

SENATE BILL NO. 238—SENATOR GOICOECHEA

MARCH 15, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to public water systems.
(BDR 40-885)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 public water systems; prohibiting, under certain circumstances, a local governing body from refusing to assume responsibility for certain public water systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth various conditions for the issuance of a permit to operate a public water system constructed after June 30, 1991, which include requirements for: (1) the applicant to submit documentation from the State Engineer that the applicant holds sufficient water rights to operate the water system; (2) a local governing body to assume responsibility for the continued operation and maintenance of the water system in the event of default by the builder or developer of the system; and (3) the applicant to furnish a surety to the local governing body to ensure the continued operation and maintenance of the water system. (NRS 445A.895) **Section 1** of this bill prohibits a local governing body from refusing to assume responsibility for the continued operation and maintenance of the water system in the event of a default on the basis of the sufficiency of the water rights held by the applicant if the State Engineer has determined that the applicant holds sufficient water rights to operate the water system. **Section 2** of this bill makes conforming changes to reflect revisions to the numbering in **section 1**.

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

Section 1. NRS 445A.895 is hereby amended to read as follows:

445A.895 *1.* A permit to operate a water system may not be issued pursuant to NRS 445A.885 unless all of the following conditions are met:



* S B 2 3 8 *

~~[(1)]~~ (a) Neither water provided by a public utility nor water provided by a municipality or other public entity is available to the persons to be served by the water system.

~~[(2)]~~ (b) The applicant fully complies with all of the conditions of NRS 445A.885 to 445A.915, inclusive.

~~[(3)]~~ (c) The applicant submits to the Division or the district board of health designated by the Commission documentation issued by the State Engineer which sets forth that the applicant holds water rights that are sufficient to operate the water system.

~~[(4)]~~ (d) The local governing body assumes:

~~[(a)]~~ (1) Responsibility in case of default by the builder or developer of the water system for its continued operation and maintenance in accordance with all the terms and conditions of the permit.

~~[(b)]~~ (2) The duty of assessing the lands served as provided in ~~subsection 6.~~

~~—5.]~~ **paragraph (f).**

(e) The applicant furnishes the local governing body sufficient surety, in the form of a bond, certificate of deposit, investment certificate or any other form acceptable to the governing body, to ensure the continued maintenance and operation of the water system:

~~[(a)]~~ (1) For 5 years following the date the system is placed in operation; or

~~[(b)]~~ (2) Until 75 percent of the lots or parcels served by the system are sold,
↳ whichever is later.

~~[(6)]~~ (f) The owners of the lands to be served by the water system record a declaration of covenants, conditions and restrictions which is an equitable servitude running with the land and which must provide that each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of continued operation and maintenance of the water system if there is a default by the applicant or operator of the water system and a sufficient surety, as provided in ~~subsection 5.]~~ **paragraph (e)**, is not available.

~~[(7)]~~ (g) If the water system uses or stores ozone, the portion of the system where ozone is used or stored must be constructed not less than 100 feet from any existing residence, unless the owner and occupant of each residence located closer than 100 feet consent to the construction of the system at a closer distance.

~~[(8)]~~ (h) The declaration of covenants, conditions and restrictions recorded by the owners of the lands further provides that if the Division determines that:

~~[(a)]~~ (1) The water system is not satisfactorily serving the needs of its users; and



~~(b)~~ (2) Water provided by a public utility or a municipality or other public entity is reasonably available,

the local governing body may, pursuant to NRS 244.3655 or 268.4102, require all users of the water system to connect into the available water system provided by a public utility or a municipality or other public entity, and each lot or parcel will be assessed by the local governing body for its proportionate share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the Public Utilities Commission of Nevada shall determine the amount of the assessments for the purposes of establishing a lien pursuant to NRS 445A.900.

~~(9)~~ (i) Provision has been made for disposition of the water system and the land on which it is situated after the local governing body requires all users to connect into an available water system provided by a public utility or a municipality or other public entity.

2. If the State Engineer issued documentation pursuant to paragraph (c) of subsection 1 that the applicant holds water rights that are sufficient to operate the water system, the local governing body must not refuse to assume responsibility pursuant to subparagraph (1) of paragraph (d) of subsection 1 on the basis of the sufficiency of the water rights held by the applicant.

Sec. 2. NRS 445A.910 is hereby amended to read as follows:

445A.910 1. If the Division has found that any of the conditions of a permit to operate a water system issued pursuant to NRS 445A.885 are being violated and has notified the holder of the permit that he or she must bring the water system into compliance, but the holder of the permit has failed to comply within a reasonable time after the date of the notice, the local governing body, if requested to do so in writing by the Division, may take the following actions independently of any further action by the Division:

(a) Give written notice, by certified mail, to the owner of the water system and the owners of the property served by the system that if the violation is not corrected within 30 days after the date of the notice, the local governing body will seek a court order authorizing it to assume control; and

(b) After the 30-day period has expired, if the water system has not been brought into compliance, apply to the district court for an order authorizing the local governing body to assume control of the system and assess the property for the continued operation and maintenance of the system as provided in *paragraph (f) of subsection ~~(6)~~ 1* of NRS 445A.895.

2. If the local governing body determines at any time that immediate action is necessary to protect the public health and



1 welfare, it may assume physical control and operation of a water
2 system without complying with any of the requirements set forth in
3 subsection 1. The local governing body may not maintain control of
4 a water system pursuant to this subsection for a period greater than
5 30 days unless it obtains an order from the district court authorizing
6 an extension.

7 **Sec. 3.** This act becomes effective on July 1, 2021.

