

SENATE BILL NO. 76—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF LEGISLATIVE COMMITTEE ON
PUBLIC LANDS (NRS 218.5363))

FEBRUARY 11, 2003

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing acquisition of water rights for purposes of watering livestock. (BDR 48-670)

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

~

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

AN ACT relating to water; revising the restrictions on the issuance of permits to appropriate water for the purpose of watering livestock and certificates of appropriation based upon such permits; 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 533.040 is hereby amended to read as follows:
2 533.040 1. Except as otherwise provided in this section, any
3 water used in this state for beneficial purposes shall be deemed to
4 remain appurtenant to the place of use.
5 2. If at any time it is impracticable to use water beneficially or
6 economically at the place to which it is appurtenant, the right may
7 be severed from the place of use and be simultaneously transferred
8 and become appurtenant to another place of use, in the manner
9 provided in this chapter, without losing priority of right.
10 3. The provisions of this section do not apply to a ditch or
11 canal company that appropriates water for diversion and
12 transmission to the lands of private persons for an annual charge.



* S B 7 6 R 2 *

1 4. For the purposes of this section, a surface water right
2 acquired by a water user in a federal reclamation project may be
3 considered appurtenant to an entire farm, instead of specifically
4 identifiable land within that farm, upon the granting of a permit for
5 the change of place of use by the State Engineer which designates
6 the place of use as the entire farm. The quantity of water available
7 for use on that farm must not exceed the total amount determined by
8 applicable decrees as designated in the permit granted by the State
9 Engineer.

10 5. *For the purposes of this section, a water right acquired for*
11 *watering livestock by a person who owns, leases or otherwise*
12 *possesses a legal or proprietary interest in the livestock being*
13 *watered is appurtenant to:*

14 (a) *The land on which the livestock is watered if the land is*
15 *owned by the person who possesses a legal or proprietary interest*
16 *in the livestock; or*

17 (b) *Other land which is located in this state, is benefited by the*
18 *livestock being watered and is capable of being used in*
19 *conjunction with the livestock operation of the person who owns*
20 *the land if that land is owned by the person who possesses the*
21 *legal or proprietary interest in the livestock being watered.*

22 6. *The provisions of subsection 5 must not be construed:*

23 (a) *To impair a vested right or other existing water right*
24 *established before the effective date of this act of a person to the*
25 *use of water for the purpose of watering livestock; or*

26 (b) *To prevent any transfer of ownership of a water right for*
27 *the purpose of watering livestock.*

28 7. As used in this section, "farm" means a tract of land under
29 the same ownership that is primarily used for agricultural purposes.

30 **Sec. 2.** NRS 533.503 is hereby amended to read as follows:

31 533.503 1. The State Engineer shall not issue ~~[-~~
32 ~~-(a) A] a~~ permit to appropriate water for the purpose of watering
33 livestock ~~[on public lands unless the]~~ *unless:*

34 (a) *The* applicant for the permit is legally entitled to place the
35 livestock on the ~~[public]~~ lands for which the permit is sought ~~[-~~

36 ~~-(b) A], and:~~

37 (1) *Owns, leases or otherwise possesses a legal or*
38 *proprietary interest in the livestock on or to be placed on the lands*
39 *for which the permit is sought; or*

40 (2) *Has received from a person described in subparagraph*
41 *(1), authorization to have physical custody of the livestock on or to*
42 *be placed on the lands for which the permit is sought, and*
43 *authorization to care for, control and maintain such livestock;*



1 (b) *The forage serving the beneficial use of the water to be*
2 *appropriated is not encumbered by an adjudicated grazing*
3 *preference recognized pursuant to law for the benefit of a person*
4 *other than the applicant for the permit; and*

5 (c) *The lack of encumbrance required by paragraph (b) is*
6 *demonstrated by reasonable means, including, without limitation,*
7 *evidence of a valid grazing permit, other than a temporary grazing*
8 *permit, that is issued by the appropriate governmental entity to the*
9 *applicant for the permit.*

10 2. *The State Engineer shall not issue a certificate of*
11 *appropriation based upon a permit to appropriate water for the*
12 *purpose of watering livestock ~~on public lands unless the person~~*
13 *who unless:*

14 (a) *The holder of the permit makes satisfactory proof that the*
15 *water has been beneficially used , is legally entitled to place on*
16 *the ~~land~~ lands the livestock which have been watered pursuant to*
17 *the permit ~~;~~*
18 *~~2.~~, and:*

19 (1) *Owns, leases or otherwise possesses a legal or*
20 *proprietary interest in the livestock which have been watered*
21 *pursuant to the permit; or*

22 (2) *Has received from a person described in subparagraph*
23 *(1), authorization to have physical custody of the livestock which*
24 *have been watered pursuant to the permit, and authorization to*
25 *care for, control and maintain such livestock;*

26 (b) *The forage serving the beneficial use of the water that has*
27 *been beneficially used is not encumbered by an adjudicated*
28 *grazing preference recognized pursuant to law for the benefit of a*
29 *person other than the holder of the permit; and*

30 (c) *The lack of encumbrance required by paragraph (b) is*
31 *demonstrated by reasonable means, including, without limitation,*
32 *evidence of a valid grazing permit, other than a temporary grazing*
33 *permit, that is issued by the appropriate governmental entity to the*
34 *holder of the permit.*

35 3. This section must not be construed to impair the vested right
36 of any person to the use of water for the purpose of watering
37 livestock or to prevent any transfer of ownership of a water right for
38 the purpose of watering livestock.

39 4. *As used in this section, “grazing preference” means a*
40 *priority position in the issuance of a permit to graze livestock on*
41 *the public range.*

42 **Sec. 3.** The amendatory provisions of this act do not apply to a
43 permit to appropriate water for the purposes of watering livestock or
44 a certificate of appropriation based upon such a permit if the permit
45 was issued by the State Engineer before the effective date of this act,



- 1 regardless of whether such a permit or certificate is transferred after
- 2 that date.
- 3 **Sec. 4.** This act becomes effective upon passage and approval.

Ⓢ

