

SENATE BILL NO. 155—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON PUBLIC LANDS)

MARCH 1, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to the Division of Water Resources of the State Department of Conservation and Natural Resources. (BDR 48-471)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Division of Water Resources of the State Department of Conservation and Natural Resources; revising the name and qualifications of the executive head of the Division; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the executive head of the Division of Water Resources of the State Department of Conservation and Natural Resources is the State Engineer. (NRS 232.100) The person appointed to be the State Engineer must be a licensed professional engineer who has training in hydraulic and general engineering as well as the practical skills and experience appropriate for the position. (NRS 532.030)

Section 12 of this bill changes the title of the executive head of the Division from the State Engineer to the Administrator. **Section 6** of this bill changes the name of the Office of the State Engineer to the Division of Water Resources. **Sections 3, 4, 7-11 and 13-15** of this bill make conforming changes related to these title and name changes.

Section 5 of this bill revises the qualifications for the executive head of the Division of Water Resources to require that the Administrator: (1) be experienced and competent in water resource management and conservation; (2) have the demonstrated ability to administer a major public agency; and (3) with limited exception, be a licensed professional engineer with skill and experience in water-related engineering. **Section 5** further provides that the person appointed as Administrator is not required to be such a licensed engineer if: (1) a deputy administrator of the Division is a licensed professional engineer with skill and



19 experience in water-related engineering; and (2) the person has the theoretical
20 knowledge, practical experience and technical skills necessary for the position.

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

1 **Section 1.** Chapter 532 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *As used in this title, unless the context otherwise*
4 *requires, the words and terms defined in sections 3 and 4 of this*
5 *act have the meanings ascribed to them in those sections.*

6 **Sec. 3.** *“Administrator” means the Administrator of the*
7 *Division of Water Resources of the State Department of*
8 *Conservation and Natural Resources.*

9 **Sec. 4.** *“Division” means the Division of Water Resources of*
10 *the State Department of Conservation and Natural Resources.*

11 **Sec. 5.** NRS 532.030 is hereby amended to read as follows:

12 532.030 ~~[No]~~

13 1. The person ~~[may be]~~ appointed as ~~[State Engineer who is~~
14 ~~not]~~ Administrator must:

15 (a) *Be experienced and competent in water resource*
16 *management and conservation;*

17 (b) *Have the demonstrated ability to administer a major public*
18 *agency; and*

19 (c) *Except as otherwise provided in subsection 2, be* a licensed
20 *professional engineer pursuant to the provisions of chapter 625 of*
21 *NRS ~~[and who does not have such training in hydraulic and general~~*
22 *engineering and such practical]* with skill and experience ~~[as shall fit~~
23 ~~that person]~~ *in water-related engineering.*

24 2. *The person appointed as Administrator is not required to*
25 *meet the qualifications set forth in paragraph (c) of subsection 1*
26 *if:*

27 (a) *A deputy administrator of the Division meets the*
28 *qualifications set forth in paragraph (c) of subsection 1; and*

29 (b) *The person appointed as Administrator has the theoretical*
30 *knowledge, practical experience and technical skills necessary* for
31 the position.

32 **Sec. 6.** NRS 532.060 is hereby amended to read as follows:

33 532.060 1. The ~~[State Engineer]~~ Administrator is in the
34 unclassified service of the State.

35 2. Except as otherwise provided in NRS 284.143, the ~~[State~~
36 ~~Engineer]~~ Administrator shall devote his or her entire time and
37 attention to the business of the ~~[Office of the State Engineer]~~
38 *Division of Water Resources* and shall not pursue any other
39 business or occupation or hold any other office of profit.



1 **Sec. 7.** Chapter 533 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *“Administrator” means the Administrator or any duly*
4 *authorized assistant.*

5 **Sec. 8.** NRS 533.005 is hereby amended to read as follows:

6 533.005 As used in this chapter, unless the context otherwise
7 requires, the words and terms defined in NRS 533.007 to 533.023,
8 inclusive, *and section 7 of this act* have the meanings ascribed to
9 them in those sections.

10 **Sec. 9.** NRS 533.310 is hereby amended to read as follows:

11 533.310 1. On any stream in this state on which the water
12 rights have been adjudicated and determined and the final decree
13 therefor entered, as between all persons who claimed the right to the
14 use of the waters of such stream, in a suit brought in the district
15 court having jurisdiction of such stream and in which suit the
16 adjudication and determination was not had in the manner provided
17 in NRS 533.087 to 533.265, inclusive, and thereafter one or more of
18 the parties as users of such adjudicated and determined rights or
19 their successors in interest desire that the ~~{State Engineer}~~
20 *Administrator* take charge of the diversions and distribution of such
21 rights and administer them in conformity with the final decree of the
22 court, they may petition the district court which entered the decree
23 requesting such administration.

24 2. Upon the filing of such petition, the district court shall direct
25 that notice of the filing of the petition shall be given to each water
26 user or claimant to a water right listed in the final decree. The notice
27 shall be an order to show cause on the day fixed in the order by the
28 court, which day shall not be less than 10 days nor more than 25
29 days from and after the date of issuance thereof, and which order
30 shall direct the person or persons therein named to attend before the
31 court on that day and show cause, if any they or each of them may
32 have, why the petition should not be granted. The court shall
33 designate the form and direct the preparation of the order or orders
34 to show cause and by its order direct the manner, mode and the
35 payment of the cost of the service thereof.

36 3. For the purpose of the hearing on the petition, such petition
37 shall be deemed in the nature of a complaint. Objections of the
38 water users or claimants, or any of them, to the granting of the
39 petition shall be in writing signed by such users or claimants, or by
40 any attorneys thereof. No other pleading shall be filed. Costs shall
41 be paid as in civil cases brought in the district court, except by the
42 ~~{State Engineer}~~ *Administrator* or the State. The practice in civil
43 cases shall apply insofar as consistent with the summary character
44 of the proceedings. The ~~{State Engineer}~~ *Administrator* shall be
45 given notice of and, in person or by assistant or deputy ~~{state~~



1 ~~engineer,]~~ *administrator*, shall attend upon the hearing of the
2 petition.

3 4. The court, prior to the final determination of the matter,
4 may, by an order duly entered and served upon the ~~[State Engineer,]~~
5 *Administrator*, direct the ~~[State Engineer]~~ *Administrator* to make a
6 hydrographic survey of the stream system and to render to the court
7 a written report, together with such maps and other necessary data
8 as will enable the court to determine whether or not administration
9 of such water rights by the ~~[State Engineer]~~ *Administrator* would be
10 in the best interest of the water users.

11 5. If the district court finally determines the matter
12 affirmatively, the court shall, by its judgment duly entered and
13 served on the ~~[State Engineer,]~~ *Administrator*, direct the ~~[State~~
14 ~~Engineer]~~ *Administrator* to distribute such waters in strict
15 accordance with the decree, and from and after the filing of such
16 judgment in the district court and service thereof on the ~~[State~~
17 ~~Engineer]~~ *Administrator* the administration of the decree and the
18 distribution of the water thereunder shall be under the supervision
19 and control of the district court, and the ~~[State Engineer, the State~~
20 ~~Engineer's deputies,]~~ *Administrator, the Administrator's deputy*
21 *administrators and* assistants and water commissioners, when
22 engaged in the administration of the final decree and the distribution
23 of the water thereunder, shall be deemed officers of the district court
24 only and subject only to its supervision and control.

25 6. Appeals may be taken from the judgment so entered to the
26 appellate court of competent jurisdiction pursuant to the rules fixed
27 by the Supreme Court pursuant to Section 4 of Article 6 of the
28 Nevada Constitution in the same manner and within the time as
29 provided in NRS 533.450.

30 **Sec. 10.** NRS 534B.090 is hereby amended to read as follows:

31 534B.090 1. The Administrator shall approve or reject an
32 application for a permit to drill a dissolved mineral resource
33 exploration well within 30 days after the Administrator receives an
34 application in proper form, unless the Administrator determines that
35 the application conflicts with the requirements of NRS 445A.300 to
36 445A.730, inclusive, and any regulations adopted pursuant thereto,
37 or any other laws and regulations administered by the Division of
38 Environmental Protection of the State Department of Conservation
39 and Natural Resources.

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



3. The Administrator and the ~~{State Engineer}~~ *Administrator of the Division of Water Resources of the State Department of Conservation and Natural 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, the ~~{State Engineer}~~ *Administrator of the Division of Water Resources* and the Administrator of 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. 11. NRS 540.021 is hereby amended to read as follows:
540.021 As used in this chapter:

1. “Chief” means the Chief of the Section.

2. “Department” means the State Department of Conservation and Natural Resources.

~~3. “Division” means the Division of Water Resources of the Department.~~

~~—4.]~~ “Section” means the Water Planning Section of the Division.

Sec. 12. NRS 232.100 is hereby amended to read as follows:

232.100 1. The executive head of the Division of Water Resources shall be the ~~{State Engineer,}~~ *Administrator*, who shall be appointed by and be responsible to the Director.

2. The ~~{State Engineer}~~ *Administrator* and the employees of the Division of Water Resources shall have such powers and shall perform such duties as are conferred upon the ~~{State Engineer}~~ *Administrator* pursuant to title 48 of NRS and the provisions of any other laws.

Sec. 13. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.



2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 14. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 15. NRS 532.010, 532.020 and 533.015 are hereby repealed.

Sec. 16. This act becomes effective on July 1, 2021.

TEXT OF REPEALED SECTIONS

532.010 Office created. The Office of the State Engineer is hereby created.

532.020 Appointment. The State Engineer is appointed by and responsible to the Director of the State Department of Conservation and Natural Resources.

533.015 “State Engineer” defined. “State Engineer” means the State Engineer or any duly authorized assistant.

