

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON NATURAL RESOURCES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 22, 1981

The Senate Committee on Natural Resources was called to order by Chairman Norman Glaser at 2:00 P. M., Friday, May 22, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Norman Glaser, Chairman
Senator Wilbur Faiss, Vice Chairman
Senator James H. Bilbray
Senator Lawrence E. Jacobsen

COMMITTEE MEMBERS ABSENT:

Senator Floyd R. Lamb
Senator Joe Neal

GUEST LEGISLATORS:

Assemblyman Paul Prengaman
Assemblyman Kenneth Redelsperger

STAFF MEMBERS PRESENT:

Robert E. Erickson, Senior Research Analyst
Carolyn L. Freeland, Committee Secretary

ASSEMBLY BILL NO. 428

Mr. Kenneth Redelsperger, Assemblyman, District No. 36, was the first speaker. He referred to Amendment No. 1129, (Exhibit C), which was distributed to the committee members. He reiterated his testimony on this bill before the committee on May 18, 1981. He said there were some problems with the amendment as drafted; he felt the word "aquifer" on line 7 should be changed to "water source." He also noted in subsection 2, the designation should be "Carey Act or Desert Land Entry Act." In the same subsection

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he recommended the word "has" be used in place of "intends" to read "has filed." In subsection 3, the words "or Desert Land Entry Act" should follow the words "Carey Act."

Mr. William Newman, state water engineer, said he had one other suggestion, to insert the words "for irrigation," after the words "underground water."

There was further discussion on amending this bill. Chairman Glaser suggested a further conference between the principals, and then bringing the amendments back to the committee meeting on Monday, May 25.

ASSEMBLY BILL NO. 383

Mr. Paul Prengaman, Assemblyman, District No. 26, reviewed the testimony he presented on May 18, 1981, to the committee.

The Chair called for the wishes of the committee.

Senator Bilbray moved Do Pass
Assembly Bill No. 383 (Exhibit D).

Senator Jacobsen seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

ASSEMBLY JOINT RESOLUTION NO. 47

Ms. Linda Ryan, Director of the State Office of Community Services, said there have been inequities existing for many years in Nevada in the Farmers' Home Administration. She said there is a definite need for this office within the state in order to actively serve the people, and she urged passage of this resolution.

Senator Jacobsen asked Ms. Ryan why copies of the resolution were not to be sent to Senator Laxalt and Senator Cannon. He feels it should go to them. Ms. Ryan replied she had requested the bill be drafted in that manner. She said there was a new director of Farmers' Home Administration in Washington. Senator Jacobsen suggested addressing the resolution to all the pertinent parties and asked the Chair if Ms. Ryan could furnish a complete list in the form of an amendment to the bill. Ms. Ryan complied immediately with this request.

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Mr. Phil Martinelli, Department of Agriculture, said his department supports this legislation.

Senator Jacobsen moved Amend and Do Pass
Assembly Joint Resolution No. 47 (Exhibit E).

Senator Faiss seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

ASSEMBLY BILL NO. 279

Mr. Erickson discussed the amendment, No. 1161 (Exhibit F), utilizing diagrams to assist in his explanation of it. There was discussion on the various aspects of the language contained in the amendment.

Mr. John Giomi, District Attorney, Lyon County, said the weed control district in Lyon County had requested the bill be placed in state law, and commended the committee on the language in Amendment No. 1161, which appears to go further than the original language in setting out the manner in which assessment would be levied and transferred to the weed control district. He explained the problem of the weed "whitetop" which exists in both his county and adjoining counties. This weed rapidly spreads throughout the area through watershed and through cattle and sheep grazing. He asked the committee to amend the law to allow the weed control district, upon its own motion, to designate certain lands to be brought into the district, because certain requirements now present cannot be met.

Mr. Giomi also presented recommendations for an appeal procedure.

Senator Bilbray said the committee did not want to provide in law for arbitrary inclusion of lands in order to increase the revenues of a weed district; in addition some sort of appeal procedure was desired, and the way the amendment reads, a landowner may appeal to the county commission, and if the county commission denies the annexation, the weed district may then appeal to the Department of Agriculture, which can reverse the decision of the county commission.

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Senator Bilbray said he did not think the committee had changed the language which would allow a weed district to be able to expand into an adjoining district on its own petition. He said the only two major changes were in the appeal process and the manner in which to collect fees. The remainder is the same. He said there are two methods of enlarging the district: the regular method when people petition to be included; and a petition on the part of the weed district for inclusion of a piece of land. However, Senator Bilbray feels perhaps the burden of proof of appeal should be on the part of the landowner who must ask the county commission to take action.

Mr. Giomi said the only other question regarded what the weed district could do about federal Bureau of Land Management lands and Indian lands. Senator Bilbray said any language could be included in the legislation, but according to legal counsel, the federal government does not have to respond.

Senator Jacobsen felt it would be wise to place appropriate language dealing with these lands in the resolution, as it would be another lever to be utilized in the Sagebrush Rebellion. Senator Bilbray said the present language does not specify land to be taken in by a weed district has to be private land. It could be interpreted as applying to other lands.

Mr. Jack Purcell, Lyon County Agent, said the matter under discussion has already been addressed. There is a section in the law, 555.200, referring to removal of injurious, noxious weeds from public domain and reimbursement by the federal government. Mr. Purcell read the pertinent paragraphs. The state quarantine officer may serve notice as provided in Nevada Revised Statutes 555.160 when any noxious weed is found growing upon public domain, or any other lands in the state owned by the federal government. He may also serve notice upon any person who is in charge of the activities of the federal agency having control or jurisdiction of the land. In addition the state quarantine officer may provide for the destruction and eradication of the weeds in any manner permitted by federal law if the agency fails to comply with the served notice. The state quarantine officer shall seek reimbursement from the federal government for any expense incurred by the state or its political subdivision.

Senator Bilbray said action would have to be taken by a county commission within 90 days either for ratification or disclaimer; failure to do so within this period shall be declared ratification, preventing failure of a county commission to act at all.

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Time requirements for submission of a petition to the county commission were discussed. Mr. Erickson suggested language to be used in this instance.

Chairman Glaser asked Mr. Erickson to bring amendments incorporating the discussed changes to the committee meeting on Monday, May 25. The committee concurred.

The Chair directed the members of the committee to further business.

The river trip to inspect the Watasheamu Dam area and environs was scheduled to be held on Wednesday, May 27. A memorandum providing details of the trip is to be sent to all members and guests.

ASSEMBLY BILL NO. 16

There was consideration of this bill in view of the Assembly's proposed action on Senate Bill No. 178. The Chair said the Assembly wishes this committee to pass out Assembly Bill No. 16 with the amendments on it, and then they will go to conference on it.

Senator Bilbray moved Amend and Do Pass
Assembly Bill No. 16 (Exhibit G).

Senator Jacobsen seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

ASSEMBLY BILL NO. 130

Chairman Glaser explained the amendments to this bill, and how a conflict notice had been resolved. Chairman Glaser talked with some of the assemblymen who had drafted the bill and certain conclusions were agreed upon. He said there is a sunset clause so the law could be tried for two years to see if it is effective. The Chair asked the committee members if it is agreeable to put the amendments so described on the bill, which is on the Secretary of the Senate's Desk at present.

Senator Jacobsen moved to put the amendments
on Assembly Bill No. 130, as described above.

Senator Faiss seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

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There being no further business, the meeting was
adjourned at 3:10 P. M.

Respectfully submitted by:


Carolyn L. Freeland, Secretary

APPROVED:


Senator Norman Glaser, Chairman

DATE: May 29, 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on Natural Resources , Room 323

Day Friday , Date May 22, 1981 , Time 1:30 P. M.

A. J. R. No. 47--Requests office of Farmers' Home Administration be situated within Nevada.

Work Session

A. B. No. 383--Requires Federal government to provide certain information and obtain certain permits relating to "MX" missile project.

A. B. 428--Makes various changes to law relating to administration of underground water by state engineer.

A. B. 279--Revises statutes governing weed control districts. (Consideration of changes in amendments.)

ADDED IN MEETING:

A. B. 16

A. B. 130

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON NATURAL RESOURCES

DATE: May 22, 1981

EXHIBIT B

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
Linda Ryan Chief Wastewater	In-State office Community Services	
John Neome	Lyon County D. A.	883-9777
Jack Purcell	Lyon Co. Agent.	
Roland Helgeson	Director, Conservation & Nat. Resources	
Wm Newman	State water engineer	
Cele Monro	Asst State water engineer	

ASSEMBLY ACTION		SENATE ACTION		Senate
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to _____ Assembly
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Bill No. 428 Joint Resolution No. _____
Date:		Date:		BDR 48-1241
Initial:		Initial:		Proposed by Committee on Natural Resources
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>	
Date:		Date:		
Initial:		Initial:		

Amendment N^o 1129



Amend the bill as a whole by renumbering sections 1 through 4 as sections 2 through 5 and adding a new section designated section 1, preceding section 1, to read as follows:

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

When two or more applications are made to appropriate underground water from what appears to the state engineer to be the same aquifer he shall observe the following order of priority in acting upon them, according to the status of the applicant and the intended place of use

1. An owner of land for use on that land.
2. An owner of land for use on adjacent land for which he intends to file an application under the Carey Act.
3. Any other person whose application is preparatory to proceeding under the Carey Act."

Amend the title of the bill, third line after "boards," by inserting "establishing priorities among certain applicants to appropriate water;"

To: E & E
LCB File
Journal
Engrossment
Bill

Drafted by: FWD:m Date: 5-20-81

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 383

ASSEMBLY BILL NO. 383—ASSEMBLYMAN PRENGAMAN

MARCH 26, 1981

Referred to Committee on Economic Development
and Natural Resources

SUMMARY—Requires Federal Government to provide certain information and obtain certain permits relating to “MX” missile project. (BDR S-1043)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the “MX” missile project; requiring agencies of the Federal Government which are involved with the project to share certain information with state agencies; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. 1. The Nevada legislature hereby declares its policy to
2 assist federal agencies in carrying out their constitutional, statutory and
3 regulatory responsibilities to consult and coordinate with state agencies
4 on matters relating to the state’s economy, its environment and to plan-
5 ning for the use and conservation of public and private land in the state.
6 2. For these purposes, the legislature hereby establishes a procedure
7 for the timely communication of information as the development of
8 projects relating to the “MX” missile system proceeds, specifying the
9 kind of information which must be provided and the requirements which
10 must be met to permit state agencies effectively to participate in evaluat-
11 ing the effects of the proposed missile project and help fulfill the responsi-
12 bilities of federal agencies to provide for public involvement in their
13 deliberations concerning these projects.
14 SEC. 2. As used in this act, unless the context otherwise requires, the
15 words and terms defined in sections 3 and 4 of this act have the meanings
16 ascribed to them in those sections.
17 SEC. 3. “Federal agency” means every agency or subdivision of the
18 government of the United States which is responsible for or is involved
19 in planning, beginning, approving, constructing, or alleviating the eco-
20 nomic or environmental effects of any project relating to the development
21 of the “MX” missile system.
22 SEC. 4. “Project” means every project activity or proposal related

1 to the planning, preparation or construction of facilities designed or
2 intended for location for the "MX" missile system within this state.

3 SEC. 5. The provisions of this act apply to each federal agency when-
4 ever it is responsible for or involved in a project which anticipates:

5 1. A need for access to, permits for the use of, condemnation of, or
6 rights of way over lands subject to the jurisdiction of this state;

7 2. Any use of sources of water within the boundaries of this state;

8 3. Any federal acquisition of state or private land by purchase or
9 eminent domain, or any withdrawal of federal lands from existing uses;

10 4. Any changes in existing uses of federal lands that will, in any
11 material respect, result in changes in actual or anticipated uses of state
12 or private lands; or

13 5. Any major increase in expenses likely to be incurred by any
14 political or governmental entity or subdivision of this state.

15 SEC. 6. Each federal agency shall, before the preparation of a final
16 "environmental impact statement" or the making of any final decision
17 regarding the project, prepare and provide to the governor for transmis-
18 sion to appropriate state agencies and officials a statement which:

19 1. Identifies for purposes of consultation and coordination the offi-
20 cials of the federal agency who determine any matters relating to a
21 project.

22 2. Describes:

23 (a) The anticipated schedule by which the determinations will be
24 made;

25 (b) Any available procedures for public presentations or hearings on
26 these matters;

27 (c) Any available procedures for adjudication of any disputed facts;
28 and

29 (d) The primary purposes and features of a proposed project of
30 sufficient specificity to provide a full understanding of all anticipated
31 demands upon any land and water in the state, including:

32 (1) A reasonably detailed explanation of any significant environ-
33 mental effects that may result from the proposed project and the prob-
34 ability that those effects will occur if the project is undertaken.

35 (2) A brief explanation of all permits, licenses, or other forms of
36 permission which the agency expects to seek from any state agency.

37 3. Indicates how a proposed project might conflict with or adversely
38 affect any plans for the use, conservation or environmental protection of:

39 (a) State or private land or water within Nevada which has been filed
40 with the Nevada "MX" project coordinator; and

41 (b) Federal land adopted or proposed in any federal land management
42 plan,

43 and describes how the federal agency plans to lessen those effects.

44 4. An analysis of the financial effects of any project which separately
45 or cumulatively can reasonably be expected to add in any fiscal year more
46 than 10 percent to the expenditures of any state agency or political
47 subdivision for providing services and performing functions at the same
48 level of service and performance as before the project began. This
49 analysis must include:

50 (a) All sources of authority to spend money and the amounts available

1 and committed to meet the additional expenses resulting from the proj-
2 ect; and

3 (b) Any plans for obtaining money or providing means by which
4 these additional expenses can be met if the project is undertaken.

5 SEC. 7 If comment by a state official, agency or political sub-
6 division related to a project identifies any conflicts with or adverse effects
7 upon state plans governing the use, conservation or environmental pro-
8 tection of state or private land or water, or which identifies disputed
9 facts material to the effect of the project upon those lands or water, the
10 federal agency, before the final preparation and distribution of any
11 "environmental impact statement" and before making any final decision
12 on the project, shall:

13 1. Provide the governor of this state and the state agency which pro-
14 vided the comment a further statement which describes any plan the
15 federal agency may have for reducing any conflicts or adverse effects
16 identified by the comment and describe what procedures exist to permit
17 the state agency to participate in the administration of the plan; and

18 2. Provide an explanation of any procedure it proposes to use in
19 determining any disputed facts relating to the effect of the proposed
20 project upon state land, water and other resources or shall state whether
21 it agrees to a procedure for the determination of these facts.

22 SEC. 8. The attorney general of the State of Nevada shall take any
23 legal action necessary to compel compliance with the provisions of this
24 act and with all other state and federal laws applicable to any project.

25 SEC. 9. This act shall become effective upon passage and approval.



(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. J. R. 47

ASSEMBLY JOINT RESOLUTION NO. 47—
COMMITTEE ON AGRICULTURE

MAY 16, 1981

Referred to Committee on Agriculture

SUMMARY—Requests office of Farmers' Home Administration
be situated within Nevada (BDR 2118)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Requesting an office of the Farmers'
Home Administration be situated within Nevada.

- 1 WHEREAS, Revenues from agricultural enterprises in Nevada have
2 increased over the most recent decade from \$76 million in 1969 to \$207
3 million in 1979; and
4 WHEREAS, Residents of Nevada recognize the need for a diversified
5 economy in order to complement the diverse nature of existing resources;
6 and
7 WHEREAS, The ability to expand the agricultural segments of the econ-
8 omy is often dependent on the services provided by the Farmers' Home
9 Administration of the United States Department of Agriculture; and
10 WHEREAS, The Farmers' Home Administration has 45 state offices
11 within the United States and Puerto Rico which serve the needs of farm-
12 ers, ranchers and rural communities; and
13 WHEREAS, Nevada is the only state not on the eastern seaboard which
14 does not have a Farmers' Home Administration office situated within it;
15 and
16 WHEREAS, The staff of 14 persons which is allocated to Nevada by the
17 Farmers' Home Administration is the smallest in the nation even though
18 Nevada is 47th in terms of revenues from agricultural enterprises; and
19 WHEREAS, The residents of Nevada are entitled to a level of service
20 from the Farmers' Home Administration at least equal to states with less
21 population and fewer agricultural activities; now, therefore, be it
22 *Resolved by the Assembly and Senate of the State of Nevada, jointly,*
23 That the Nevada legislature respectfully requests that a state office of the
24 Farmers' Home Administration be situated in Nevada and that sufficient
25 money be appropriated to allow the staffing of offices in Nevada's coun-
26 ties at a level equal to the ratio of staff to population which obtains in
27 other western states; and be it further

1 *Resolved*, That a copy of this resolution be immediately transmitted by
2 the legislative counsel to the Honorable James Santini of the United States
3 House of Representatives; and be it further

4 *Resolved*, That this resolution shall become effective upon passage and
5 approval.



1981 REGULAR SESSION (61st)

ASSEMBLY ACTION		SENATE ACTION		Senate	AMENDMENT
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to	Assembly
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Joint
Date:		Date:		Bill No. 279	Paraphrase No.
Initial:		Initial:		BDR 49-1212	EXHIBIT F
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	Proposed by Committee on Natural Resour	
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>		
Date:		Date:			
Initial:		Initial:			

Amendment No 1161

Replaces Amendment No. 996.

Amend the bill as a whole, by inserting a new section, designated section 1, preceding section 1, to read as follows:

"Section 1. Chapter 555 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. The board of directors of a weed control district or the board of county commissioners of any county having lands situated in a weed control district or proposed for inclusion in such a district may request that the state board of agriculture review any action taken by the board of county commissioners of a county, or the board of directors of the district, in connection with the creation of the district or a change in the boundaries of the district.

2. Upon receiving such a request the state board of agriculture shall, after notice and opportunity for a hearing, affirm or reverse the action."

Amend the bill as a whole by renumbering section 1 as sec. 2.

Amend sec. 1, page 1, by deleting line 15 and inserting:

"within two or more counties, the petition must designate the area of each of the counties to be included in the district and must be signed by owners of land within the proposed district who:

(a) Are 60 percent or more of the total number of such owners in each of the counties from which lands are to be included; and

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Drafted by JW:ss Date 5-21-81

(b) Own 50 percent or more in assessed valuation, as shown by current assessment roll, of the lands to be included in each of the counties.

Amend The petition must be filed with the board of.

Amend sec. 1, page 1, line 19, after "and" by inserting: ", except as otherwise provided in MRS 555.202 to 555.210, inclusive and section 1 of this act, for".

Amend the bill as a whole, by inserting a new section, designated sections 3 through 5, following section 1, to read as follows:

"Sec. 3. MRS 555.205 is hereby amended to read as follows:

555.205 1. The board of county commissioners of any county in which a weed control district has been created shall appoint a board of directors of the district composed of three persons who:

(a) Are landowners in the district, whether or not they signed the petition for its creation. For the purpose of this paragraph, any corporation or partnership owns land in the district, a partner, a director, officer or beneficial owner of 10 percent or more of the stock of the corporation shall be deemed a landowner.

(b) Fairly represent the agricultural economy of the district.

2. If the district includes lands situated in more than one county, the board of county commissioners shall appoint at least one member to the board of directors from each county in which one-third or more of the lands are situated.

3. The initial appointments to the board of directors shall be for terms of 1, 2 and 3 years respectively. Each subsequent appointment shall be for a term of 3 years. Any vacancy shall be filled by appointment for the unexpired term.

[3.] 4. In addition to other causes provided by law, a vacancy shall be created on the board if any director:

(a) Ceases to be a landowner in the district.

(b) Is absent, unless excused, from three meetings of the board.

5. If, as a result of a change in the boundaries of the district a county becomes entitled to a new member of the board of directors pursuant to subsection 2, the board of county commissioners shall make the new appointment upon the first expiration of the term of a current member thereafter.

Sec. 4. NRS 555.209 is hereby amended to read as follows:

555.209 1. The board of directors shall prepare regulations for the weed control district, which shall include but are not limited to:

- (a) The species of weeds to be controlled in the district.
- (b) The means of direct control by spray, cultivation or other means.
- (c) The means of indirect control, including the movement from, to and within the district of agricultural machinery, agricultural products, livestock and other vectors capable of spreading the weed designated for control.

2. One copy of the proposed regulations [shall] must be delivered to the state quarantine officer, and at least two copies made available for public inspection in the office of the district secretary or the county clerk, as the board may by resolution prescribe.

3. The state quarantine officer shall then hold a public hearing in the county in which is located the larger or largest proportion of the area of the district, to consider the proposed regulations, of which he shall give notice by publication, in a newspaper of general circulation in [the county,] each county having lands situated in the district, of at least one notice published not less than 10 days before the hearing. At this hearing, the state quarantine officer shall entertain written suggestions for the modification of the regulations.

4. After the hearing, and any additional time which the state quarantine officer may allow for the submission of additional facts

or proposals, he shall approve, modify or disapprove the proposed regulations. If the board of directors of the district does not concur in the action of the state quarantine officer, the state board of agriculture shall establish the regulations.

Sec. 5. NRS 555.215 is hereby amended to read as follows:

555.215 1. Upon the preparation and approval of a budget in the manner required by the Local Government Budget Act, the board of county commissioners of each county having lands situated in the district shall, by resolution, levy an assessment upon all real property in the county which is in the weed control district.

2. Every assessment so levied shall be a lien against the property assessed.

3. Amounts collected in counties other than the county having the larger or largest proportion of the area of the district must be paid over to the board of county commissioners of that county for the use of the district.

4. The county commissioners of that county may obtain short-term loans of an amount of money not to exceed the total amount of [such] the assessment, for the purpose of paying the expenses of controlling the weeds in the weed control district. [Such] The loans may be made only after [such] the assessments are levied.

Amend the bill as a whole by renumbering sec. 2. as sec. 6.

Amend sec. 2, page 3, line 4, by deleting "granted by" and inserting "granted by".

Amend sec. 2, page 3, line 5, after "board." by inserting a closed bracket.

Amend sec. 2, page 3, line 10, before "grant" by inserting an open bracket.

Amend sec. 2, page 3, by deleting line 11 and inserting:
"or deny the request of the petition.) approve the request, subject to ratification by the board of county commissioners of the county in which the lands are situated if the request is for the inclusion of lands, or deny the request. In the case of proceedings initiated".

Amend sec. 2, page 3, after line 20, by inserting:

"9. No action of the board of directors approving the inclusion of lands within the district becomes effective until it is ratified by the board of county commissioners of the county in which the lands are situated."

Amend the title of the bill, line 4, after the semicolon, by inserting:

"providing for appeal to the state board of agriculture,"

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 16

 ASSEMBLY BILL NO. 16—COMMITTEE ON ECONOMIC
 DEVELOPMENT AND NATURAL RESOURCES

JANUARY 22, 1981

 Referred to Committee on Economic Development and
 Natural Resources

SUMMARY—Provides for extensions of time for use of appropriated water and for registration of certain wells. (BDR 48-87)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: Contains Appropriation.

 EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to water; revising certain provisions of law relating to the time within which appropriated water must be put to a beneficial use; clarifying the date after which a period of nonuse of water works a forfeiture of rights; requiring well drillers to furnish copies of certain records to the state engineer; providing for the registration of certain wells; requiring the plugging of wells for domestic purposes in certain circumstances; requiring access to water of wildlife in certain circumstances; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
 do enact as follows:*

- 1 SECTION 1. NRS 533.135 is hereby amended to read as follows:
 2 533.135 1. At the time of submission of proofs of appropriation,
 3 where the necessary maps are prepared by the state engineer, the fee
 4 collected from such claimants [shall] *must* be the actual cost of survey
 5 and preparation of maps.
 6 2. The state engineer shall collect a fee of [\$10] \$50 for a proof
 7 of water used for domestic purposes or any other character of claim to
 8 water.
 9 3. All fees collected as provided in this section [shall] *must* be
 10 accounted for in detail and deposited with the state treasurer once in
 11 each month.
 12 SEC. 2. NRS 533.380 is hereby amended to read as follows:
 13 533.380 1. In his endorsement of approval upon any application,
 14 the state engineer shall:
 15 (a) Set a time [prior to] *before* which the construction of the work
 16 must be completed, which must be within 5 years of the date of such
 17 approval.
 18 (b) [Set a time prior to] *Except as provided in this paragraph, set a*

1 time before which the complete application of water to a beneficial use
2 must be made, which must not exceed 10 years [from] after the date of
3 the approval. *The time set under this paragraph respecting an application*
4 *for a permit to apply water to a municipal or quasi-municipal use on any*
5 *land for which a final subdivision map has been recorded pursuant to*
6 *chapter 278 of NRS must not be less than 5 years.*

7 2. The state engineer may limit the applicant to a [less amount]
8 smaller quantity of water, [than that applied for, to a less] to a shorter
9 period of time for the completion of work, and [a less], except as pro-
10 vided in paragraph (b) of subsection 1, to a shorter period of time for
11 the perfecting of the application than named in the application.

12 3. [The] Except as provided in subsection 4, the state engineer may,
13 for good cause shown, extend the time within which construction work
14 [shall] must be completed, or water must be applied to a beneficial use
15 under any permit therefor issued by [the state engineer;] him; but an
16 application for the extension must in all cases be made within 30 days
17 following notice by registered or certified mail that proof of the work is
18 due as provided for in NRS 533.390 and 533.410.

19 4. Whenever the holder of a permit issued for any municipal or
20 quasi-municipal use of water on any land for which a final subdivision
21 map has been recorded pursuant to chapter 278 of NRS requests an
22 extension of time to apply the water to a beneficial use, the state engineer
23 shall, in determining whether to grant or deny the extension, consider,
24 among other reasons:

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

27 (b) The number of parcels of land and commercial or residential units
28 which are contained in or planned for the subdivision;

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

31 (d) Any delays in the development of the subdivision which were
32 caused by unanticipated natural conditions.

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

34 533.410 [Should the] If any holder of a permit from the state engi-
35 neer [fail, prior to] fails, before the date set for filing in his permit [.]
36 or the date set by any extension granted by the state engineer, to file with
37 the state engineer proof of application of water to beneficial use, and the
38 accompanying map, if a map is required, the state engineer shall advise
39 the holder of the permit, by registered or certified mail, that the permit is
40 held for cancellation. [Should] If the holder, within 30 days after the
41 mailing of this notice, [fail to file] fails to file with the state engineer the
42 required affidavit and map, if a map is required, or an application for an
43 extension of time to file the instruments, the state engineer shall cancel the
44 permit. For good cause shown, upon application made [prior to] before
45 the expiration of [such] the 30-day period, the state engineer may [in
46 his discretion.] grant an extension of time in which to file the instruments.

47 SEC. 4. NRS 533.435 is hereby amended to read as follows:

48 533.435 1. The [following fees shall be collected by the state engi-
49 neer:] state engineer shall collect the following fees:

1	For examining and filing an application for a permit	
2	to appropriate water.....	[\$35.00] \$100.00
3	[The \$35 fee shall include] This fee	
4	includes the cost of publication [
5	which publication fee] which is \$25.	
6	For examining and acting upon plans and specifica-	
7	tions for construction of a dam, in addition to	
8	the actual cost of inspection.....	100.00
9	For examining and filing an application for each per-	
10	mit to change the point of diversion, manner of	
11	use, or place of use.....	40.00
12	[The \$40 fee shall include the cost of per-	
13	mit should the same issue thereunder,	
14	and the] This fee includes the cost of	
15	the permit and the publication of	
16	such an application, which [publica-	
17	tion fee] is \$25.	
18	[For issuing and recording permit to appropriate	
19	water for irrigation purposes, for each acre to	
20	be irrigated, up to and including 100 acres, per	
21	acre.....	.10
22	For each acre in excess of 100 acres up	
23	to and including 1,000 acres.....	.05
24	For each acre in excess of 1,000 acres.....	.03
25	For issuing and recording permit for power pur-	
26	poses, for each theoretical horsepower to be	
27	developed.....	.05
28	For issuing final certificate under permit for power	
29	purposes, for each theoretical horsepower to be	
30	developed up to and including 100 horsepower....	.25
31	For each horsepower in excess of 100	
32	horsepower up to and including 1,000	
33	horsepower.....	.20
34	For each horsepower in excess of 1,000	
35	horsepower.....	.15
36	For issuing and recording permit to store water.....	25.00
37	For issuing final certificate under permit to store	
38	water, for each acre-foot of water stored up to	
39	and including 1,000 acre-feet.....	.05
40	For each acre-foot in excess of 1,000	
41	acre-feet.....	.03]
42	For issuing and recording each permit to appropri-	
43	ate water for any [other] purpose, except	
44	watering livestock, for each second-foot of water	
45	applied for or fraction thereof.....	[10.00] 100.00
46	For issuing and recording each permit to appropriate	
47	water for watering livestock, for each second-	
48	foot of water applied for or fraction thereof.....	50.00
49	For filing a secondary permit under a reservoir permit....	5.00

1	For approving and recording a permit under a res-		
2	ervoir permit.....		\$5.00
3	For filing proof of completion of work.....	[1.00]	10.00
4	For filing proof of beneficial use.....	[1.00]	10.00
5	For filing any protest.....		10.00
6	For filing any application for extension of time within		
7	which to file proofs.....	[5.00]	25.00
8	For filing any assignment or water right deed, for		
9	each water right assigned, <i>actual cost of the</i>		
10	<i>work up to</i>	[1.00]	10.00
11	For filing any other instrument.....		1.00
12	For making copy of any document recorded or filed		
13	in his office, for the first 100 words.....		1.00
14	For each additional 100 words or fraction		
15	thereof.....		.20
16	Where the amount exceeds \$5, then only		
17	the actual cost in excess of that		
18	amount [shall] <i>may</i> be charged.		
19	For certifying to copies of documents, records or		
20	maps, for each certificate.....		1.00
21	For <i>each</i> blueprint copy of any drawing or map, per		
22	square foot.....		.15
23	The minimum charge for a blueprint copy,		
24	per print.....		1.00

25 2. When fees are not specified in subsection 1 for [such other] work
 26 [as may be] required of his office, the state engineer shall collect the
 27 actual cost of the work.

28 3. [The minimum fee for issuing and recording any permit is \$10.

29 4.] Except as otherwise provided in this subsection, all fees collected
 30 by the state engineer under the provisions of this section must be depos-
 31 ited in the state treasury for credit to the general fund. All fees received
 32 for blueprint copies of any drawing or map must be kept by him and used
 33 only to pay the costs of printing and maintenance of printing equipment.
 34 Any publication fees received which are not used by him for publication
 35 expenses must be returned to the persons who paid the fees. If, after
 36 exercising due diligence, the state engineer is unable to make the refunds,
 37 he shall deposit the fees in the state treasury for credit to the general
 38 fund. The state engineer may maintain, with the approval of the state
 39 board of examiners, a checking account in any bank qualified to handle
 40 state money to carry out the provisions of this subsection. The bank
 41 account [shall] *must* be secured by a depository bond satisfactory to the
 42 state board of examiners to the extent the account is not insured by the
 43 Federal Deposit Insurance Corporation.

44 SEC. 5. Chapter 533 of NRS is hereby amended by adding thereto a
 45 new section which shall read as follows:

46 *Before a person may obtain a right to the use of water from a spring*
 47 *or water which has seeped to the surface of the ground, he must ensure*
 48 *that wildlife which customarily uses the water will have access to it. The*
 49 *state engineer may waive this requirement for a domestic use of water.*

50 SEC. 6. NRS 534.030 is hereby amended to read as follows:

1 534.030 1. Upon receipt by the state engineer of a petition request-
2 ing him to administer the provisions of this chapter as relating to design-
3 ated areas, signed by not less than 40 percent of the appropriators of
4 record in the office of the state engineer, in any particular basin or por-
5 tion therein, having a legal right to appropriate underground water there-
6 from, he shall:

7 (a) Cause to be made the necessary investigations to determine if such
8 administration would be justified.

9 (b) If his findings are affirmative, designate such area by basin, or
10 portion therein, and [shall] make an official order describing the bound-
11 aries by legal subdivision as nearly as possible.

12 (c) Proceed with the administration of this chapter as provided for
13 herein.

14 2. In the absence of such a petition from the owners of wells in a
15 ground water basin which the state engineer has found, after due investi-
16 gation, to be in need of administration as relating to designated areas, the
17 state engineer may upon his own motion enter an order in the same man-
18 ner as if a petition, as described in subsection 1, had been received.

19 3. [Such] *The order of the state engineer may be reviewed by the*
20 *district court of the county pursuant to NRS 533.450.*

21 4. [Such supervision shall be exercised on] *The state engineer shall*
22 *supervise all wells tapping artesian water or water in definable under-*
23 *ground aquifers drilled subsequent to March 22, 1913, and [on] all wells*
24 *tapping percolating water [, the course and boundaries of which are*
25 *incapable of determination,] drilled subsequent to March 25, 1939,*
26 *except those wells [coming under the provisions of NRS 534.180.] for*
27 *domestic purposes for which a permit is not required.*

28 5. Within any ground water basin which has been designated or
29 which may hereafter be so designated by the state engineer, except
30 ground water basins subject to the provisions of NRS 534.035, and
31 wherein a water conservation board has been created and established or
32 wherein a water district has been created and established by law to
33 furnish water to an area or areas within the basin or for ground water
34 conservation purposes, the state engineer, in his discretion and in the
35 administration of the ground water law, [is hereby authorized and
36 directed to] *may avail himself of the services of the governing body of*
37 *such water district or the water conservation board, [or either] or both*
38 *of them, in an advisory capacity. Upon request of the state engineer, the*
39 *governing body or water board shall furnish such advice and assistance*
40 *to the state engineer as he may deem necessary for the purpose of the*
41 *conservation of ground water within the areas affected. The services of*
42 *[such] the governing body or water conservation board [shall] must*
43 *be without compensation from the state, and the services so rendered*
44 *[shall] must be upon reasonable agreements effected with and by the*
45 *state engineer.*

46 SEC. 7. NRS 534.090 is hereby amended to read as follows:

47 534.090 1. [Failure] *Except as provided in subsection 2, failure*
48 *for 5 successive years after April 15, 1967, on the part of the holder of*
49 *any right, whether it [be] is an adjudicated right, an unadjudicated right,*
50 *or permitted right, and further whether [such right be] the right is*

1 initiated after or before March 25, 1939, to use beneficially all or any
2 part of the underground water for the purpose for which [such right
3 shall be] *the right* is acquired or claimed, [shall work] *works* a forfei-
4 ture of both undetermined rights and determined rights of the right to
5 the use of [such] *that* water to the extent of [such] *the* nonuse. Upon
6 the forfeiture of a right to the use of ground water, [such] *the* water
7 [shall revert] *reverts* to the public and [shall be] *is* available for further
8 appropriation, subject to existing rights. If, upon notice by registered or
9 certified mail to the person of record whose right has been declared
10 forfeited, [such] *that* person fails to appeal such ruling in the manner
11 provided for in NRS 533.450, and within the time provided for therein,
12 the forfeiture becomes final.

13 2. *The state engineer may, upon the request of the holder of any*
14 *right described in subsection 1, extend the time necessary to work a*
15 *forfeiture under that subsection if the request is made before the expira-*
16 *tion of the time necessary to work a forfeiture. The state engineer may*
17 *grant any number of extensions, but no single extension may exceed 1*
18 *year. In determining whether to grant or deny a request, the state engineer*
19 *shall, among other reasons, consider:*

20 (a) *Whether the holder has shown good cause for his failure to use all*
21 *or any part of the water beneficially for the purpose for which his right*
22 *is acquired or claimed;*

23 (b) *The unavailability of water to put to a beneficial use which is*
24 *beyond the control of the holder; and*

25 (c) *Any economic conditions or natural disasters which made the*
26 *holder unable to put the water to that use.*

27 3. A right to use underground water whether it [be] *is* vested or
28 otherwise may be lost by abandonment. If the state engineer, in investi-
29 gating a ground water source, upon which there has been a prior right,
30 for the purpose of acting upon an application to appropriate water from
31 the same source, is of the belief from his examination that an abandon-
32 ment has taken place, he shall so state in his ruling approving the appli-
33 cation. If, upon notice by registered or certified mail to the person of
34 record who had the prior right, [such] *that* person fails to appeal such
35 ruling in the manner provided for in NRS 533.450, and within the time
36 provided for therein, the alleged abandonment declaration as set forth
37 by the state engineer becomes final.

38 SEC. 8. NRS 534.170 is hereby amended to read as follows:

39 534.170 1. The well driller shall keep:

40 (a) A log of the depth, thickness and character of the different strata
41 penetrated and the location of water-bearing strata; and

42 (b) An accurate record of the work, including:

43 (1) A statement of the date of beginning work;

44 (2) The date of completion;

45 (3) The length, size and weight of the casing and how [the same]
46 *it is placed;*

47 (4) The size of the drilled hole;

48 (5) Where sealed off and the type of seal;

49 (6) The name of the well driller and the type of drilling machine
50 used;

1 (7) The number of cubic feet per second or gallons per minute of
2 flow from such well when completed; and

3 (8) The pressure in pounds per square inch if it is a flowing well,
4 and, if nonflowing, the static water level, and the water temperature.

5 2. *The well driller shall furnish a copy of the log and the record of*
6 *work for every well drilled to the state engineer within 30 days after the*
7 *well is completed.*

8 3. If the well is to be tested by pumping by the [permittee, immedi-
9 ately following the completion of the test the report shall] holder of the
10 permit, the report of the test must include the drawdown with respect
11 to the amount of water pumped [,] and any additional information
12 requested by the state engineer. [, all of which shall be] This informa-
13 tion must be reported and verified on forms prescribed by the state
14 engineer. [and shall] The report must be returned [within] :

15 (a) *Immediately following the completion of the test; or*

16 (b) *Within 30 days following the completion of the well [.* Such record
17 and dates shall become],
18 *whichever occurs later.*

19 4. *The log, record of the work and report of the test are a permanent*
20 *record in the state engineer's office.*

21 SEC. 9. NRS 534.180 is hereby amended to read as follows:

22 534.180 1. [This] *Except as provided in subsection 2 and as to the*
23 *furnishing of any information required by the state engineer, this chapter*
24 *does not apply in the matter of obtaining permits for the [developing]*
25 *development and use of underground water from a well for domestic pur-*
26 *poses where the draught does not exceed a daily maximum of 1,800 gal-*
27 *lons. [, except as to the furnishing of any information required by the*
28 *state engineer.]*

29 2. *The state engineer may designate any ground water basin or por-*
30 *tion thereof as a basin in which the registration of a well is required if the*
31 *well is drilled for the development and use of underground water for*
32 *domestic purposes. A driller who drills such a well shall register the infor-*
33 *mation required by the state engineer within 10 days after the completion*
34 *of the well. The state engineer shall make available forms for the regis-*
35 *tration of such wells and shall maintain a register of those wells.*

36 3. *The state engineer may require the plugging of such a well which*
37 *is drilled on or after July 1, 1981, at any time not sooner than 1 year*
38 *after water can be furnished to the site by:*

39 (a) *A political subdivision of this state; or*

40 (b) *A public utility whose rates and service are regulated by the public*
41 *service commission of Nevada.*

42 4. *Exploration holes drilled only to collect geochemical, geological*
43 *or geophysical data are not wells subject to the provisions of this chapter*
44 *or the regulations of the state engineer, except as provided in chapter*
45 *534A of NRS.*

46 SEC. 10. NRS 535.010 is hereby amended to read as follows:

47 535.010 1. Any person, firm, association or corporation proposing
48 to construct a dam [in any stream of water] in this state shall, before

1 beginning [the work of such] construction, obtain from the state engi-
2 neer [, or shall have theretofore obtained from him,] a permit to appro-
3 priate, store and use the water to be impounded by [and] or diverted by
4 [such dam.] the dam.

5 2. Any such person, firm, association or corporation obtaining or
6 possessing such a permit shall:

7 (a) Before constructing, reconstructing or altering in any way any
8 dam, notify the state engineer thereof; and

9 (b) Where the [proposed] dam [, or as the same may be recon-
10 structed,] is or will be 10 feet or more in height or is less than 10 feet in
11 height and will impound more than 10 acre-feet of water, submit to the
12 state engineer in triplicate plans and specifications thereof for his approval
13 30 days before construction [of such dam shall] is to begin.

14 3. The state engineer shall examine such plans and specifications
15 and if he approves [the same] them he shall return one copy with his
16 approval to the applicant. If the state engineer disapproves any part of
17 such plans and specifications he shall return [the same] them to the
18 applicant for correction or revision.

19 4. The construction and use of any dam is prohibited [prior to such
20 official] before approval of the plans and specifications [.] by the state
21 engineer.

22 5. The state engineer may at any time inspect or cause to be
23 inspected the construction work while it is in progress in order to deter-
24 mine that it is being done in accordance with the approved plans and
25 specifications.

26 6. This section [shall apply] applies to new construction, recon-
27 struction and alteration of old structures.

28 7. The provisions of this section relating to approval of plans and
29 specifications and inspection of dams [shall] do not apply to works con-
30 structed by the United States Bureau of Reclamation or the United States
31 Army Corps of Engineers; but such federal agencies shall file duplicate
32 plans and specifications with the state engineer.

33 8. Any person beginning the construction of any [such] dam before
34 approval of the plans and specifications by the state engineer, or without
35 having given the state engineer 30 days' advance notice of any proposed
36 change, reconstruction or alteration thereof, [shall be] is guilty of a mis-
37 demeanor. Each day of violation of this section [shall constitute] consti-
38 tutes a separate offense and [be] is separately punishable.

39 SEC. 11. NRS 535.040 is hereby amended to read as follows:

40 535.040 [1.] The provisions of NRS 535.010 to 535.030, inclu-
41 sive, [shall not be construed as creating any liability for damages against
42 the state or against its officers, agents and employees.

43 2. No action may be brought under the provisions of NRS 535.010
44 to 535.030, inclusive, which is based upon:

45 (a) Failure to inspect any dam or the construction of any dam to
46 determine any hazards, deficiencies or other matters, whether or not
47 there is a duty to inspect; or

48 (b) Failure to discover such hazard, deficiency or other matter,
49 whether or not an inspection is made.] and the performance by the

1 *state engineer of his duties under them do not constitute a warranty*
2 *in favor of anyone concerning the water to be impounded or diverted.*

3 SEC. 12. Sections 2, 3 and 4 of this act shall become effective at
4 12:01 a.m. on July 1, 1981.

