

Amendment No. 707

Assembly Amendment to Senate Bill No. 180

(BDR 48-597)

Proposed by: Assembly Committee on Natural Resources

Amendment Box: Replaces Amendment No. 579.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date				
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 180—SENATOR GOICOECHEA

FEBRUARY 21, 2023

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to groundwater boards. (BDR 48-597)

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

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

AN ACT relating to water; revising provisions relating to the establishment, membership and duties of a groundwater board; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a board of county commissioners to recommend to the State
2 Engineer that the State Engineer establish a groundwater board in an area designated as a
3 groundwater basin by the State Engineer. If the State Engineer directs the establishment of a
4 groundwater board, the Governor is required to appoint seven members who serve on the
5 groundwater board. Existing law authorizes the Governor to dissolve the groundwater board if
6 the Governor determines that the future activities of the board are likely to be insubstantial.
7 (NRS 534.035) **Section 1** of this bill: (1) authorizes a board of county commissioners to
8 request that the State Engineer establish a groundwater board and appoint seven members to
9 serve on the groundwater board; (2) **authorizes boards of county commissioners to jointly**
10 **request that the State Engineer establish a groundwater board; (3)** authorizes a board of
11 county commissioners **or boards of county commissioners, as applicable,** to appoint a
12 nonvoting member to the groundwater board; ~~(4)~~ (4) provides that the groundwater board
13 must be dissolved after 4 years unless the State Engineer approves a request from the board of
14 county commissioners **or boards of county commissioners, as applicable,** to continue the
15 board; and ~~(5)~~ (5) provides that the groundwater board may be dissolved by a majority vote
16 of the groundwater board. **Section 1 further provides that only one groundwater board**
17 **may be established for a designated groundwater basin.**

18 **Section 1** also requires the State Engineer to consider the written advice and
19 recommendations of the groundwater board on reducing overpumping in the designated basin.

20 Existing law requires: (1) the State to pay certain expenses of a groundwater board such
21 as per diem and travel allowances for board members and expenses for consultants employed
22 by a groundwater board; and (2) the State Engineer to determine and certify the budget of a
23 groundwater board for paying such expenses. (NRS 534.035, 534.040) **Sections 1 and 2** of
24 this bill eliminate these provisions and provide that members serve without compensation.

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

Section 1. NRS 534.035 is hereby amended to read as follows:

534.035 1. In each area designated as a groundwater basin by the State Engineer pursuant to the provisions of NRS 534.030 ~~[- the]~~ :

(a) If the designated groundwater basin is located in one county, the board of county commissioners may ~~recommend to the State Engineer~~ **request** that the State Engineer establish a groundwater board. ~~[The State Engineer shall determine whether or not a groundwater board is to be established and may direct its establishment by order.]~~

(b) If the designated groundwater basin is located in more than one county:

(1) A board of county commissioners may request or the boards of county commissioners of the counties may jointly request that the State Engineer establish a groundwater board.

(2) Regardless of whether a groundwater board is requested to be established jointly, the State Engineer may appoint members of the groundwater board in accordance with subsection 3 who reside in any county in which the designated groundwater basin is located.

2. Not more than one groundwater board may be established in a designated groundwater basin pursuant to subsection 1.

3. If a groundwater board is ~~established, the governing bodies of all the cities and towns within the designated area, the board of county commissioners of each county in which the area is located, and the governing body of any water district in which the area is included, or partly included, shall each submit a list of names of residents of the area to the Governor, who~~ requested to be established pursuant to subsection 1, the State Engineer shall appoint seven members of the board ~~[- At least one member must be appointed from each list.]~~ who must reside within the designated groundwater basin as follows:

(a) Four members, each of whom holds a permit or certificate to appropriate water within the designated groundwater basin with a senior date of priority, as determined by the State Engineer;

(b) Two members, each of whom holds a permit or certificate to appropriate water within the designated groundwater basin with a junior date of priority, as determined by the State Engineer; and

(c) One member who holds a permit or certificate, or permits or certificates, within the designated groundwater basin for the greatest quantity of groundwater in the basin, or if such a person is already appointed or unwilling to serve, the person who holds a permit or certificate, or permits or certificates, in the designated groundwater basin for the next greatest quantity of groundwater in the basin, as determined by the State Engineer.

~~[3.]~~ 4. [After the initial terms, the] In addition to the members appointed pursuant to subsection ~~[2.]~~ 3, the board of county commissioners **or boards of county commissioners, as applicable, may appoint a nonvoting member to the groundwater board.**

~~[4.]~~ 5. The term of office of each member of the **groundwater** board is 4 years. The **groundwater** board shall elect one member as chair and one member as secretary to serve as such at the pleasure of the **groundwater** board.

~~[4-5.]~~ 6. The **groundwater** board shall ~~maintain its headquarters at the county seat of]~~ **hold public meetings and any physical location for such public meetings must be in** the county in which the designated area is located , or if the area lies in more than one county ~~[-]~~ and the counties jointly requested the

1 establishment of the groundwater board, in [the county seat of] one of the counties
 2 in which the area is located. The board shall hold meetings at such times and places
 3 as it may determine. Special meetings may be called at any time by the secretary at
 4 the request of any four members, or by the chair, upon notice specifying the matters to
 5 be acted upon at the meeting. No matters other than those specified in the notice
 6 may be acted upon at that meeting unless all members are present and consent
 7 thereto.

8 ~~[5-6]~~ 7. A majority of the **groundwater** board constitutes a quorum, and the
 9 **groundwater** board shall act only by a majority of those present.

10 ~~[6. For each day's attendance at each meeting of the groundwater board, or~~
 11 ~~for each day when services are actually performed for the groundwater board, the~~
 12 ~~members are entitled to receive per diem and travel allowances provided by law.~~
 13 ~~Claims for those expenses must be paid as provided in subsection 7 of NRS~~
 14 ~~534.040.~~

15 ~~7.]~~ 8. **Members of the groundwater board serve without compensation.**

16 ~~[8.]~~ 9. The State Engineer shall ~~[not approve any application or issue any~~
 17 ~~permit to drill a well, appropriate groundwater, change the place or manner of use~~
 18 ~~or the point of diversion of water within the designated area, adopt any related~~
 19 ~~regulations or enter any related orders until the State Engineer has conferred with~~
 20 ~~the board and obtained its]~~ **consider the** written advice and recommendations ~~[]~~
 21 **of the groundwater board on reducing overpumping in the designated groundwater**
 22 **basin.**

23 ~~[8. It is the intention of the Legislature that the State Engineer and the board~~
 24 ~~be in agreement whenever possible, but, for the purpose of fixing responsibility to~~
 25 ~~the Governor, if] **If** there is any disagreement between the State Engineer and the~~
 26 ~~**groundwater** board, the views of the State Engineer prevail. [A written report of~~
 27 ~~any such disagreement must be made immediately to the Governor by the State~~
 28 ~~Engineer and the board.] **A decision of the State Engineer to comply or not comply**~~
 29 ~~**with the views of the groundwater board is not subject to judicial review. A**~~
 30 ~~**disagreement between the State Engineer and a groundwater board is not**~~
 31 ~~**admissible in any proceeding challenging a decision of the State Engineer.**~~

32 ~~[9.]~~ 10. ~~[Any] A groundwater board [may request from the State Engineer or~~
 33 ~~any other state, county, city or district agency such technical information, data and~~
 34 ~~advice as it may require to perform its functions, and] :~~

35 ~~(a) Must be dissolved 4 years after the date such a board is established by the~~
 36 ~~State Engineer [and such other agencies shall, within the resources available to~~
 37 ~~them, furnish such assistance as may be requested.~~

38 ~~— 10. The Governor may dissolve the groundwater board by order if the~~
 39 ~~Governor determines that the future activities of the board are likely to be~~
 40 ~~insubstantial.] pursuant to subsection ~~[2]~~ 3 unless the State Engineer approves a~~
 41 ~~request from the board of county commissioners or boards of county~~
 42 ~~commissioners, as applicable, to continue the groundwater board for any~~
 43 ~~additional 4 year term; and~~

44 ~~(b) May be dissolved by a majority vote of the groundwater board at a~~
 45 ~~meeting of the board.~~

46 **Sec. 2.** NRS 534.040 is hereby amended to read as follows:

47 534.040 1. Upon the initiation of the administration of this chapter in any
 48 particular basin, and where the investigations of the State Engineer have shown the
 49 necessity for the supervision over the waters of that basin, the State Engineer may
 50 employ a well supervisor and other necessary assistants, who shall execute the
 51 duties as provided in this chapter under the direction of the State Engineer. The
 52 salaries of the well supervisor and the assistants of the well supervisor must be

1 fixed by the State Engineer. The well supervisor and assistants are exempt from the
2 provisions of chapter 284 of NRS.

3 2. If the money available from the license fees provided for in NRS 534.140
4 is not sufficient to pay those salaries, together with necessary expenses, including
5 the compensation and other expenses of the Well Drillers' Advisory Board, the
6 board of county commissioners shall, except as otherwise provided in this
7 subsection, levy a special assessment annually, or at such time as the assessment is
8 needed, upon all taxable property situated within the confines of the area designated
9 by the State Engineer to come under the provisions of this chapter in an amount as
10 is necessary to pay such salaries and expenses. If the board of county
11 commissioners determines that the amount of a special assessment levied upon a
12 property owner pursuant to this section when combined with the amount of all other
13 taxes and assessments levied upon the property owner is less than the cost of
14 collecting the special assessment levied pursuant to this subsection, the board of
15 county commissioners may exempt the property owner from the assessment and
16 appropriate money from the general fund of the county to pay the cost of the
17 assessment.

18 3. Except as otherwise provided in subsection 2, in designated areas within
19 which the use of groundwater is predominantly for agricultural purposes, any
20 special assessment levied pursuant to this section must be charged against each
21 water user who has a permit to appropriate water or a perfected water right, and the
22 charge against each water user must be based upon the proportion which his or her
23 water right bears to the aggregate water rights in the designated area. The minimum
24 charge is \$1.

25 4. The salaries and expenses may be paid by the State Engineer from the
26 Water Distribution Revolving Account pending the levy and collection of an
27 assessment levied pursuant to this section.

28 5. Except as otherwise provided in subsection 2, if a special assessment is
29 levied pursuant to this section, the proper officers of the county shall levy and
30 collect the special assessment as other special assessments are levied and collected,
31 and the assessment is a lien upon the property.

32 6. Any special assessment collected pursuant to this section must be deposited
33 with the State Treasurer for credit to the Water District Account to be accounted for
34 in basin well accounts.

35 7. ~~[Upon determination and certification by the State Engineer of the amount
36 to be budgeted for the current or ensuing fiscal year for the purpose of paying the
37 per diem and travel allowances of the groundwater board and employing
38 consultants or other help needed to fulfill its responsibilities, the State Controller
39 shall transfer that amount to a separate operating account for that fiscal year for the
40 groundwater basin. Claims against the account must be approved by the
41 groundwater board and paid as other claims against the State are paid.]~~ The State
42 Engineer may use money in a particular basin well account to support an activity
43 outside the basin in which the money is collected if the activity bears a direct
44 relationship to the responsibilities or activities of the State Engineer regarding the
45 particular groundwater basin.

46 **Sec. 3.** This act becomes effective on July 1, 2023.