CARSON WATER SUBCONSERVANCY DISTRICT
LEGISLATIVE COMMITTEE

NOTICE OF PUBLIC MEETING

DATE: January 28, 2019
TIME: 2:00 P.M.
LOCATION: Carson Water Subconservancy District
Conference Room
777 E. William St., #110
Carson City, NV 89703

AGENDA

Please Note: A quorum of the CWSD Board of Directors will not be present at this committee meeting. Any action on the part of the committee is for recommendation to the full CWSD Board of Directors for ultimate action. Reasonable efforts will be made to assist and accommodate individuals with disabilities who wish to attend the meeting. Please contact Toni Leffler at (775)887-7450 (mailto:toni@cwsd.org), at least a week in advance so that arrangements can be made.

1. Call to Order
2. Roll Call
3. For Discussion Only: Public Comment - Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting.
4. For Possible Action: Approval of the Legislative Committee Minutes from October 16, 2017.
5. For Possible Recommendation: Discussion regarding the upcoming 2019 Legislation Session and a review of various BDRs/bills that CWSD may want to support, oppose, or monitor.
6. For Discussion Only: Public Comment - Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting.
7. Adjournment

Supporting material for this meeting may be requested from Toni Leffler at 775-887-7450 (mailto:toni@cwsd.org) and is available at the CWSD offices at 777 E. William St., #110A, Carson City, NV 89701 and on the CWSD website at www.cwsd.org.

In accordance with NRS 241.020, this notice and agenda has been posted at the following locations:

-Dayton Utilities Complex
34 Lakes Blvd
Dayton, NV

-Minden Inn Office Complex
1594 Esmeralda Avenue
Minden, NV

-Lyon County Administrative Building
27 S. Main St.
Yerington, NV

-Churchill County Administrative Complex
155 N Taylor St.
Fallon, NV

-Carson City Hall
201 N. Carson St.
Carson City, NV

-Carson Water Subconservancy District Office
777 E. William St., #110A
Carson City, NV

-Alpine County Administrative Building
99 Water St.
Markleeville, CA

-CWSD website: http://www.cwsd.org

-State public meetings website: http://notice.nv.gov

AFFIDAVIT OF POSTING

The undersigned affirms that on or before 9:00 A.M. on January 27, 2019, he/she posted a copy of the Notice of Public Meeting and Agenda for the January 28, 2019, meeting of the Carson Water Subconservancy District Legislative Committee in accordance with NRS 241.020; said agenda was posted at the following location: _____.

SIGNATURE: _____

Name: _____

Title: _____

Date & Time of Posting: _____

CARSON WATER SUBCONSERVANCY DISTRICT
LEGISLATIVE COMMITTEE
January 28, 2019

Item # 5 - For Possible Recommendation: Discussion regarding the upcoming the 2019 Legislation Session and a review of various BDRs/bills that CWSD may want to support, oppose, or monitor.

As of January 17, 2019, 971 BDRs had been submitted to the 2019 Nevada Legislature. Many more BDRs will be introduced in the next several weeks, but many of these BRDs will not become bills. Staff has invited some of the local lobbyists who represent counties in the watershed and our local legislative representatives to discuss the 2019 Legislative Session. Attached is a list of various BDR/Bills that staff is currently monitoring, as well as a copy of the bills. Staff will be looking for input on which bills CWSD should support, oppose, or just monitor.

2019 Legislation

BDR #	Bill #	BDR Title	Sponsor	Propose Action
16		Defines the term "public record" for purposes of the laws requiring public access to the public records of state and local governmental entities.	**Assemblyman Daly**	
30		Makes various changes regarding special improvement districts.	**Senator Hardy**	
34		Revises provisions governing local governments.	**Assemblyman Ohrenschall**	
44		Revises provisions governing water.	**Assemblyman Oscarson**	
45		Revises provisions governing certain assessments on water.	**Assemblyman Kramer**	
56		Revises provisions relating to local governments.	**Senator Cancela**	
116		Revises provisions relating to taxation.	**Senate Committee on Revenue and Economic Development**	
213	AB51	Revises provisions governing the management of hydrologically connected groundwater and surface water resources.	**Division of Water Resources of the State Department of Conservation and Natural Resources**	
214	AB30	Revises provisions governing the appropriation of water.	**Division of Water Resources of the State Department of Conservation and Natural Resources**	
215	AB62	Revises provisions governing the perfection of water rights.	**Division of Water Resources of the State Department of Conservation and Natural Resources**	
216	SB47	Revises provisions relating to state lands	**Division of Water Resources of the State Department of Conservation and Natural Resources**	
245		Revises provisions relating to conservation funding.	**Senator Kieckhefer**	
246		Revises provisions relating to general improvement districts.	**Senator Kieckhefer**	
272		Revises provisions governing testimony before governmental bodies.	**Assemblywoman Cohen**	
323		Revises provisions governing taxation	**Assemblywoman Diaz**	
326	AB84	Provides for continuation of the Resource Conservation Bond Program.	**Office of the Governor**	
421	AB70	Revises the Open Meeting Law to clarify various provisions.	Attorney General	
435		Provides for the release of the next phase of bonds to carry out Nevada's portion of the Environmental Improvement Program for Lake Tahoe for the 2019-2021 biennium.	**Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System (NRS 218E.555)**	
466	AB75	Revises provisions governing public employees' retirement.	**State Controller**	
468	SB78	Revises provisions governing reversion of unspent portion of appropriations made to state agency.	**State Controller**	
476	AB34	Revises provisions governing investment of public money.	**State Treasurer**	
504		Revises provisions relating to water.	**Legislative Committee on Public Lands (NRS 218E.510)**	
635		Revises provisions relating to a change in the point of diversion.	**Senator Goicoechea**	
644		Revises certain provisions relating to irrigation districts.	**Senator Settelmeyer**	
648		Revises provisions governing public records.	**Senator Parks**	
664		Revises provisions relating to water dedicated for projects	**Senator Settelmeyer**	
710		Revises provisions governing taxation.	**Assemblyman Yeager**	
741		Revises provisions relating to taxes.	**Senator Ratti**	
767		Revises provisions governing tax abatements.	**Assembly Committee on Taxation**	
797		Revises provisions governing sales and use taxes.	**Assembly Committee on Taxation**	
798		Revises provisions governing water conservation.	**Assemblyman Watts**	
901		Makes various changes relating to water.	**Assemblywoman Peters**	
908		Revises provisions relating to tax abatements.	**Senator Brooks**	

ASSEMBLY BILL NO. 30–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 16, 2018

Referred to Committee on Natural Resources, Agriculture, and Mining

SUMMARY—Revises provisions governing the appropriation of water. (BDR 48-214)

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; authorizing the State Engineer, under certain circumstances, to consider the approval of a proposal to avoid or eliminate conflicts between an applicant for a permit to appropriate water and the existing holders of water rights and owners of domestic wells; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Engineer to reject an application for a permit to appropriate water to beneficial use if there is no unappropriated water at the source of supply or if the proposed use or change of use of the water conflicts with existing rights or protectable interests in existing domestic wells or threatens to prove detrimental to the public interest. (NRS 533.370) **Section 1** of this bill provides that before rejecting an application because the proposed use or change conflicts with existing rights or protectable interests, the State Engineer may consider certain proposals to avoid or eliminate the conflict. **Section 1** authorizes the State Engineer to approve the application for such a permit on the conditions that before the water is appropriated for beneficial use: (1) every measure or action included in the proposal that the State Engineer determines is necessary to avoid or eliminate the conflict is taken; and (2) the conflict is avoided or eliminated. **Sections 2-9** of this bill make conforming changes.

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

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

1. If there is water available for appropriation in the proposed source of supply, before rejecting an application because the proposed use or change set forth in an application conflicts with existing rights or protectable interests in domestic wells as set forth in NRS 533.024, the State Engineer may instead consider a proposal to avoid or eliminate the conflict, which may include, without limitation:

(a) An agreement between the applicant and each holder of existing rights and owner of a domestic well with whom the application conflicts;

(b) A monitoring, management and mitigation plan; or

(c) Any other plan to avoid or eliminate the conflict or replenish the source of supply impacted or depleted by the conflict.

2. If the State Engineer determines that a proposal submitted pursuant to subsection 1 will avoid or eliminate the conflict, the State Engineer may approve the application on the condition that before the applicant appropriates the water for beneficial use:

(a) Every measure or action included in the proposal that the State Engineer determines is necessary to avoid or eliminate the conflict is taken; and

(b) The conflict is avoided or eliminated.

Sec. 2. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of the applicant's:

(1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection 10 ~~,~~ ***and section 1 of this act,*** where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectable interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

3. In addition to the criteria set forth in subsections 1 and 2, in determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

4. Except as otherwise provided in this subsection and subsections 6 and 10 and NRS 533.365, the State Engineer shall approve or reject each application within 2 years after the final date for filing a protest. The State Engineer may postpone action:

(a) Upon written authorization to do so by the applicant.

(b) If an application is protested.

(c) If the purpose for which the application was made is municipal use.

(d) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368.

(e) Where court actions or adjudications are pending, which may affect the outcome of the application.

(f) In areas in which adjudication of vested water rights is deemed necessary by the State Engineer.

(g) On an application for a permit to change a vested water right in a basin where vested water rights have not been adjudicated.

(h) Where authorized entry to any land needed to use the water for which the application is submitted is required from a governmental agency.

(i) On an application for which the State Engineer has required additional information pursuant to NRS 533.375.

5. If the State Engineer does not act upon an application in accordance with subsections 4 and 6, the application remains active until approved or rejected by the State Engineer.

6. Except as otherwise provided in this subsection and subsection 10, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may postpone action on the application pursuant to subsection 4.

7. If the State Engineer has not approved, rejected or held a hearing on an application within 7 years after the final date for filing a protest, the State Engineer shall cause notice of the application to be republished pursuant to NRS 533.360 immediately preceding the time at which the State Engineer is ready to approve or reject the application. The cost of the republication must be paid by the applicant. After such republication, a protest may be filed in accordance with NRS 533.365.

8. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 11, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

9. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is

located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if the successor in interest were the former owner whose interest he or she succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer in a timely manner on a form provided by the State Engineer.

10. The provisions of subsections 1 to 9, inclusive, do not apply to an application for an environmental permit or a temporary permit issued pursuant to NRS 533.436 or 533.504.

11. The provisions of subsection 8 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

12. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 3. NRS 533.371 is hereby amended to read as follows:

533.371 The State Engineer shall reject the application and refuse to issue a permit to appropriate water for a specified period if the State Engineer determines that:

1. The application is incomplete;
2. The prescribed fees have not been paid;
3. The proposed use is not temporary;
4. There is no water available from the proposed source of supply without exceeding the perennial yield or safe yield of that source;
5. ~~[The]~~ ***Except as otherwise provided in section 1 of this act, the*** proposed use conflicts with existing rights; or
6. The proposed use threatens to prove detrimental to the public interest.

Sec. 4. NRS 533.450 is hereby amended to read as follows:

533.450 1. Except as otherwise provided in NRS 533.353, any person feeling aggrieved by any order or decision of the State Engineer, acting in person or through the assistants of the State Engineer or the water commissioner, affecting the person's interests, when the order or decision relates to the administration of determined rights or is made pursuant to NRS 533.270 to 533.445, inclusive, ***and section 1 of this act,*** or NRS 533.481, 534.193, 535.200 or 536.200, may have the same reviewed by a proceeding for that purpose, insofar as may be in the nature of an appeal, which must be initiated in the proper court of the county in which the matters affected or a portion thereof are situated, but on stream systems where a decree of court has been entered, the action must be

initiated in the court that entered the decree. The order or decision of the State Engineer remains in full force and effect unless proceedings to review the same are commenced in the proper court within 30 days after the rendition of the order or decision in question and notice thereof is given to the State Engineer as provided in subsection 3.

2. The proceedings in every case must be heard by the court, and must be informal and summary, but full opportunity to be heard must be had before judgment is pronounced.

3. No such proceedings may be entertained unless notice thereof, containing a statement of the substance of the order or decision complained of, and of the manner in which the same injuriously affects the petitioner's interests, has been served upon the State Engineer, personally or by registered or certified mail, at the Office of the State Engineer at the State Capital within 30 days following the rendition of the order or decision in question. A similar notice must also be served personally or by registered or certified mail upon the person who may have been affected by the order or decision.

4. Where evidence has been filed with, or testimony taken before, the State Engineer, a transcribed copy thereof, or of any specific part of the same, duly certified as a true and correct transcript in the manner provided by law, must be received in evidence with the same effect as if the reporter were present and testified to the facts so certified. A copy of the transcript must be furnished on demand, at actual cost, to any person affected by the order or decision, and to all other persons on payment of a reasonable amount therefor, to be fixed by the State Engineer.

5. An order or decision of the State Engineer must not be stayed unless the petitioner files a written motion for a stay with the court and serves the motion personally or by registered or certified mail upon the State Engineer, the applicant or other real party in interest and each party of record within 10 days after the petitioner files the petition for judicial review. Any party may oppose the motion and the petitioner may reply to any such opposition. In determining whether to grant or deny the motion for a stay, the court shall consider:

(a) Whether any nonmoving party to the proceeding may incur any harm or hardship if the stay is granted;

(b) Whether the petitioner may incur any irreparable harm if the stay is denied;

(c) The likelihood of success of the petitioner on the merits; and

(d) Any potential harm to the members of the public if the stay is granted.

6. Except as otherwise provided in this subsection, the petitioner must file a bond in an amount determined by the court, with sureties satisfactory to the court and conditioned in the manner specified by the court. The bond must be filed within 5 days after the court determines the amount of the bond pursuant to this subsection. If the petitioner fails to file the bond within that period, the stay is automatically denied. A bond must not be required for a public agency of this State or a political subdivision of this State.

7. Costs must be paid as in civil cases brought in the district court, except by the State Engineer or the State.

8. The practice in civil cases applies to the informal and summary character of such proceedings, as provided in this section.

9. Appeals may be taken to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution from the judgment of the district court in the same manner as in other civil cases.

10. The decision of the State Engineer is prima facie correct, and the burden of proof is upon the party attacking the same.

11. Whenever it appears to the State Engineer that any litigation, whether now pending or hereafter brought, may adversely affect the rights of the public in water, the State Engineer shall request the Attorney General to appear and protect the interests of the State.

Sec. 5. NRS 533.475 is hereby amended to read as follows:

533.475 The State Engineer and the assistants of the State Engineer shall have power to arrest any person violating any of the provisions of NRS 533.005 to 533.470, inclusive, ***and section 1 of this act*** and to turn that person over to the sheriff or other competent police officer within the county. Immediately on delivering any such person so arrested into the custody of the sheriff, the State Engineer or assistant making such arrest shall immediately, in writing, and upon oath, make a complaint before the justice of the peace against the person so arrested.

Sec. 6. NRS 533.480 is hereby amended to read as follows:

533.480 Any person violating any of the provisions of NRS 533.005 to 533.475, inclusive, ***and section 1 of this act*** shall be guilty of a misdemeanor.

Sec. 7. NRS 533.515 is hereby amended to read as follows:

533.515 1. No permit for the appropriation of water or application to change the point of diversion, manner of use or place of use under an existing water right may be denied because of the fact that the point of diversion described in the application for the permit, or any portion of the works in the application described and to be constructed for the purpose of storing, conserving, diverting or

distributing the water are situated in any other state; but in all such cases where the place of intended use, or the lands, or part of the lands identified as the place of use, are situated within this state, the permit must be issued as in other cases, pursuant to the provisions of NRS 533.324 to 533.450, inclusive, ***and section 1 of this act,*** and chapter 534 of NRS.

2. The permit must not purport to authorize the doing or refraining from any act or thing, in connection with the system of appropriation, not properly within the scope of the jurisdiction of this state and the State Engineer to grant.

Sec. 8. NRS 533.520 is hereby amended to read as follows:

533.520 1. Any person who files an application for a permit to appropriate water from above or beneath the surface of the ground for use outside this State, or to change the point of diversion under an existing water right which has a place of use outside of this State, or to change the place of use of water from a location in this State to a location outside this State under an existing right, must file an application with the State Engineer for a permit to do so pursuant to provisions of NRS 533.324 to 533.450, inclusive, ***and section 1 of this act,*** and chapter 534 of NRS.

2. The State Engineer may approve such an application if the State Engineer determines that the applicant's use of the water outside this State complies with the requirements of NRS 533.324 to 533.450, inclusive, ***and section 1 of this act*** and those provisions of chapter 534 of NRS pertaining to the appropriation of water. In making the determination, the State Engineer shall consider:

(a) The supply of water available in this State;

(b) The current and reasonably anticipated demands for water in this State;

(c) The current or reasonably anticipated shortages of water in this State;

(d) Whether the water that is the subject of the application could feasibly be used to alleviate current or reasonably anticipated shortages of water in this State;

(e) The supply and sources of water available to the applicant in the state in which the applicant intends to use the water;

(f) The demands placed on the applicant's supply of water in the state in which he or she intends to use the water; and

(g) Whether the request in the application is reasonable, taking into consideration the factors set forth in paragraphs (a) to (f), inclusive.

3. The State Engineer may, as a condition to the approval of such an application, require the applicant to file a certificate from the appropriate official in the state in which the water is to be used, indicating to the satisfaction of the State Engineer that the intended

use of the water would be beneficial and that the appropriation is feasible.

4. A person who is granted a permit pursuant to this section shall comply with the laws and regulations of this State governing the appropriation and use of water, as amended from time to time, and any change in the point of diversion, manner of use or place of use of water under a permit issued pursuant to this section is subject to the requirements of this section.

5. The State Engineer may, as a condition of the approval of any permit granted pursuant to this section, require that the use of water in another state be subject to the same regulations and restrictions that may be imposed upon the use of water in this State.

6. Upon submittal of an application under this section, the applicant and, if the applicant is a natural person, the personal representative of the person, are subject to the jurisdiction of the courts of this State and to service of process as provided in NRS 14.065.

Sec. 9. 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 ~~.~~ ***or a proposal to avoid or eliminate a conflict is approved by the State Engineer pursuant to section 1 of this act.*** 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, 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:

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

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

➥ The designation of a basin as a critical management area pursuant to this subsection may be appealed pursuant to NRS 533.450. If a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority

rights, unless a groundwater management plan has been approved for the basin pursuant to NRS 534.037.

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

Sec. 10. This act becomes effective upon passage and approval.

(30)

REQUIRES TWO-THIRDS MAJORITY VOTE (§ 4)

A.B. 51

ASSEMBLY BILL NO. 51–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 18, 2018

Referred to Committee on Natural Resources, Agriculture, and Mining

SUMMARY—Revises provisions governing the management of water. (BDR 48-213)

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

CONTAINS UNFUNDED MANDATE (§ 4)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 conjunctive management of groundwater and surface water; authorizing the State Engineer to impose certain special assessments related to a program for the conjunctive management of groundwater and surface water; providing that certain water rights are not subject to abandonment or forfeiture; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law declares that it is the policy of this State to manage conjunctively all waters of this State, regardless of the source of water. (NRS 533.024) **Section 3** of this bill requires the State Engineer to adopt regulations related to the conjunctive management of groundwater and surface water. The regulations may include, without limitation: (1) requirements or guidelines for establishing mitigation plans; (2) the creation of a program for the conjunctive management of groundwater and surface water in a particular hydrographic basin to mitigate conflicts between groundwater and surface water users; and (3) any other provision necessary to conjunctively manage groundwater and surface water, determine the

amount of conflict between groundwater and surface water users or resolve a conflict between groundwater and surface water users.

Section 4 of this bill authorizes the State Engineer to levy certain special assessments related to a program for the conjunctive management of groundwater and surface water. **Section 7** of this bill provides that the partial abatements of property taxes does not apply to any such special assessment, consistent with other assessments levied against groundwater and surface water users.

Section 5 of this bill provides that a right to groundwater or surface water that is not being used because of a program for the conjunctive management of groundwater or surface water is not subject to forfeiture or abandonment for as long as the program is in effect.

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 5, inclusive, of this act, "groundwater user" includes, without limitation, an owner of a domestic well.***

Sec. 3. ***1. The State Engineer shall adopt regulations related to the conjunctive management of groundwater and surface water. In adopting such regulations, the State Engineer must recognize existing uses of water while protecting water rights that are senior in priority.***

2. The regulations adopted pursuant to this section may include, without limitation:

(a) Requirements or guidelines for establishing a mitigation plan to address conflicts between groundwater and surface water users.

(b) The creation of a program for the conjunctive management of groundwater and surface water in a hydrographic basin in the State in order to mitigate conflicts between groundwater and surface water users.

(c) Any other provision that the State Engineer finds necessary to conjunctively manage groundwater and surface water, determine the amount of conflict between groundwater and surface water users or resolve a conflict between groundwater and surface water users.

Sec. 4. ***1. If the State Engineer creates a program for the conjunctive management of groundwater and surface water in a hydrographic basin, the State Engineer:***

(a) Is not required to curtail a groundwater user who has a conflict with a surface water user whose water right is senior in priority if the State Engineer finds that curtailment will not be

effective to provide water for the beneficial use of the surface water user.

(b) May require a groundwater user to furnish replacement water to a surface water user so long as the replacement water is of sufficient quality.

(c) May levy a special assessment annually or at such times as needed against the taxable property of a groundwater user for the purpose of providing compensation for a conflict or injurious depletion of a surface water user whose water right is senior in priority to the groundwater user's water right or protectable interest in a domestic well, as applicable. Any such special assessment must be proportionate to the amount of conflict caused by the groundwater user to the surface water user whose water right is senior in priority.

(d) May levy a special assessment annually or at such times as needed against the taxable property of water users in the basin to pay for the expenses of administering the program.

2. Any charge or fee levied pursuant to subsection 1 must be:

(a) Collected on the tax roll in the same manner, by the same persons, and at the same time as the county's general taxes. Such charge or fee is a lien against the property.

(b) Accounted for separately and may only be used for the purposes described in subsection 1.

Sec. 5. *If the State Engineer creates a program for the conjunctive management of groundwater and surface water in a hydrographic basin, a right to groundwater or surface water that is not being used because of the program is not subject to a determination of abandonment or forfeiture for as long as the program is in effect.*

Sec. 6. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section ~~[,]~~ *and section 5 of this act,* failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a right for which a certificate has been issued pursuant to NRS 533.425, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse.

2. If the records of the State Engineer or any other documents obtained by or provided to the State Engineer indicate 4 or more consecutive years of nonuse of all or any part of a water right which is governed by this chapter:

(a) The State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail of the nonuse and that the owner has 1 year after the date of the notice of nonuse in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 3 to avoid forfeiting the water right.

(b) If, after 1 year after the date of the notice of nonuse pursuant to paragraph (a), proof of resumption of beneficial use is not filed in the Office of the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, send a final notice to the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail, that the water right is held for forfeiture. If the owner of the water right, within 30 days after the date of such final notice, fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture, the State Engineer shall declare the right, or the portion of the right not returned to beneficial use, forfeited. The State Engineer shall send notice of the declaration of forfeiture, by registered or certified mail, to the owner of record, as determined in the records of the Office of the State Engineer, of the water right that has been declared forfeited.

(c) If, after receipt of a notice of the declaration of forfeiture pursuant to paragraph (b), the owner of record of the water right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. Upon the forfeiture of the water right, the water reverts to the public and is available for further appropriation, subject to existing rights.

3. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under subsection 2 if the request is made before the expiration of the time necessary to work a forfeiture. Except as otherwise provided in subsection 4, the State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has submitted proof and evidence that the holder is proceeding in good faith and with reasonable diligence to resume use of the water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The number of years during which the water has not been put to the beneficial use for which the right is acquired or claimed;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Whether the water right is located in a basin within a county under a declaration of drought by the Governor, United States Secretary of Agriculture or the President of the United States;

(e) Whether the holder has demonstrated efforts to conserve water which have resulted in a reduction in water consumption;

(f) Whether the water right is located in a basin that has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110;

(g) The date of priority of the water right as it relates to the potential curtailment of water use in the basin;

(h) The availability of water in the basin, including, without limitation, whether withdrawals of water consistently exceed the perennial yield of the basin; and

(i) Any orders restricting use or appropriation of water in the basin.

➥ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection. If the State Engineer grants an extension pursuant to this subsection and, before the expiration of that extension, proof of resumption of beneficial use or another request for an extension is not filed in the Office of the State Engineer, the State Engineer shall send a final notice to the owner of the water right, by registered or certified mail, that the water right will be declared forfeited if the owner of the water right fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture within 30 days after the date of the final notice. If the owner of the water right fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture within 30 days after the date of such final notice, the State Engineer shall declare the water right, or the portion of the right not returned to beneficial use, forfeited.

4. If the State Engineer grants an extension pursuant to subsection 1 in a basin:

(a) Where withdrawals of groundwater consistently exceed the perennial yield of the basin; or

(b) That has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110,

➥ a single extension must not exceed 3 years, but any number of extensions may be granted to the holder of such a right.

5. The failure to receive a notice pursuant to subsection 2 or 3 does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

6. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 7. NRS 361.47111 is hereby amended to read as follows:

361.47111 "Ad valorem taxes" does not include any assessments levied pursuant to NRS 533.190, 533.285 or 534.040 ~~[.]~~ ***or section 4 of this act.***

Sec. 8. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 9. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2019, for all other purposes.

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; revising the time period for which the State Engineer may grant an extension for the completion of work for the diversion of water; authorizing, under certain circumstances, the State Engineer to suspend the limitation of time for the completion of work set forth in a permit or an extension previously granted; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Upon approving an application for a permit to appropriate water, existing law authorizes the State Engineer to extend, under certain circumstances, the deadline by which construction related to the appropriation of water or the application of water to a beneficial use must be completed or made. 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 2 of this bill revises the provisions relating to extending the deadline by which construction related to the appropriation of water must be completed. If a permit has been issued for a project that includes the municipal use of water, the State Engineer may grant one or more extensions, but the total number of extensions may not extend the construction deadline for more than 15 years. If a permit has been issued for a project that is not a municipal use and that includes the diversion of 2 or more cubic feet of water per second or the cultivation of at least 100 acres of land, the State Engineer may grant one or more extensions, but the total number of extensions may not extend the construction deadline for more than 10 years. If a permit has been issued for any other purpose, the State Engineer may

grant one or more extensions, but the total number of extensions may not extend the construction deadline for more than 5 years.

Section 2 also authorizes the State Engineer to suspend the limitation of time for the completion of construction set forth in a permit or any extension if the permit holder submits sufficient proof to the State Engineer demonstrating that the person has been unable to complete the work because of certain pending administrative or court actions.

Sections 1 and 3 of this bill make conforming changes.

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

Section 1. 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]~~ ***extend the*** 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.]~~ ***in accordance with the provisions of this section and***

NRS 533.390 and 533.410. 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 that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

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

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

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

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

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

(e) The period contemplated in the:

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

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

➥ if any, for completing the development of the land.

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

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

Sec. 2. NRS 533.390 is hereby amended to read as follows:

533.390 1. Any person holding a permit from the State Engineer shall, on or before the date set for the completion of the work, file in detail a description of the work as actually constructed. This statement must be verified by the affidavit of the applicant or the applicant's agent or attorney.

2. Should any person holding a permit from the State Engineer fail to file with the State Engineer the proof of completion of work, as provided in this chapter, the State Engineer shall advise the holder of the permit, by registered or certified mail, that it is held for cancellation, and should the holder, within 30 days after the mailing of such advice, fail to file the required affidavit, the State Engineer shall cancel the permit. For good cause shown, upon application made prior to the expiration of the 30-day period, the State Engineer may, in his or her discretion, grant ~~[an extension]~~ ***one or more extensions*** of time in which to file the instruments. ***If a permit has been issued for:***

(a) A project that includes the municipal use of water, the State Engineer may extend the deadline for the completion of work for not more than 15 years from the date set for the completion of the work. In addition to the requirements set forth in NRS 533.380, the person holding the permit must demonstrate to the State Engineer that:

(1) Additional time is necessary to organize the financing and construction of the work due to the size of the project; and

(2) The person has spent at least $50,000 on the construction of the work, including, without limitation, expenditures for the purchase of rights-of-way or property.

(b) A project that does not include the municipal use of water and includes the diversion of 2 or more cubic feet of water per second or the cultivation of 100 acres of land or more, the State Engineer may extend the deadline for the completion of work for not more than 10 years from the date set for the completion of the work in the permit.

(c) Any other purpose, the State Engineer may extend the deadline for the completion of work for not more than 5 years from the date set for the completion of the work in the permit.

3. The limitation of time for the completion of work set forth in a permit or an extension granted pursuant to this section may be suspended by the State Engineer if, at the time that proof of completion of work is due pursuant to the permit or an extension, as applicable, the person holding the permit submits to the State Engineer sufficient proof that the person has been unable to complete the work because of a pending:

(a) Application with the Federal Government, the State or a local government for some type of consent or approval that is necessary to complete construction of the project, including, without limitation, a right-of-way or any permit or other approval related to development of land.

(b) Court action or adjudication which may affect the person's water rights which are involved in the project.

➥ The person holding the permit is not required to submit an application or fee for an extension in order for the State Engineer to suspend the limitation of time for completion of the work pursuant to this subsection.

Sec. 3. NRS 533.410 is hereby amended to read as follows:

533.410 If any holder of a permit from the State Engineer fails, before the date set for filing in the permit or the date set by any extension granted by the State Engineer, to file with the State Engineer proof of application of water to beneficial use, and the accompanying map, if a map is required, the State Engineer shall advise the holder of the permit, by registered or certified mail, that the permit is held for cancellation. If the holder, within 30 days after the mailing of this notice, fails to file with the State Engineer the required affidavit and map, if a map is required, or an application for an extension of time to file the instruments, the State Engineer shall cancel the permit. For good cause shown, upon application made before the expiration of the 30-day period, the State Engineer may grant an extension of time in which to file the instruments. ***The State Engineer may grant any number of extensions pursuant to this section but a single extension of time must not exceed 5 years.***

Sec. 4. This act becomes effective upon passage and approval.

REQUIRES TWO-THIRDS MAJORITY VOTE
(§§ 9, 10, 13)

S.B. 47

SENATE BILL NO. 47–COMMITTEE ON NATURAL RESOURCES

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

PREFILED NOVEMBER 19, 2018

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to state lands. (BDR 26-216)

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 state lands; clarifying when an authorization from the State Land Registrar is required to perform work below the high water mark of a navigable river; requiring the State Land Registrar to establish by regulation fees for such authorization and for permits related to dredging, filling and installing certain structures; revising provisions relating to the accounting and use of the proceeds of certain fees for the use of state lands; eliminating the requirement that the State Land Registrar grant credit towards fees paid for the commercial use of state land; making various other changes relating to state lands; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources also serves as the ex officio State Land Registrar. (NRS 232.110) Existing law relating to the use of state lands uses the terms "Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar" and "State Land Registrar" interchangeably. **Sections 1-8** of this bill make technical changes so the term "State Land Registrar" is used in such provisions.

Existing law requires, with limited exceptions, a person to secure a permit from the State Land Registrar before performing any work below the high water mark of a navigable river. (NRS 322.1007) **Section 9** of this bill clarifies when

authorization from the State Land Registrar is required to proceed with such work and authorizes the State Land Registrar to adopt regulations related to performing such work.

Under existing law, the State Land Registrar is required to charge fees in certain amounts for: (1) dredging or filling; or (2) constructing or installing certain structures in a navigable body of water. (NRS 322.130) **Section 10** of this bill requires the State Land Registrar to establish the amount of these fees by regulation. **Section 12** of this bill provides that the existing fees remain in effect until the State Land Registrar establishes such fees by regulation.

Under existing law, the proceeds of certain fees for authorization to use certain state lands must be paid to the State General Fund. (NRS 322.160) **Section 11** of this bill provides that the proceeds of rents and royalties for authorization to use certain state lands must also be paid to the State General Fund.

Under existing law, the proceeds of certain fees relating to navigable bodies of water that are in excess of $65,000 must be accounted for separately and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. (NRS 322.160) **Section 11** provides that such proceeds must be accounted for in an interest-bearing account and that the money in that account does not revert to the State General Fund at the end of the fiscal year.

Under existing law, the State Land Registrar charges a fee for a permit for the use of a pier or other related facility on a navigable body of water. (NRS 322.120) Existing law also requires the State Land Registrar to grant a credit towards the fee under certain circumstances. (NRS 322.125) **Section 13** of this bill eliminates the requirement for the State Land Registrar to grant such a credit.

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

Section 1. NRS 322.010 is hereby amended to read as follows:

322.010 Except as ***otherwise*** provided in NRS 334.070 and 504.147, the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ may lease any land except contract land now or hereafter owned by the State of Nevada, or which may hereafter be granted to it by the United States of America, upon terms as provided in NRS 322.020, 322.030 and 322.040.

Sec. 2. NRS 322.050 is hereby amended to read as follows:

322.050 Except as otherwise provided in NRS 334.070 and 504.147, the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ may, in addition to the authority to lease provided in NRS 322.010, 322.020 and 322.030, lease or grant easements over or upon any land now or hereafter owned by the State of Nevada, or which may hereafter be granted it by the United States of America, upon terms as provided in NRS 322.060. Leases or grants of easements over or upon contract lands may be made only with the consent of the contracting party, who must be paid all money received from any such lease or grant. Leases or grants of

easements over or upon any lands which are used by any office, department, board, commission, bureau, institution or other agency of the State of Nevada may be granted only with the concurrence of the agency.

Sec. 3. NRS 322.060 is hereby amended to read as follows:

322.060 Subject to the provisions of NRS 321.335, leases or easements authorized pursuant to the provisions of NRS 322.050, and not made for the purpose of extracting oil, coal or gas or the utilization of geothermal resources from the lands leased, must be:

1. For such areas as may be required to accomplish the purpose for which the land is leased or the easement granted.

2. Except as otherwise provided in NRS 322.061, 322.063, 322.065 and 322.067, for such term and consideration as the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ may determine reasonable based upon the fair market value of the land.

3. Executed upon a form to be prepared by the Attorney General. The form must contain all of the covenants and agreements usual or necessary to such leases or easements.

Sec. 4. NRS 322.061 is hereby amended to read as follows:

322.061 1. The ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ may lease state land pursuant to NRS 322.060 for less than the fair market value of the state land for the first year of the lease, including, without limitation, without the payment of rent for the first year of the lease, to a person who intends to locate or expand a business in this State if, except as otherwise provided in subsection 5, the business meets the requirements of subsection 4.

2. Before state land may be leased pursuant to this section, the following persons must approve the lease and establish the recommended amount of rent to be received for the state land:

(a) The ~~[Administrator of the Division of State Lands, as ex officio]~~ State Land Registrar;

(b) The Administrator of the State Public Works Division of the Department of Administration; and

(c) The Executive Director of the Office of Economic Development.

3. Any lease entered into pursuant to this section must be for a term of at least 10 years.

4. Except as otherwise provided in subsection 5, the lease or agreement may not include a discount to the business for the first year unless:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The business is registered pursuant to the laws of this State or the person who intends to locate or expand the business in this State commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(c) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office.

(d) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security

Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office.

(e) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) The Department of Taxation, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Office.

(f) In lieu of meeting the requirements of paragraph (c), (d) or (e), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The benefits the business provides to its employees in this State will meet with minimum requirements established by the Office.

5. The Executive Director of the Office of Economic Development may waive the requirements of subsection 4 for good cause shown if the lease is for state land of less than 25,000 square feet.

Sec. 5. NRS 322.063 is hereby amended to read as follows:

322.063 1. The ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ may, pursuant to NRS 322.060, lease residential property owned by the State of Nevada for less than the fair market value of the property to an officer or employee of this State who is required as a condition of his or her employment to reside in residential property owned by this State.

2. Before residential property may be leased pursuant to this section, the State Land Registrar, in cooperation with the head of the state agency that manages the property, must approve the lease and determine the amount of rent for the lease of the property.

3. The State Land Registrar may waive any fee for the consideration of an application to lease property pursuant to this section.

Sec. 6. NRS 322.065 is hereby amended to read as follows:

322.065 1. Except as otherwise provided in this section, land may be leased pursuant to NRS 322.060 to:

(a) A nonprofit organization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code and is affiliated by contract or other written agreement with an agency of this State; or

(b) A public educational institution,

➥ under such terms and for such consideration as the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ determines reasonable based upon the costs and benefits to the State and the recommendation of the persons who approve the lease.

2. To lease property pursuant to this section, at least two of the following persons must approve the lease and establish the recommended amount of rent to be received for the property:

(a) The ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar.

(b) The Administrator of the State Public Works Division of the Department of Administration.

(c) The Director of the Department of Health and Human Services or a person designated by the Director.

➥ Such persons shall render a decision on an application to lease property pursuant to this section within 60 days after the application is filed with the ~~[Administrator of the Division of State Lands.]~~ ***State Land Registrar.***

3. In determining the amount of rent for the lease of property pursuant to this section, consideration must be given to:

(a) The amount the lessee is able to pay;

(b) Whether the property will be used by the lessee to perform a service of value to members of the general public; and

(c) Whether the service to be performed on the property will be of assistance to any agency of this State.

4. The State Land Registrar may waive any fee for the consideration of an application submitted pursuant to this section.

5. The provisions of this section do not apply to property granted to the State by the Federal Government and held in trust by the State for educational purposes.

Sec. 7. NRS 322.067 is hereby amended to read as follows:

322.067 1. Upon the request of the governing body of a local government, the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ may grant an easement for a public road to the governing body without charging a fee if the governing body agrees to pay the actual costs incurred by the State Land Registrar in granting the easement.

2. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.

Sec. 8. NRS 322.075 is hereby amended to read as follows:

322.075 Unless the fee for the term or any portion of the term of a lease of land for grazing livestock is determined pursuant to NRS 322.060:

1. The fee for the term or any portion of the term of the lease must be based on the fair market value of the interest leased, but must not be less than:

(a) The minimum grazing fee determined pursuant to subsection 2; or

(b) The base value specified in subsection 3,

➥ whichever is greater, for each animal unit month leased.

2. To determine the minimum grazing fee for the purposes of subsection 1, the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[,]~~ shall:

(a) For each of the 3 years immediately preceding the year in which the land is leased:

(1) Divide the price of beef cattle as set forth in the beef price index for that year by the cost to produce livestock as set forth in the production price index for that year; and

(2) Multiply the quotient calculated pursuant to subparagraph (1) by the base value specified in subsection 3 for that year; and

(b) Upon determining an amount for each year pursuant to paragraph (a), add each of those amounts and divide the sum by 3.

3. For the purposes of this section, the base value is $1.94 for the period beginning on July 1, 1997, and ending on December 31, 2003. On January 1, 2004, and every 6 years thereafter, the Administrator shall revise the base value to adjust for inflation.

4. As used in this section:

(a) "Animal unit month" means the amount of forage required to sustain one cow for one month.

(b) "Beef price index" means the index that:

(1) Indicates the price of beef cattle in this State; and

(2) Is calculated by the Administrator from data published annually by the United States Department of Agriculture.

(c) "Production price index" means the index that:

(1) Indicates the cost to produce livestock, including the costs related to interest, taxes and wages; and

(2) Is published annually by the United States Department of Agriculture.

Sec. 9. NRS 322.1007 is hereby amended to read as follows:

322.1007 1. ***Except as otherwise provided in subsections 3 and 4, a person must secure authorization from the State Land Registrar before proceeding with any work below the high water mark of a navigable river, including, without limitation:***

(a) Dredging or filling, including, without limitation, the construction of a push-up dam;

(b) Bank stabilization or restoration;

(c) Channel clearance that involves the use of any mechanized equipment;

(d) Construction of irrigation diversions; or

(e) Construction of any structure on state lands.

2. To secure the authorization required pursuant to subsection 1, a person must submit to the State Land Registrar an

application and the appropriate application fee established by regulation of the State Land Registrar. An authorization issued by the State Land Registrar pursuant to this section may include, without limitation:

(a) A requirement that the person pay an annual use fee established by regulation; and

(b) A clause acknowledging routine maintenance and repair of authorized structures is allowed and does not require additional approval within the term of the authorization.

3. If an emergency causes an immediate threat to life, health or property, a person may perform work below the high water mark of a navigable river to the extent necessary to protect life, health or property without first submitting an application ~~[to]~~ ***for*** or securing ~~[a permit]~~ ***authorization*** from the State Land Registrar. If reasonably practicable, before proceeding with any such work, the person shall notify the State Land Registrar of the emergency by telephone or other means. ~~[Upon]~~ ***Not later than 15 business days after the*** completion of the work, the person initiating the work shall ~~[file an application with]~~ ***submit a form specified by*** the State Land Registrar ~~[as required for]~~ ***describing*** the work completed.

~~[2. Neither an application to nor a permit from the State Land Registrar is required for work performed below the high water mark of a navigable river which constitutes routine maintenance or minor repairs, or both, of an:~~

~~(a) Irrigation diversion structure; or~~

~~(b) Outfall structure that is regulated by an individual permit issued pursuant to NRS 445A.300 to 445A.730, inclusive,~~

~~➥ if the irrigation diversion structure or outfall structure is not altered beyond the existing permitted size, configuration and location and the river bed is not disturbed.~~

~~3. Except as otherwise provided in subsections 1 and 4, a person must file an application with the State Land Registrar and pay any required application fee but is not required to secure a permit from the State Land Registrar to]~~

4. A person may perform work below the high water mark of a navigable river ~~[for the following types of projects:~~

~~(a) Clearance of]~~ ***without notifying or securing authorization from the State Land Registrar in order to clear*** vegetation ***or debris*** that restricts the capacity of the channel or the flow of water of a navigable river, or both ~~[;~~

~~(b) Clearance of debris or temporary obstructions that restrict the capacity of the channel or the flow of water of a navigable river, or both; or~~

~~(c) Bank stabilization or restoration, where all materials used are appropriate natural materials as determined by the State Land Registrar.~~

~~4. Unless otherwise notified by the State Land Registrar, the person may proceed pursuant to subsection 3 with any such work 14 days after a completed application and any required fees are submitted to the State Land Registrar.~~ ***, so long as the work does not involve the use of mechanized equipment.***

5. Work ~~authorized by subsections 2 and 3:~~

~~(a) Must~~ ***performed pursuant to this section must*** be performed in accordance with best management practices to protect water quality. ~~; and~~

~~(b) Must not significantly disturb or alter the river bed or banks or the flow of water or alter the capacity of the channel.~~

~~6. Except as otherwise provided by subsections 1, 2 and 3, a person must secure a permit from the State Land Registrar before proceeding with any work below the high water mark of a navigable river, including, but not limited to:~~

~~(a) Dredging or filling;~~

~~(b) Bank stabilization or restoration, where all materials used are not appropriate natural materials as determined by the State Land Registrar;~~

~~(c) Channel clearance; or~~

~~(d) Construction of irrigation diversions.~~

~~7. The State Land Registrar shall process the application for a permit required by subsection 6 and issue the permit or notify the applicant that the application has been denied, within 60 days after the receipt of a completed application and any required application fee. This period may be extended by mutual agreement between the State Land Registrar and the applicant.~~

~~8. Unless the period for acting upon the application is extended by mutual agreement pursuant to subsection 7, a completed application, which was properly submitted pursuant to subsection 7 with any required fees, that is not acted upon by the State Land Registrar within 60 days after receipt shall be deemed approved and the work requested may proceed upon payment by the applicant of any required fee for the permit.~~

~~9.~~ ***6.*** All state agencies which have jurisdiction within a navigable river shall cooperate with the State Land Registrar in compiling information needed to process ~~a permit~~ ***an application for authorization submitted*** pursuant to ~~subsection 7~~ ***this section*** and shall provide a timely response to a request from the State Land Registrar for information or assistance.

~~10.~~ ***7.*** Compliance with the provisions of this section does not relieve an applicant from the duty to comply with the provisions

of NRS 455.080 to 455.180, inclusive, and any other applicable requirements of other state, local, regional or federal entities.

~~[11.]~~ ***8. The State Land Registrar may adopt any regulations necessary to carry out the provisions of this section, including, without limitation, the requirements for submitting an application for authorization.***

9. As used in this section, "high water mark" means the mean high water line to which high water ordinarily reaches, not including floodwaters.

Sec. 10. NRS 322.130 is hereby amended to read as follows:

322.130 Except as otherwise provided by specific statute, the State Land Registrar shall charge ~~[for:]~~ ***a fee in an amount established by regulation for the issuance and annual use of:***

1. A permit ***or other authorization*** to engage in a project for dredging or filling, to construct or install any gabion, riprap or similar protective structure on state land or in a navigable body of water, or to construct or install any groin, seawall, breakwater, jetty or similar protective structure in a navigable body of water, for ~~[:~~

~~(a) Any]~~ ***any*** commercial ***use, agricultural use or other*** use ***.*** ~~[other than an agricultural use, a fee of $1,000.~~

~~(b) Any agricultural use, a fee of $300.~~

~~(c) Any other use, except as otherwise provided in subsection 2, a fee of $250.]~~

2. A permit ***or other authorization*** to engage in recreational dredging ***.*** ~~[, a fee of $50 per year or $5 per day.]~~

3. A permit ***or other authorization*** to construct or install a structure on state land for the diversion of water to irrigate any land for agricultural use ***.*** ~~[, a fee of $100.]~~ The State Land Registrar shall not charge a fee for the use of state land to maintain or repair such a structure ~~[.]~~ ***if the permit or other authorization for construction or installation includes a clause acknowledging that maintenance or repairs are allowed within the term of the permit or authorization.***

Sec. 11. NRS 322.160 is hereby amended to read as follows:

322.160 ***1.*** The proceeds of any fee ***, rent or royalty*** charged pursuant to ~~[NRS 322.100 to 322.130, inclusive,]~~ ***this chapter*** must be accounted for by the State Land Registrar and ***,*** ~~[:~~

~~1.]~~ ***except as otherwise provided in subsection 2, paid into the State General Fund.***

2. If the ~~[fee]~~ ***:***

(a) Fee, rent or royalty is for any authorization to use land granted to the State by the Federal Government for educational purposes, the proceeds must be paid into the State Treasury for credit to the State Permanent School Fund.

~~[2. If the fee is for any]~~

(b) Proceeds of the fees charged for authorization to use ~~[any other]~~ state land ~~[, except as otherwise provided in this subsection, the proceeds must be paid into the State Treasury for credit to the State General Fund. If the proceeds of the fees charged]~~ pursuant to NRS 322.120 ~~[to use any other state land]~~ exceed $65,000 in any fiscal year, the amount which is in excess of $65,000 must be accounted for separately ***in an interest bearing account*** and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. ***Any interest or income earned on the money in the account, after deducting any applicable charges, must be credited to the account. Money that remains in the account at the end of a fiscal year does not revert to the State General Fund and the balance in the account must be carried forward to the next fiscal year.***

Sec. 12. Notwithstanding the amendatory provisions of this act, the fees set forth in NRS 322.130, as that section existed on June 30, 2019, remain in effect until the regulations establishing fees pursuant to NRS 322.130, as amended by section 10 of this act, are adopted by the State Land Registrar and filed with the Secretary of State.

Sec. 13. NRS 322.125 is hereby repealed.

Sec. 14. This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

322.125 Credit toward fee for commercial use of state land.

1. The State Land Registrar shall grant a person credit towards the fee imposed pursuant to NRS 322.120 for the commercial use of state land in an amount equal to:

(a) The amount that the total fees charged to that person pursuant to that section for the previous year exceeded one and one-half cents for each gallon of fuel sold plus 5 percent of that person's gross revenue from the commercial use of that state land, excluding the sale of fuel, for that year;

(b) The amount that the United States Forest Service returned to the State of Nevada from money that the person was required to pay pursuant to a lease or permit to use federal land during the previous year which is attributable to revenues earned on land belonging to the State of Nevada; and

(c) The difference between the fee for a permit for commercial use and the fee for a permit for multiple residential use if during the

previous year the person paid the fee for a permit for commercial use but did not conduct that commercial use.

2. A person who is eligible for a credit pursuant to subsection 1 shall demonstrate to the satisfaction of the State Land Registrar that the person is entitled to such a credit.

3. If the amount of a credit granted pursuant to this section exceeds the amount of the fee imposed pursuant to NRS 322.120 for the year in which the credit will be used, the excess credit is forfeited and the State Land Registrar shall not grant a refund or apply the credit to any other year.

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