

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:

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

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

Existing law requires: (1) the State to pay certain expenses of a groundwater board such as per diem and travel allowances for board members and expenses for consultants employed by a groundwater board; and (2) the State Engineer to



26 determine and certify the budget of a groundwater board for paying such expenses.
27 (NRS 534.035, 534.040) **Sections 1 and 2** of this bill eliminate these provisions
28 and provide that members serve without compensation.

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

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

2 534.035 1. In each area designated as a groundwater basin by
3 the State Engineer pursuant to the provisions of NRS 534.030 ~~[, the]~~
4 :

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

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

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

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

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

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

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

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



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

8 ~~[3.]~~ 4. ~~[After the initial terms, the]~~ *In addition to the members*
9 *appointed pursuant to subsection 3, the board of county*
10 *commissioners or boards of county commissioners, as applicable,*
11 *may appoint a nonvoting member to the groundwater board.*

12 5. *The* term of office of each member of the *groundwater*
13 board is 4 years. The *groundwater* board shall elect one member as
14 chair and one member as secretary to serve as such at the pleasure of
15 the *groundwater* board.

16 ~~[4.]~~ 6. The *groundwater* board shall ~~[maintain its headquarters~~
17 ~~at the county seat of]~~ *hold public meetings and any physical*
18 *location for such public meetings must be in* the county in which
19 the designated area is located, or if the area lies in more than one
20 county ~~[;]~~ *and the counties jointly requested the establishment of*
21 *the groundwater board, in [the county seat of]* one of the counties
22 in which the area is located. The board shall hold meetings at such
23 times and places as it may determine. Special meetings may be
24 called at any time by the secretary at the request of any four
25 members, or by the chair, upon notice specifying the matters to be
26 acted upon at the meeting. No matters other than those specified in
27 the notice may be acted upon at that meeting unless all members are
28 present and consent thereto.

29 ~~[5.]~~ 7. A majority of the *groundwater* board constitutes a
30 quorum, and the *groundwater* board shall act only by a majority of
31 those present.

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

38 ~~—7.]~~ 8. *Members of the groundwater board serve without*
39 *compensation.*

40 9. The State Engineer shall ~~[not approve any application or~~
41 ~~issue any permit to drill a well, appropriate groundwater, change the~~
42 ~~place or manner of use or the point of diversion of water within the~~
43 ~~designated area, adopt any related regulations or enter any related~~
44 ~~orders until the State Engineer has conferred with the board and~~
45 ~~obtained its]~~ *consider the* written advice and recommendations ~~[;]~~ *of*



1 *the groundwater board on reducing overpumping in the*
2 *designated groundwater basin.*

3 ~~[8.—It is the intention of the Legislature that the State Engineer~~
4 ~~and the board be in agreement whenever possible, but, for the~~
5 ~~purpose of fixing responsibility to the Governor, if] *If* there is any~~
6 ~~disagreement between the State Engineer and the groundwater~~
7 ~~board, the views of the State Engineer prevail. [A written report of~~
8 ~~any such disagreement must be made immediately to the Governor~~
9 ~~by the State Engineer and the board.] *A decision of the State*~~
10 *Engineer to comply or not comply with the views of the*
11 *groundwater board is not subject to judicial review. A*
12 *disagreement between the State Engineer and a groundwater*
13 *board is not admissible in any proceeding challenging a decision*
14 *of the State Engineer.*

15 ~~[9.] 10. [Any] A groundwater board [may request from the~~
16 ~~State Engineer or any other state, county, city or district agency such~~
17 ~~technical information, data and advice as it may require to perform~~
18 ~~its functions, and]:~~

19 *(a) Must be dissolved 4 years after the date such a board is*
20 *established by the State Engineer [and such other agencies shall,*
21 *within the resources available to them, furnish such assistance as*
22 *may be requested.*

23 ~~—10. The Governor may dissolve the groundwater board by~~
24 ~~order if the Governor determines that the future activities of the~~
25 ~~board are likely to be insubstantial.] *pursuant to subsection 3*~~
26 *unless the State Engineer approves a request from the board of*
27 *county commissioners or boards of county commissioners, as*
28 *applicable, to continue the groundwater board for any additional 4*
29 *year term; and*

30 *(b) May be dissolved by a majority vote of the groundwater*
31 *board at a meeting of the board.*

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

33 534.040 1. Upon the initiation of the administration of this
34 chapter in any particular basin, and where the investigations of the
35 State Engineer have shown the necessity for the supervision over the
36 waters of that basin, the State Engineer may employ a well
37 supervisor and other necessary assistants, who shall execute the
38 duties as provided in this chapter under the direction of the State
39 Engineer. The salaries of the well supervisor and the assistants of
40 the well supervisor must be fixed by the State Engineer. The well
41 supervisor and assistants are exempt from the provisions of chapter
42 284 of NRS.

43 2. If the money available from the license fees provided for in
44 NRS 534.140 is not sufficient to pay those salaries, together with
45 necessary expenses, including the compensation and other expenses



1 of the Well Drillers' Advisory Board, the board of county
2 commissioners shall, except as otherwise provided in this
3 subsection, levy a special assessment annually, or at such time as the
4 assessment is needed, upon all taxable property situated within the
5 confines of the area designated by the State Engineer to come under
6 the provisions of this chapter in an amount as is necessary to pay
7 such salaries and expenses. If the board of county commissioners
8 determines that the amount of a special assessment levied upon a
9 property owner pursuant to this section when combined with the
10 amount of all other taxes and assessments levied upon the property
11 owner is less than the cost of collecting the special assessment
12 levied pursuant to this subsection, the board of county
13 commissioners may exempt the property owner from the assessment
14 and appropriate money from the general fund of the county to pay
15 the cost of the assessment.

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

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

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

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

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



1 responsibilities or activities of the State Engineer regarding the
2 particular groundwater basin.

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

