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**GREAT BASIN
WATER NETWORK**

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Senator Fabian Donate
Chairman
Senate Natural Resources Committee

RE: SB155 OPPOSITION

Chairman,

The Great Basin Water Network works with communities in rural and urban areas to protect water resources and the integrity of Nevada water law.

We respect any difficulties that the Department of Conservation and Natural Resources (DCNR) may have in finding qualified State Engineers. However, this bill as currently written is not a solution. We fear that this effort to limit the Professional Engineer (PE) requirement will make Nevada's statutory requirements for State Engineer appointments among the weakest in the West. As you will see below, other Mountain West states require professional licensing, senate confirmations, and other standards to ensure the integrity of their water divisions remains intact. This bill is lacking sideboards and accountability criteria as required in other states.

Our organization has litigated with the Division of Water Resources (DWR) during the tenure of multiple State Engineers. We've never believed a State Engineer to be unfit for office. Our current State Engineer, while we may not always agree, is someone who has the acumen, experience, and integrity to serve our state. We are left wondering: Is this a manufactured crisis?

Moreover, the concern with this bill is the wide-open, undefined terms set forth in Section 5. Right now, we have strict standards that demand a State Engineer be a PE with years of testing, training and practicing under his/her/their belt. The Nevada Board of Professional Engineers and Land Surveyors requires a PE to have undergone:

- **Education**
Have an EAC/ABET-accredited bachelor's degree or a Board approved equivalent.
- **Exams**
Pass the Fundamentals of Engineering (FE) exam and the Principals and Practice of Engineering (PE) exam.

- **Experience**

Four years of acceptable, progressive, and verifiable work experience under the supervision of a licensed engineer.

Currently, the buck stops at the top of the ladder at DWR. We have someone with years of engineering experience, proven decision-making skills, and tested technical competence. This legislation doesn't guarantee those pillars. We need someone with a foundational basis for technical evaluation of physical data at the top of the hierarchy for issues like dam safety, water measurements, flood control, planning and other areas.

Additionally, Section 5(2)(a) creates potentially unsettling power dynamics where an Administrator can overrule someone with a Professional Engineer's license. That could have problematic consequences. What would happen if an Administrator overrules an engineer for precarious reasons? What are the liabilities?

In closing, we wanted to share the requirements for top water officials in other Mountain West states. As you will see, SB155 vitiates our strict standards inherent in NRS532 to a degree unseen elsewhere in the West.

ARIZONA:

The language proposed by DCNR appears to essentially mimic Arizona's law – but with one major omission. Arizona requires **Senate Confirmation** for anyone who will serve as Director of the Division of Water Resources for more than a year.

This exclusion from SB155 removes an important public accountability piece. If we want to mimic Arizona, why not go all the way? Why is this not included?

45-102. Department of water resources; director; appointment; qualifications; compensation

- A. There is established a department of water resources.*
- B. There shall be a director of the department who shall be responsible for the direction, operation and control of the department.*
- C. **The director shall be appointed by the governor pursuant to section 38-211 and shall serve at the pleasure of the governor.***
- D. The director shall be experienced and competent in water resources management and conservation, and shall have proven administrative ability.*
- E. The director is entitled to receive compensation pursuant to section 38-611.*

38-211. Nominations by governor; consent of senate; appointment

A. When it is provided by law that a state officer shall be appointed pursuant to this section, the governor shall nominate and **with the consent of the senate appoint such officer as prescribed in this section.**

UTAH:

Utah requires Senate confirmation and five years' experience as an engineer. This is another state with far-reaching accountability and healthy debate leading up to a State Engineer taking office.

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.

- (1) There shall be a state engineer.
- (2) The state engineer shall:
 - (a) **be appointed by the governor with the advice and consent of the Senate;**
 - (b) hold office for the term of four years and until a successor is appointed; and
 - (c) **have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.**

WYOMING:

Requires at least two years of experience and professional licensing.

9-1-901. Qualifications

*The state engineer shall have theoretical knowledge and practical and managerial skill and experience which fits him for the position and **shall have at least two (2) years of engineering practice and experience in the state and shall be a registered professional engineer.***

NEW MEXICO

Requires a professional engineer registration and Senate confirmation.

72-2-1. Appointment; removal; qualifications; duties; office; private practice prohibited.

There shall be a "state engineer" who shall be a technically qualified and registered professional engineer under the Engineering and Land Surveying Practice Act [Chapter 61, Article 23 NMSA 1978] and shall be appointed by the governor and confirmed by the senate. He shall hold office for the term of two years or until his successor has been appointed and has qualified.

IDAHO:

Offers multiple paths to eligibility. But all avenues require demonstrable, outlined experience.

42-1701 (2) Creation of department of water resources — Director — Qualifications — Duties.

*The executive and administrative authority of the department, except such authority as is specifically assigned by law to the water resource board, shall be vested in a director of the department of water resources who shall be: **a licensed civil or agricultural engineer with not less than five (5) years of experience in the active practice of such profession; a registered geologist with not less than five (5) years of experience in the active practice of hydrology; or a hydrologist holding a bachelor's or advanced degree in hydrology from a college or university accredited by a nationally recognized accrediting organization and with not less than five (5) years of experience in surface water and ground water modeling, water delivery and water measurement.** The director of the department of water resources shall also demonstrate experience and expertise in interpreting and applying Idaho water law and shall be familiar with irrigation and other water use practices in Idaho.*

COLORADO

The State Engineer must be a registered engineer.

37-80-113. State engineer - qualifications - salary - conflict of interest

(1) The state personnel director shall require that the state engineer is a person qualified to be a registered engineer in Colorado having the background of knowledge and experience in areas essential to the proper discharge of his duties and functions.

(2) The salary of the state engineer shall be fixed, within the authority granted by section 13 of article XII of the state constitution at a grade requiring compensation adequate to attract and hold in regular employment a person qualified to carry out the functions, duties, and responsibilities of the office, and shall be paid out of general funds of the state as the salaries of the executive officers of the state are paid.

(3) If the state engineer has any personal interest in any matter coming before his office for decision, he shall immediately notify the governor in writing, delineating that interest, and the governor has authority to designate some appropriate person to carry out the functions of the state engineer regarding such matters and to cause such person to be paid a reasonable amount for his services. Personal interest does not mean those matters which members of the public generally may have with respect to any given subject.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'Kyle Roerink', with a stylized, cursive script.

Kyle Roerink
Executive Director
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