater board in an area designated as a groundwater basin by the State Engineer. If the State Engineer directs the establishment of a groundwater board, the Governor is required to appoint seven members who serve on the groundwater board. The Governor may dissolve the groundwater board if the Governor determines that the future activities of the board are likely to be insubstantial. (NRS 534.035)

Section 2 of this bill transfers to a board of county commissioners the authority to establish a groundwater board and appoint up to seven members to serve on the groundwater board. **Section 2** prohibits, with certain exceptions, a board of county commissioners from establishing more than one groundwater board in the county regardless of the number of groundwater basins located wholly or partially within the county. **Section 2** further authorizes the board of county commissioners to dissolve the groundwater board if the board of county commissioners determines that the groundwater board is no longer needed.

Section 1 of this bill provides that if an area designated as a groundwater basin by the State Engineer lies in more than one county, the boards of county commissioners of all such counties may, under certain circumstances: (1) jointly establish a groundwater board for that groundwater basin; and (2) designate the governing body of a water authority to serve as the groundwater board. **Section 1** provides that such a groundwater board is dissolved if any board of county commissioners of a county in which the groundwater basin is partially located determines that the groundwater board is no longer needed.

Existing law requires: (1) the State to pay certain expenses of a groundwater board such as per diem and travel allowances for board members and expenses for consultants employed by a groundwater board; and (2) the State Engineer to determine and certify the budget of a groundwater board for paying such expenses.



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(NRS 534.035, 534.040) **Sections 2 and 3** of this bill eliminate these provisions to conform to the transfer of authority to create and appoint a groundwater board from the State to the boards of county commissioners.

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

Section 1. Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, if any area designated as a groundwater basin by the State Engineer pursuant to the provisions of NRS 534.030 lies in more than one county, the boards of county commissioners of all such counties may:

(a) Jointly establish a groundwater board for that groundwater basin; and

(b) Designate the governing body of a water authority created by an agreement entered into pursuant to the provisions of NRS 277.080 to 277.180, inclusive, to serve as the groundwater board.

2. A groundwater board may not be established for a groundwater basin pursuant to subsection 1:

(a) Unless the boards of county commissioners of all counties in which the groundwater basin is located agree to the establishment;

(b) If a board of county commissioners of any county in which the groundwater basin is partially located has included the groundwater basin within the jurisdiction of a groundwater board established pursuant to NRS 534.035; or

(c) If the governing body of the water authority does not agree to serve as the groundwater board.

3. The groundwater board shall hold meetings at such times and places as it may determine. Special meetings may be called at any time at the request of a majority of members or by the chair, upon notice specifying the matters to be acted upon at the meeting.

4. A majority of the groundwater board constitutes a quorum, and the groundwater board shall act only by a majority of those present.

5. If a groundwater board is established pursuant to this section, the State Engineer shall not approve any application or issue any permit to drill a well, appropriate groundwater, change the place or manner of use or the point of diversion of water within the groundwater basin, adopt any related regulations or enter any related orders until the State Engineer has conferred with the groundwater board and obtained its written advice and recommendations.



6. *It is the intention of the Legislature that the State Engineer and the groundwater board be in agreement whenever possible, but if there is any disagreement between the State Engineer and the groundwater board, the views of the State Engineer prevail. A written report of any such disagreement must be made by the State Engineer and the groundwater board and kept as a permanent record by the groundwater board.*

7. *The groundwater board may request from the State Engineer or any other state, county, city or district agency such technical information, data and advice as it may require to perform its functions, and the State Engineer and such other agencies shall, within the resources available to them, furnish such assistance as may be requested.*

8. *A groundwater board established pursuant to this section is dissolved if any board of county commissioners of a county in which the groundwater basin is partially located determines that the groundwater board is no longer needed.*

Sec. 2. NRS 534.035 is hereby amended to read as follows:

534.035 1. ~~In each area designated as a groundwater basin by the State Engineer pursuant to the provisions of NRS 534.030, the~~ *Except as otherwise provided in this subsection, a board of county commissioners may ~~recommend to the State Engineer that the State Engineer~~ establish a groundwater board ~~[. The State Engineer shall determine whether or not a]~~ in one or more areas designated as groundwater basins by the State Engineer pursuant to the provisions of NRS 534.030. Except as otherwise provided in section 1 of this act, a board of county commissioners may not establish more than one groundwater board ~~is to be established and may direct its establishment by order.]~~ in the county regardless of the number of groundwater basins that are located wholly or partially within the county.*

2. ~~[If a]~~ *A groundwater board ~~is established, the governing bodies of all the cities and towns within the designated area, the board of county commissioners of each county in which the area is located, and the governing body of any water district in which the area is included, or partly included, shall each submit a list of names of residents of the area to the Governor, who shall appoint]~~ *established pursuant to subsection 1 must consist of not more than seven members ~~[of the board. At least one member must be appointed from each list.]~~ who are appointed by the board of county commissioners.**

3. After the initial terms, the term of office of each member of the *groundwater* board is 4 years. The *groundwater* board shall elect one member as chair and one member as secretary to serve as such at the pleasure of the *groundwater* board.



4. The **groundwater** board shall maintain its headquarters at the county seat of the county . ~~[in which the designated area is located, or if the area lies in more than one county, in the county seat of one of the counties in which the area is located.]~~ The **groundwater** board shall hold meetings at such times and places as it may determine. Special meetings may be called at any time by the secretary at the request of any four members, or by the chair, upon notice specifying the matters to be acted upon at the meeting. ~~[No matters other than those specified in the notice may be acted upon at that meeting unless all members are present and consent thereto.]~~

5. A majority of the **groundwater** board constitutes a quorum, and the **groundwater** board shall act only by a majority of those present.

6. ~~[For each day's attendance at each meeting of the groundwater board, or for each day when services are actually performed for the groundwater board, the members are entitled to receive per diem and travel allowances provided by law. Claims for those expenses must be paid as provided in subsection 7 of NRS 534.040.]~~

~~7. The~~ *If a groundwater board is established pursuant to this section, the* State Engineer shall not approve any application or issue any permit to drill a well, appropriate groundwater, change the place or manner of use or the point of diversion of water within the designated area, adopt any related regulations or enter any related orders until the State Engineer has conferred with the **groundwater** board and obtained its written advice and recommendations.

~~[8.]~~ 7. It is the intention of the Legislature that the State Engineer and the **groundwater** board be in agreement whenever possible, but ~~[, for the purpose of fixing responsibility to the Governor.]~~ if there is any disagreement between the State Engineer and the **groundwater** board, the views of the State Engineer prevail. A written report of any such disagreement must be made ~~[immediately to the Governor]~~ by the State Engineer and the **groundwater** board ~~[,~~

~~9. Any]~~ *and kept as a permanent record by the groundwater board.*

8. The groundwater board may request from the State Engineer or any other state, county, city or district agency such technical information, data and advice as it may require to perform its functions, and the State Engineer and such other agencies shall, within the resources available to them, furnish such assistance as may be requested.

~~[10.]~~ 9. The ~~[Governor]~~ *board of county commissioners* may dissolve the groundwater board ~~[by order]~~ if the ~~[Governor]~~ *board of county commissioners* determines that ~~[the future activities of]~~



1 the *groundwater* board ~~[are likely to be insubstantial.]~~ *is no longer*
2 *needed.*

3 **Sec. 3.** NRS 534.040 is hereby amended to read as follows:

4 534.040 1. Upon the initiation of the administration of this
5 chapter in any particular basin, and where the investigations of the
6 State Engineer have shown the necessity for the supervision over the
7 waters of that basin, the State Engineer may employ a well
8 supervisor and other necessary assistants, who shall execute the
9 duties as provided in this chapter under the direction of the State
10 Engineer. The salaries of the well supervisor and the assistants of
11 the well supervisor must be fixed by the State Engineer. The well
12 supervisor and assistants are exempt from the provisions of chapter
13 284 of NRS.

14 2. If the money available from the license fees provided for in
15 NRS 534.140 is not sufficient to pay those salaries, together with
16 necessary expenses, including the compensation and other expenses
17 of the Well Drillers' Advisory Board, the board of county
18 commissioners shall, except as otherwise provided in this
19 subsection, levy a special assessment annually, or at such time as the
20 assessment is needed, upon all taxable property situated within the
21 confines of the area designated by the State Engineer to come under
22 the provisions of this chapter in an amount as is necessary to pay
23 such salaries and expenses. If the board of county commissioners
24 determines that the amount of a special assessment levied upon a
25 property owner pursuant to this section when combined with the
26 amount of all other taxes and assessments levied upon the property
27 owner is less than the cost of collecting the special assessment
28 levied pursuant to this subsection, the board of county
29 commissioners may exempt the property owner from the assessment
30 and appropriate money from the general fund of the county to pay
31 the cost of the assessment.

32 3. Except as otherwise provided in subsection 2, in designated
33 areas within which the use of groundwater is predominantly for
34 agricultural purposes, any special assessment levied pursuant to this
35 section must be charged against each water user who has a permit to
36 appropriate water or a perfected water right, and the charge against
37 each water user must be based upon the proportion which his or her
38 water right bears to the aggregate water rights in the designated
39 area. The minimum charge is \$1.

40 4. The salaries and expenses may be paid by the State Engineer
41 from the Water Distribution Revolving Account pending the levy
42 and collection of an assessment levied pursuant to this section.

43 5. Except as otherwise provided in subsection 2, if a special
44 assessment is levied pursuant to this section, the proper officers of
45 the county shall levy and collect the special assessment as other



1 special assessments are levied and collected, and the assessment is a
2 lien upon the property.

3 6. Any special assessment collected pursuant to this section
4 must be deposited with the State Treasurer for credit to the Water
5 District Account to be accounted for in basin well accounts.

6 7. ~~Upon determination and certification by the State Engineer~~
7 ~~of the amount to be budgeted for the current or ensuing fiscal year~~
8 ~~for the purpose of paying the per diem and travel allowances of the~~
9 ~~groundwater board and employing consultants or other help needed~~
10 ~~to fulfill its responsibilities, the State Controller shall transfer that~~
11 ~~amount to a separate operating account for that fiscal year for the~~
12 ~~groundwater basin. Claims against the account must be approved by~~
13 ~~the groundwater board and paid as other claims against the State are~~
14 ~~paid.]~~ The State Engineer may use money in a particular basin well
15 account to support an activity outside the basin in which the money
16 is collected if the activity bears a direct relationship to the
17 responsibilities or activities of the State Engineer regarding the
18 particular groundwater basin.

19 **Sec. 4.** This act becomes effective on July 1, 2021.

