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SENATE BILL NO. 153—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE CITY OF CALIENTE)

FEBRUARY 16, 2011

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Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the appropriation of water by municipalities. (BDR 48-821)

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.

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AN ACT relating to water; declaring the appropriation of certain water by a municipality or public utility to serve the present and reasonably anticipated future municipal, industrial or domestic needs of the municipality or public utility to be a beneficial use of that water; providing that certain provisions governing consideration by the State Engineer of the consumptive use of a water right do not apply to an application to appropriate water filed by a municipality under certain circumstances; revising the period within which an application of water for a certain municipal or quasi-municipal use must be made; setting forth the measure of reasonable diligence for determining whether a municipality is proceeding with good faith and reasonable diligence to perfect an appropriation of water for a beneficial use; revising the provisions which must be included in certain statements filed with the State Engineer concerning the application of water for municipal or quasi-municipal use; requiring the State Engineer to issue a certificate for a partially perfected application under certain circumstances; and providing other matters properly relating thereto.



\* S B 1 5 3 \*

**Legislative Counsel's Digest:**

1 Existing law provides that, subject to existing rights, all water in this State may  
2 be appropriated for a beneficial use. Existing law specifically declares that certain  
3 uses of water are beneficial uses of that water. (NRS 533.030) **Section 3** of this bill  
4 declares that the appropriation of water by a municipality or public utility to serve  
5 the needs of the customers of the municipality or public utility is a beneficial use of  
6 that water.

7 Existing law authorizes the State Engineer to consider the consumptive use of a  
8 water right in determining whether a proposed change in the place of diversion,  
9 manner of use or place of use of appropriated water is in compliance with certain  
10 requirements governing the appropriation of that water. (NRS 533.3703) **Section 4**  
11 of this bill exempts from such consideration certain applications filed by a  
12 municipality for a change in the place or diversion, manner of use or place of use of  
13 appropriated water.

14 Existing law requires the State Engineer, when endorsing an application for a  
15 permit to appropriate water for a municipal or quasi-municipal use on certain land,  
16 to establish a period of not less than 5 years within which the complete application  
17 of water to that use must be made. (NRS 533.380) **Section 5** of this bill expands  
18 that period from not less than 5 years to not less than 15 years or more than 50  
19 years. **Section 5** also revises the period for which the State Engineer may grant an  
20 extension of time to complete that application and revises the factors that the State  
21 Engineer must consider when granting or denying such an extension of time.

22 Existing law requires the holder of a permit to appropriate water for a beneficial  
23 use to proceed in good faith and with reasonable diligence to perfect the  
24 appropriation. (NRS 533.395) **Section 6** of this bill specifies that a municipality  
25 may show that it is proceeding in good faith and with reasonable diligence by the  
26 adoption of a master plan or a plan approved by the State Engineer which includes  
27 the development of the complete application of the water to a beneficial use and a  
28 duty to meet the present and reasonably anticipated future needs of the customers of  
29 the municipality.

30 Existing law requires a holder of a permit to appropriate water for a beneficial  
31 use to file a statement with the State Engineer, on or before the date endorsed on  
32 the permit, which includes certain information concerning the holder and the use  
33 of the water. (NRS 533.400) **Section 7** of this bill provides that, for a municipality,  
34 if the amount of water beneficially used for a municipal or quasi-municipal purpose  
35 is less than the amount endorsed on the permit, the statement must indicate whether  
36 the remaining portion of the water is being considered under an extension for future  
37 development to meet the reasonably anticipated future needs of the municipality's  
38 customers for water.

39 Existing law requires the State Engineer to issue a certificate to a holder of a  
40 permit to appropriate water for a beneficial use if the State Engineer determines that  
41 the holder has perfected his or her application to appropriate water or to change the  
42 place of diversion, manner of use or place of use of water already appropriated.  
43 (NRS 533.425) **Section 8** of this bill requires the State Engineer to issue such a  
44 certificate to a municipality if the municipality has perfected at least 25 percent of  
45 the application and the municipality proceeds in good faith and reasonable  
46 diligence to perfect the remainder of the application.

47 The provisions of chapter 534 of NRS govern the appropriation of underground  
48 water in this State. (NRS 534.020) Existing law governing the use of underground  
49 water generally provides that the failure for 5 successive years on the part of the  
50 holder of a right to appropriate underground water for a beneficial use works a  
51 forfeiture of that right. Existing law also confers upon the State Engineer the  
52 authority to grant an extension of time if requested by the holder. A single  
53 extension of time for that purpose must not exceed 1 year. (NRS 534.090)  
54 **Section 11** of this bill provides that, for any municipal or quasi-municipal use for a



55 public water system, the State Engineer may grant any number of extensions of  
56 time for any number of years if requested and for good cause shown. **Section 11**  
57 also provides that a municipality may avoid a forfeiture by perfecting at least 25  
58 percent of its application without losing its priority of right or without cancellation  
59 of any portion of its permit.

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

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

3     *“Planning horizon” means the length of time that the State*  
4 *Engineer determines to be reasonable for a municipality to hold a*  
5 *water right to serve the reasonably anticipated future municipal*  
6 *needs of its customers for water, as determined in accordance with*  
7 *a master plan adopted pursuant to chapter 278 of NRS or a plan*  
8 *approved by the State Engineer.*

9     **Sec. 2.** NRS 533.005 is hereby amended to read as follows:  
10     533.005 As used in this chapter, unless the context otherwise  
11 requires, the words and terms defined in NRS 533.007 to 533.023,  
12 inclusive, *and section 1 of this act* have the meanings ascribed to  
13 them in those sections.

14     **Sec. 3.** NRS 533.030 is hereby amended to read as follows:  
15     533.030 1. Subject to existing rights, and except as otherwise  
16 provided in this section, all water may be appropriated for beneficial  
17 use as provided in this chapter and not otherwise.

18     2. The use of water, from any stream system as provided in this  
19 chapter and from underground water as provided in NRS 534.080,  
20 for any recreational purpose, or the use of water from the Muddy  
21 River or the Virgin River to create any developed shortage supply or  
22 intentionally created surplus, is hereby declared to be a beneficial  
23 use. As used in this subsection:

24     (a) “Developed shortage supply” has the meaning ascribed to it  
25 in Volume 73 of the Federal Register at page 19,884, April 11,  
26 2008, and any subsequent amendment thereto.

27     (b) “Intentionally created surplus” has the meaning ascribed to it  
28 in Volume 73 of the Federal Register at page 19,884, April 11,  
29 2008, and any subsequent amendment thereto.

30     3. *The appropriation of water or the acquisition or lease of*  
31 *water already appropriated from any:*

32     (a) *Stream system as provided in this chapter; or*

33     (b) *Underground water as provided in NRS 534.080,*

34     *↪ by a municipality or public utility, as defined in NRS 704.020,*  
35 *to serve the present and reasonably anticipated future municipal,*



1 *industrial or domestic needs of the customers of the municipality*  
2 *or public utility is hereby declared to be a beneficial use.*

3 4. Except as otherwise provided in subsection ~~[4.]~~ 5, in any  
4 county whose population is 400,000 or more:

5 (a) The board of county commissioners may prohibit or restrict  
6 by ordinance the use of water and effluent for recreational purposes  
7 in any artificially created lake or stream located within the  
8 unincorporated areas of the county.

9 (b) The governing body of a city may prohibit or restrict by  
10 ordinance the use of water and effluent for recreational purposes in  
11 any artificially created lake or stream located within the boundaries  
12 of the city.

13 ~~[4.]~~ 5. In any county whose population is 400,000 or more, the  
14 provisions of subsection 1 and of any ordinance adopted pursuant to  
15 subsection ~~[3.]~~ 4 do not apply to:

16 (a) Water stored in an artificially created reservoir for use in  
17 flood control, in meeting peak water demands or for purposes  
18 relating to the treatment of sewage;

19 (b) Water used in a mining reclamation project; or

20 (c) A body of water located in a recreational facility that is open  
21 to the public and owned or operated by the United States or the State  
22 of Nevada.

23 **Sec. 4.** NRS 533.3703 is hereby amended to read as follows:

24 533.3703 1. The State Engineer may consider the  
25 consumptive use of a water right and the consumptive use of a  
26 proposed beneficial use of water in determining whether a proposed  
27 change in the place of diversion, manner of use or place of use  
28 complies with the provisions of subsection 5 of NRS 533.370.

29 2. The provisions of this section:

30 (a) Must not be applied by the State Engineer in a manner that is  
31 inconsistent with any applicable federal or state decree concerning  
32 consumptive use.

33 (b) Do not apply to any decreed, certified or permitted right to  
34 appropriate water which originates in the Virgin River or the Muddy  
35 River.

36 *(c) Do not apply to an application filed by a municipality for a*  
37 *change in the place of diversion, manner of use or place of use if*  
38 *the application is filed within the time set by the State Engineer for*  
39 *the municipality to apply the water to a municipal or quasi-*  
40 *municipal use or within any extension of time granted by the State*  
41 *Engineer for that purpose.*

42 **Sec. 5.** NRS 533.380 is hereby amended to read as follows:

43 533.380 1. Except as otherwise provided in subsection 5, in  
44 an endorsement of approval upon any application, the State  
45 Engineer shall:



1 (a) Set a time before which the construction of the work must be  
2 completed, which must be within 5 years after the date of approval.

3 (b) Except as otherwise provided in this paragraph, set a time  
4 before which the complete application of water to a beneficial use  
5 must be made, which must not exceed 10 years after the date of the  
6 approval. The time set under this paragraph respecting an  
7 application for a permit to apply water to a municipal or quasi-  
8 municipal use on any land:

9 (1) For which a final subdivision map has been recorded  
10 pursuant to chapter 278 of NRS;

11 (2) For which a plan for the development of a project has  
12 been approved by the local government pursuant to NRS 278.010 to  
13 278.460, inclusive; ~~or~~

14 (3) On any land for which a plan for the development of a  
15 planned unit development has been recorded pursuant to chapter  
16 278A of NRS ~~or~~; *or*

17 (4) *For which a municipality has a plan approved by the*  
18 *State Engineer for the management of the water resources on the*  
19 *land and for analyzing the present usage needs and reasonably*  
20 *anticipated future needs of its customers for water,*

21 *↪ must not be less than ~~15~~ 15 years ~~or~~ or more than 50 years.*

22 2. The State Engineer may limit the applicant to a smaller  
23 quantity of water, to a shorter time for the completion of work, and,  
24 except as otherwise provided in paragraph (b) of subsection 1, to a  
25 shorter time for the perfecting of the application than named in the  
26 application.

27 3. Except as otherwise provided in subsection 4 and NRS  
28 533.395 and 533.4377, the State Engineer may, for good cause  
29 shown, grant any number of extensions of time within which  
30 construction work must be completed, or water must be applied to a  
31 beneficial use under any permit therefor issued by the State  
32 Engineer, but a single extension of time for a municipal or quasi-  
33 municipal use for a public water system, as defined in NRS  
34 445A.235, must not exceed ~~15~~ 15 years, and any other single  
35 extension of time must not exceed 1 year. An application for the  
36 extension must in all cases be:

37 (a) Made within 30 days following notice by registered or  
38 certified mail that proof of the work is due as provided for in NRS  
39 533.390 and 533.410; and

40 (b) Accompanied by proof and evidence of the reasonable  
41 diligence with which the applicant is pursuing the perfection of the  
42 application.

43 *↪ The State Engineer shall not grant an extension of time unless the*  
44 *State Engineer determines from the proof and evidence so submitted*  
45 *that the applicant is proceeding in good faith and with reasonable*



1 diligence to perfect the application. The failure to provide the proof  
2 and evidence required pursuant to this subsection is prima facie  
3 evidence that the holder is not proceeding in good faith and with  
4 reasonable diligence to perfect the application.

5 4. Except as otherwise provided in subsection 5 and NRS  
6 533.395, whenever the holder of a permit issued for any municipal  
7 or quasi-municipal use of water on any land referred to in paragraph  
8 (b) of subsection 1, or for any use which may be served by a county,  
9 city, town, public water district or public water company, requests  
10 an extension of time to apply the water to a beneficial use, the State  
11 Engineer shall, in determining whether to grant or deny the  
12 extension, consider, among other factors:

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

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

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

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

26 (e) *The extent to which the holder has perfected the*  
27 *application;*

28 (f) *The planning horizon for the holder, the reasonably*  
29 *anticipated future needs of the customers of the holder for water*  
30 *and the service area for which the holder is authorized or*  
31 *obligated to provide water; and*

32 (g) The period contemplated in the:

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

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

37 ➤ if any, for completing the development of the land.

38 5. The provisions of subsections 1 and 4 do not apply to an  
39 environmental permit.

40 6. For the purposes of this section, the measure of reasonable  
41 diligence is the steady application of effort to perfect the application  
42 in a reasonably expedient and efficient manner under all the facts  
43 and circumstances. When a project or integrated system is  
44 composed of several features, work on one feature of the project or  
45 system may be considered in finding that reasonable diligence has



1 been shown in the development of water rights for all features of the  
2 entire project or system.

3 **Sec. 6.** NRS 533.395 is hereby amended to read as follows:

4 533.395 1. If, at any time in the judgment of the State  
5 Engineer, the holder of any permit to appropriate the public water is  
6 not proceeding in good faith and with reasonable diligence to  
7 perfect the appropriation, the State Engineer shall require the  
8 submission of such proof and evidence as may be necessary to show  
9 a compliance with the law. If, in the judgment of the State Engineer,  
10 the holder of a permit is not proceeding in good faith and with  
11 reasonable diligence to perfect the appropriation, the State Engineer  
12 shall cancel the permit, and advise the holder of its cancellation. The  
13 failure to provide the proof and evidence required pursuant to this  
14 subsection is prima facie evidence that the holder is not proceeding  
15 in good faith and with reasonable diligence to perfect the  
16 appropriation.

17 2. If any permit is cancelled under the provisions of this section  
18 or NRS 533.390 or 533.410, the holder of the permit may within 60  
19 days ~~to~~ after the cancellation of the permit file a written petition  
20 with the State Engineer requesting a review of the cancellation by  
21 the State Engineer at a public hearing. The State Engineer may, after  
22 receiving and considering evidence, affirm, modify or rescind the  
23 cancellation.

24 3. If the decision of the State Engineer modifies or rescinds the  
25 cancellation of a permit, the effective date of the appropriation  
26 under the permit is vacated and replaced by the date of the filing of  
27 the written petition with the State Engineer.

28 4. The cancellation of a permit may not be reviewed or be the  
29 subject of any judicial proceedings unless a written petition for  
30 review has been filed and the cancellation has been affirmed,  
31 modified or rescinded pursuant to subsection 2.

32 5. For the purposes of this section, the measure of reasonable  
33 diligence ~~is~~:

34 (a) *Except as otherwise provided in paragraph (b), is* the steady  
35 application of effort to perfect the appropriation in a reasonably  
36 expedient and efficient manner under all the facts and  
37 circumstances. When a project or integrated system is comprised of  
38 several features, work on one feature of the project or system may  
39 be considered in finding that reasonable diligence has been shown in  
40 the development of water rights for all features of the entire project  
41 or system.

42 (b) *For a municipality is the adoption of a master plan*  
43 *pursuant to chapter 278 of NRS or a plan approved by the State*  
44 *Engineer which includes the development of the complete*  
45 *application of water on the permit to beneficial use and a duty to*



1 *meet the present and reasonably anticipated future needs of the*  
2 *customers in the service area for which the municipality is*  
3 *authorized or obligated to provide water.*

4 6. The appropriation of water or the acquisition or lease of  
5 appropriated water from any:

6 (a) Stream system as provided for in this chapter; or

7 (b) Underground water as provided for in NRS 534.080,

8 ➔ by a political subdivision of this State or a public utility, as  
9 defined in NRS 704.020, to serve the present or the reasonably  
10 anticipated future municipal, industrial or domestic needs of its  
11 customers for water, as determined in accordance with a master plan  
12 adopted pursuant to chapter 278 of NRS or a plan approved by the  
13 State Engineer, must be considered when reviewing an extension of  
14 time.

15 **Sec. 7.** NRS 533.400 is hereby amended to read as follows:

16 533.400 1. Except as otherwise provided in subsection 2, on  
17 or before the date set in the endorsement of a permit for the  
18 application of water to beneficial use, or on the date set by the State  
19 Engineer under a proper application for extension therefor, any  
20 person holding a permit from the State Engineer to appropriate the  
21 public waters of the State of Nevada, to change the place of  
22 diversion or the manner or place of use, shall file with the State  
23 Engineer a statement under oath, on a form prescribed by the State  
24 Engineer. The statement must include:

25 (a) The name and post office address of the person making the  
26 proof.

27 (b) The number and date of the permit for which proof is made.

28 (c) The source of the water supply.

29 (d) The name of the canal or other works by which the water is  
30 conducted to the place of use.

31 (e) The name of the original person to whom the permit was  
32 issued.

33 (f) The purpose for which the water is used.

34 (g) If for irrigation, the actual number of acres of land upon  
35 which the water granted in the permit has been beneficially used,  
36 giving the same by 40-acre legal subdivisions when possible.

37 (h) An actual measurement taken by a licensed state water right  
38 surveyor or an official or employee of the Office of the State  
39 Engineer of the water diverted for beneficial use.

40 (i) The capacity of the works of diversion.

41 (j) If for power, the dimensions and capacity of the flume, pipe,  
42 ditch or other conduit.

43 (k) The average grade and difference in elevation between the  
44 termini of any conduit.





1 (l) The number of months, naming them, in which water has  
2 been beneficially used.

3 (m) The amount of water beneficially used, taken from actual  
4 measurements, together with such other data as the State Engineer  
5 may require to become acquainted with the amount of the  
6 appropriation for which the proof is filed.

7 *(n) If for municipal or quasi-municipal use and the amount of*  
8 *water beneficially used is less than the amount endorsed on the*  
9 *permit, whether the remaining portion is being considered under*  
10 *an extension for future development to meet the reasonably*  
11 *anticipated future needs of the municipality's customers for water.*

12 2. The provisions of subsection 1 do not apply to a person  
13 holding an environmental permit.

14 **Sec. 8.** NRS 533.425 is hereby amended to read as follows:

15 533.425 1. Except as otherwise provided in NRS 533.503, as  
16 soon as practicable after satisfactory proof has been made to the  
17 State Engineer that any application to appropriate water or any  
18 application for permission to change the place of diversion, manner  
19 *of use* or place of use of water already appropriated has been  
20 perfected in accordance with the provisions of this chapter, the State  
21 Engineer shall issue to the holder or holders of the permit a  
22 certificate setting forth:

23 (a) The name and post office address of each holder of the  
24 permit.

25 (b) The date, source, purpose and amount of appropriation.

26 (c) If for irrigation, a description of the irrigated lands by legal  
27 subdivisions, when possible, to which the water is appurtenant.

28 (d) The number of the permit under which the certificate is  
29 issued.

30 2. If the water is appropriated from an underground source, the  
31 State Engineer shall issue with the certificate a notice of the  
32 provisions governing the forfeiture and abandonment of such water  
33 rights. The notice must set forth the provisions of NRS 534.090.

34 *3. If water is appropriated for a municipal or quasi-municipal*  
35 *use, and if the municipality has perfected at least 25 percent of the*  
36 *application, the State Engineer shall issue a certificate for that*  
37 *portion of the permit. The municipality must proceed in good faith*  
38 *and with reasonable diligence to perfect the remainder of the*  
39 *application without losing its priority of right or cancellation of*  
40 *any portion of its permit.*

41 **Sec. 9.** Chapter 534 of NRS is hereby amended by adding  
42 thereto a new section to read as follows:

43 *"Public water system" has the meaning ascribed to it in*  
44 *NRS 445A.235.*



1     **Sec. 10.** NRS 534.010 is hereby amended to read as follows:  
2     534.010 1. As used in this chapter, unless the context  
3 otherwise requires, the words and terms defined in NRS 534.0105 to  
4 534.0175, inclusive, *and section 9 of this act* have the meanings  
5 ascribed to them in those sections.

6     2. As used in this chapter, the terms “underground water” and  
7 “groundwater” are synonymous.

8     **Sec. 11.** NRS 534.090 is hereby amended to read as follows:

9     534.090 1. Except as otherwise provided in this section,  
10 failure for 5 successive years after April 15, 1967, on the part of the  
11 holder of any right, whether it is an adjudicated right, an  
12 unadjudicated right or a permitted right, and further whether the  
13 right is initiated after or before March 25, 1939, to use beneficially  
14 all or any part of the underground water for the purpose for which  
15 the right is acquired or claimed, works a forfeiture of both  
16 undetermined rights and determined rights to the use of that water to  
17 the extent of the nonuse. If the records of the State Engineer or any  
18 other documents specified by the State Engineer indicate at least 4  
19 consecutive years, but less than 5 consecutive years, of nonuse of all  
20 or any part of a water right which is governed by this chapter, the  
21 State Engineer shall notify the owner of the water right, as  
22 determined in the records of the Office of the State Engineer, by  
23 registered or certified mail that the owner has 1 year after the date of  
24 the notice in which to use the water right beneficially and to provide  
25 proof of such use to the State Engineer or apply for relief pursuant  
26 to subsection 2 to avoid forfeiting the water right. If, after 1 year  
27 after the date of the notice, proof of beneficial use is not sent to the  
28 State Engineer, the State Engineer shall, unless the State Engineer  
29 has granted a request to extend the time necessary to work a  
30 forfeiture of the water right, declare the right forfeited within 30  
31 days. Upon the forfeiture of a right to the use of groundwater, the  
32 water reverts to the public and is available for further appropriation,  
33 subject to existing rights. If, upon notice by registered or certified  
34 mail to the owner of record whose right has been declared forfeited,  
35 the owner of record fails to appeal the ruling in the manner provided  
36 for in NRS 533.450, and within the time provided for therein, the  
37 forfeiture becomes final. The failure to receive a notice pursuant to  
38 this subsection does not nullify the forfeiture or extend the time  
39 necessary to work the forfeiture of a water right.

40     2. The State Engineer may, upon the request of the holder of  
41 any right described in subsection 1, extend the time necessary to  
42 work a forfeiture under that subsection if the request is made before  
43 the expiration of the time necessary to work a forfeiture. The State  
44 Engineer may grant, upon request and for good cause shown, any  
45 number of extensions, but a single extension *for any use which is*



1 *not a municipal or quasi-municipal use for a public water system*  
2 must not exceed 1 year. *For any municipal or quasi-municipal use*  
3 *for a public water system, the State Engineer may grant, upon*  
4 *request and for good cause shown, any number of extensions, for*  
5 *any number of years.* In determining whether to grant or deny a  
6 request, the State Engineer shall, among other reasons, consider:

7 (a) Whether the holder has shown good cause for the holder's  
8 failure to use all or any part of the water beneficially for the purpose  
9 for which the holder's right is acquired or claimed;

10 (b) The unavailability of water to put to a beneficial use which is  
11 beyond the control of the holder;

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

14 (d) Any prolonged period in which precipitation in the basin  
15 where the water right is located is below the average for that basin  
16 or in which indexes that measure soil moisture show that a deficit in  
17 soil moisture has occurred in that basin; ~~and~~

18 (e) Whether the holder has demonstrated efficient ways of using  
19 the water for agricultural purposes, such as center-pivot irrigation ~~;~~  
20 *; and*

21 *(f) If the holder is a municipality, the planning horizon for the*  
22 *holder, the reasonably anticipated future needs of the customers of the*  
23 *holder for water and the service area for which the holder is*  
24 *authorized or obligated to provide water.*

25 ➔ The State Engineer shall notify, by registered or certified mail,  
26 the owner of the water right, as determined in the records of the  
27 Office of the State Engineer, of whether the State Engineer has  
28 granted or denied the holder's request for an extension pursuant to  
29 this subsection.

30 3. If the failure to use the water pursuant to subsection 1 is  
31 because of the use of center-pivot irrigation before July 1, 1983, and  
32 such use could result in a forfeiture of a portion of a right, the State  
33 Engineer shall, by registered or certified mail, send to the owner of  
34 record a notice of intent to declare a forfeiture. The notice must  
35 provide that the owner has at least 1 year after the date of the notice  
36 to use the water beneficially or apply for additional relief pursuant  
37 to subsection 2 before forfeiture of the owner's right is declared by  
38 the State Engineer.

39 4. A right to use underground water whether it is vested or  
40 otherwise may be lost by abandonment. If the State Engineer, in  
41 investigating a groundwater source, upon which there has been a  
42 prior right, for the purpose of acting upon an application to  
43 appropriate water from the same source, is of the belief from his or  
44 her examination that an abandonment has taken place, the State  
45 Engineer shall so state in the ruling approving the application. If,



1 upon notice by registered or certified mail to the owner of record  
2 who had the prior right, the owner of record of the prior right fails to  
3 appeal the ruling in the manner provided for in NRS 533.450, and  
4 within the time provided for therein, the alleged abandonment  
5 declaration as set forth by the State Engineer becomes final.

6 *5. A municipality may avoid forfeiture by perfecting at least*  
7 *25 percent of its application without losing its priority of right or*  
8 *cancellation of any portion of its permit.*

9 *6. As used in this section, "planning horizon" has the*  
10 *meaning ascribed to it in section 1 of this act.*

11 **Sec. 12.** NRS 534.350 is hereby amended to read as follows:

12 534.350 1. The State Engineer shall adopt regulations  
13 establishing a program that allows a public water system to receive  
14 credits, as provided in this section, for the addition of new  
15 customers to the system. The program must be limited to public  
16 water systems in areas:

17 (a) Designated as groundwater basins by the State Engineer  
18 pursuant to the provisions of NRS 534.030; and

19 (b) In which the State Engineer has denied one or more  
20 applications for any municipal uses of groundwater.

21 2. Before the State Engineer adopts any regulations pursuant to  
22 this section regarding any particular groundwater basin, the State  
23 Engineer shall hold a public hearing:

24 (a) Within the basin to which the regulations will apply if  
25 adequate facilities to hold a hearing are available within that basin;  
26 or

27 (b) In all other cases, within the county where the major portion  
28 of that basin lies,

29 ➔ to take testimony from any interested persons regarding the  
30 proposed regulations.

31 3. Upon adoption of the regulations required by this section  
32 regarding a particular groundwater basin, a public water system  
33 which provides service in that basin is entitled to receive a credit for  
34 each customer who is added to the system after the adoption of  
35 those regulations and:

36 (a) Voluntarily ceases to draw water from a domestic well  
37 located within that basin; or

38 (b) Is the owner of a lot or other parcel of land, other than land  
39 used or intended solely for use as a location for a domestic well,  
40 which:

41 (1) Is located within that basin;

42 (2) Was established as a separate lot or parcel before July 1,

43 1993;



1 (3) Was approved by a local governing body or planning  
2 commission for service by an individual domestic well before  
3 July 1, 1993; and

4 (4) Is subject to a written agreement which was voluntarily  
5 entered into by the owner with the public water system pursuant to  
6 which the owner agrees not to drill a domestic well on the land and  
7 the public water system agrees that it will provide water service to  
8 the land. Any such agreement must be acknowledged and recorded  
9 in the same manner as conveyances affecting real property are  
10 required to be acknowledged and recorded pursuant to chapter 111  
11 of NRS.

12 4. If a county requires, by ordinance, the dedication to the  
13 county of a right to appropriate water from a domestic well which is  
14 located on a lot or other parcel of land that was established as a  
15 separate lot or parcel on or after July 1, 1993, the county may, by  
16 relinquishment to the State Engineer, allow the right to appropriate  
17 water to revert to the source of the water. The State Engineer shall  
18 not accept a relinquishment of a right to appropriate water pursuant  
19 to this subsection unless the right is in good standing as determined  
20 by the State Engineer. A right to appropriate water that is dedicated  
21 and relinquished pursuant to this subsection:

22 (a) Remains appurtenant only to the parcel of land in which it is  
23 located as specified on the parcel map; and

24 (b) Maintains its date of priority established pursuant to  
25 NRS 534.080.

26 5. If an owner of a parcel of land specified in subsection 4  
27 becomes a new customer of a public water system for that parcel of  
28 land, the public water system is entitled to receive a credit in the  
29 same manner as the addition of any other customer to the public  
30 water system pursuant to this section.

31 6. The State Engineer may require a new customer, who  
32 voluntarily ceases to draw water from a domestic well as provided  
33 in paragraph (a) of subsection 3 or whose right to appropriate water  
34 is dedicated pursuant to subsection 4, to plug that well.

35 7. A credit granted pursuant to this section:

36 (a) Must be sufficient to enable the public water system to add  
37 one service connection for a single-family dwelling to the system,  
38 except that the credit may not exceed the increase in water  
39 consumption attributable to the additional service connection or 2  
40 acre-feet per year, whichever is less.

41 (b) May not be converted to an appropriative water right.

42 8. This section does not:

43 (a) Require a public water system to extend its service area.

44 (b) Authorize any increase in the total amount of groundwater  
45 pumped in a groundwater basin.



1 (c) Affect any rights of an owner of a domestic well who does  
2 not voluntarily comply with the provisions of this section.

3 9. As used in this section ~~§~~

4 ~~—(a) “Domestic], “domestic~~ well” means a well used for culinary  
5 and household purposes in:

6 ~~[(1)]~~ (a) A single-family dwelling; and

7 ~~[(2)]~~ (b) An accessory dwelling unit for a single-family  
8 dwelling if provided for in an applicable local ordinance,

9 ↪ including the watering of a garden, lawn and domestic animals  
10 and where the draught does not exceed 2 acre-feet per year.

11 ~~[(b) “Public water system” has the meaning ascribed to it in~~  
12 ~~NRS 445A.840.]~~

13 **Sec. 13.** This act becomes effective on July 1, 2011.

