

REQUIRES TWO-THIRDS MAJORITY VOTE
(§§ 20, 26, 31, 32 AND 47)

*

A.B. 354

ASSEMBLY BILL NO. 354—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE OFFICE OF FINANCE
IN THE OFFICE OF THE GOVERNOR)

MARCH 22, 2021

Referred to Committee on Natural Resources

SUMMARY—Authorizes the creation of water banks.
(BDR 48-1091)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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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; authorizing the creation and setting forth the authority and duties of certain water banks; requiring the State Engineer to submit a biennial report to the Legislature related to water banks; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the State Engineer manages the appropriation of water in
2 this State. (Chapters 533 and 534 of NRS) **Sections 2-38** of this bill enact the
3 Nevada Water Banking Act to allow, under certain circumstances, for the creation
4 of a water bank that will be authorized to manage the water that is deposited into
5 the water bank.

6 **Section 2** of this bill provides that **sections 2-38** may be cited as the Nevada
7 Water Banking Act. **Section 3** of this bill declares that the purposes of the Act are
8 to: (1) promote the optimal use of water in this State; (2) promote transparency and
9 provide access to water markets; (3) provide an innovative method of administering
10 water rights and distributing water; (4) support the agricultural economy in this
11 State; (5) facilitate robust and sustainable agricultural production while meeting the
12 growing demands for municipal and industrial water use; and (6) promote water
13 quality standards and facilitate a healthy and resilient natural environment. **Sections**
14 **5-17** of this bill define certain terms relating to water banking.

15 **Section 18** of this bill requires the liberal construction of **sections 2-38**.



16 **Section 19** of this bill clarifies that **sections 2-38** do not prohibit a person from
17 entering into any other legal agreement regarding the use of a perfected water right
18 but that only a water bank may avail itself of the provisions of **sections 2-38**.
19 **Section 19** also prohibits the State Engineer from requiring any person to: (1)
20 create a water bank; (2) deposit a perfected water right into a water bank; or (3)
21 otherwise participate in a water bank.

22 **Section 20** of this bill sets forth the requirements for a person or group of
23 persons to submit an application to the State Engineer to create a statutory water
24 bank.

25 **Section 21** of this bill requires the State Engineer to give certain notice of a
26 completed application to create a statutory water bank.

27 **Section 22** of this bill requires the State Engineer to hold a public meeting to:
28 (1) inform water users of the proposed statutory water bank of the application; and
29 (2) receive comments from water users on the application.

30 **Section 23** of this bill requires, under certain circumstances, the State Engineer
31 to approve the creation of a statutory water bank.

32 **Section 24** of this bill requires the governing body of a statutory water bank to
33 obtain approval from the State Engineer before implementing any change to the
34 information set forth in the approved application to create the statutory water bank.

35 **Section 25** of this bill sets forth various conditions on the operation of the
36 statutory water bank, including that the statutory water bank: (1) is subject to all
37 applicable provisions of **sections 2-38**; (2) may accept deposits of perfected water
38 rights for surface water or groundwater, but not both; and (3) is not required to
39 strictly conform to priority of rights in relation to the delivery of banked water.

40 **Section 26** of this bill sets forth the requirements for a public entity to submit
41 an application to the State Engineer to create a contract water bank.

42 **Section 27** of this bill: (1) requires the State Engineer to give notice of a
43 completed application to create a contract water bank and receive public comment;
44 and (2) authorizes the State Engineer to hold a hearing on the application.

45 **Section 28** of this bill requires, under certain circumstances, the State Engineer
46 to approve the creation of a contract water bank.

47 **Section 29** of this bill requires the public entity to obtain approval from the
48 State Engineer before implementing any change to the information set forth in the
49 approved application to create the contract water bank.

50 **Section 30** of this bill sets forth various conditions on the operation of the
51 contract water bank, including that the contract water bank: (1) is subject to all
52 applicable provisions of **sections 2-38**; (2) may accept deposits of perfected water
53 rights for surface water or groundwater, but not both; and (3) is not required to
54 strictly conform to priority of rights in relation to the delivery of banked water.

55 **Section 31** of this bill authorizes under certain circumstances the owner of a
56 perfected water right to deposit the perfected water right into a water bank,
57 including that the owner and water bank jointly submit a change application to the
58 State Engineer. **Sections 31, 41 and 42** of this bill set forth the requirements for the
59 State Engineer to approve or reject a change application.

60 **Section 32** of this bill sets forth the process for a person to submit a request for
61 and receive banked water from a water bank.

62 **Section 33** of this bill: (1) restricts the receipt of banked water to the service
63 area of the water bank; and (2) requires the use of banked water comply with the
64 conditions, if any, set forth in the approved change application for the banked water
65 right.

66 **Section 34** of this bill requires a water bank to: (1) keep a daily accounting of
67 banked water rights and banked water that is delivered; (2) report any illegal water
68 use to the State Engineer; (3) pay all distribution costs for the delivery of banked
69 water; and (4) maintain an Internet website.



70 Existing law authorizes, under certain circumstances, the exercise of eminent
71 domain: (1) for the taking of water rights; or (2) to condemn all lands and other
72 property or rights required for the construction, use and maintenance of any works
73 for the lawful diversion, conveyance and storage of waters. (NRS 37.010, 533.050)
74 **Sections 35, 39 and 52** of this bill prohibit the use of such power while the person
75 uses banked water relating to a perfected water right and within 5 years after the
76 date on which such use ceases.

77 **Section 36** of this bill requires each water bank to submit an annual report to
78 the State Engineer. **Section 37** of this bill requires the State Engineer to give
79 written notice to a water bank that does not submit an annual report.

80 **Section 38** of this bill requires the State Engineer to submit a biennial report to
81 the Director of the Legislative Counsel Bureau for transmittal to the next regular
82 session of the Legislature.

83 **Section 55** of this bill expires the provisions of this bill on December 31, 2031.
84 **Section 54** of this bill: (1) prohibits a water bank from receiving any deposit or
85 approving any delivery request of banked water after December 31, 2031; and (2)
86 provides that a banked water right that is currently deposited into the water bank on
87 December 31, 2031, reverts back to the owner.

88 **Sections 25, 30, 31, 40, 43-46 and 51** of this bill exclude perfected water rights
89 that have been deposited into a water bank from provisions of law related to
90 abandonment, forfeiture and cancellation.

91 **Section 47** of this bill sets forth the fees for an application to create a water
92 bank.

93 **Section 48** of this bill authorizes, with limited exception, a person who is
94 aggrieved by an order of decision of the State Engineer related to water banks to
95 obtain judicial review.

96 **Sections 49** of this bill provides that any person violating **sections 2-38** is
97 subject to certain criminal penalties.

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

1 **Section 1.** Chapter 533 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 38, inclusive, of this
3 act.

4 **Sec. 2.** *Sections 2 to 38, inclusive, of this act may be cited as*
5 *the Nevada Water Banking Act.*

6 **Sec. 3.** *The Legislature hereby finds and declares that the*
7 *intent and purposes of the Nevada Water Banking Act are to:*

8 1. *Promote the optimal use of water in this State;*
9 2. *Promote transparency and provide access to water*
10 *markets;*

11 3. *Provide an innovate method of administering water rights*
12 *and distributing water in this State that encourages temporary,*
13 *flexible and low-cost water transactions between water users;*

14 4. *Support the agricultural economy in this State by providing*
15 *access to water resources and income for the agricultural*
16 *industry;*



1 5. *Facilitate robust and sustainable agricultural production*
2 *while meeting the growing demands for municipal and industrial*
3 *water use in this State; and*

4 6. *Promote water quality standards and facilitate a healthy*
5 *and resilient natural environment.*

6 **Sec. 4.** *As used in sections 2 to 38, inclusive, of this act,*
7 *unless the context otherwise requires, the words and terms defined*
8 *in sections 5 to 17, inclusive, of this act have the meanings*
9 *ascribed to them in those sections.*

10 **Sec. 5.** *“Approved change application” means a change*
11 *application approved by the State Engineer pursuant to NRS*
12 *533.370 that authorizes the holder of a perfected water right to*
13 *deposit that right into a water bank pursuant to the provisions of*
14 *the Nevada Water Banking Act.*

15 **Sec. 6.** *“Banked water” means water from a banked water*
16 *right that has been deposited into a water bank and may be*
17 *distributed by the water bank pursuant to a delivery request.*

18 **Sec. 7.** *“Banked water right” means a perfected water right,*
19 *or portion thereof, that has been deposited into a water bank*
20 *pursuant to the provisions of the Nevada Water Banking Act.*

21 **Sec. 8.** *“Borrower” means a person who is approved by a*
22 *water bank to receive a delivery of banked water.*

23 **Sec. 9.** *“Contract water bank” means a water bank created*
24 *pursuant to section 28 this act.*

25 **Sec. 10.** *“Delivery request” means a request to receive an*
26 *allocation of banked water from a water bank.*

27 **Sec. 11.** *“Deposit” means the temporary placement of a*
28 *perfected water right or portion thereof into a water bank for the*
29 *purpose of allowing the banked water to be used by a borrower*
30 *within the service area of the water bank.*

31 **Sec. 12.** *“Original use” means the conditions of use for a*
32 *banked water right that were in effect before the banked water*
33 *right was deposited into a water bank.*

34 **Sec. 13.** *“Perfected water right” means a water right that*
35 *lists irrigation as the manner of use and has been finalized*
36 *through the issuance of:*

- 37 1. *A certificate of appropriation; or*
- 38 2. *A court decree.*

39 **Sec. 14.** *“Public entity” means the State of Nevada or any*
40 *agency or political subdivision of the State. The term includes,*
41 *without limitation, any purveyor of water but does not include the*
42 *United States or an agency of the United States.*

43 **Sec. 15.** *“Service area” means the geographic area where a*
44 *water bank is approved by the State Engineer to operate and make*
45 *deliveries of banked water.*



1 **Sec. 16.** *“Statutory water bank” means a water bank created*
2 *pursuant to section 23 of this act.*

3 **Sec. 17.** *“Water bank” means a contract water bank or a*
4 *statutory water bank that is created and operates pursuant to the*
5 *provisions of the Nevada Water Banking Act.*

6 **Sec. 18.** *The provisions of sections 2 to 38, inclusive, of this*
7 *act must be liberally construed to carry out the legislative intent*
8 *and purposes set forth in section 3 of this act.*

9 **Sec. 19.** 1. *The Nevada Water Banking Act does not*
10 *prohibit a person from entering into any other legal agreement*
11 *regarding the use of a perfected water right that differs from the*
12 *requirements of sections 2 to 38, inclusive, of this act, except that*
13 *only a water bank created pursuant to the provisions of the Act*
14 *may avail itself of the provisions of sections 2 to 38, inclusive, of*
15 *this act.*

16 2. *The State Engineer shall not require any person to:*

17 (a) *Create a water bank; or*

18 (b) *Deposit any perfected water right into a water bank or*
19 *otherwise participate in a water bank.*

20 **Sec. 20.** 1. *Except as otherwise provided in this section, a*
21 *person or group of persons who own one or more perfected water*
22 *rights may submit to the State Engineer an application to create a*
23 *statutory water bank. The application must be on a form*
24 *prescribed by the State Engineer and include, without limitation:*

25 (a) *The name and mailing address of the proposed statutory*
26 *water bank.*

27 (b) *The legal structure of the proposed statutory water bank,*
28 *which must be recognized under the laws of this State.*

29 (c) *A map of the intended service area for the proposed*
30 *statutory water bank.*

31 (d) *A statement of whether the proposed statutory water bank*
32 *will accept deposits of perfected water rights for surface water or*
33 *groundwater.*

34 (e) *A copy of the governing documents for the proposed*
35 *statutory water bank that set forth:*

36 (1) *The number of members that will serve on the*
37 *governing body of the statutory water bank. The governing body*
38 *must have at least three members and the total number of*
39 *members must be an odd number.*

40 (2) *The terms of office, procedures for election or*
41 *appointment and the qualifications for and duties of the members*
42 *of the governing body.*

43 (3) *The names, telephone numbers and mailing addresses*
44 *of the persons who will be the initial members of the governing*



1 *body if the State Engineer approves the creation of the statutory*
2 *water bank.*

3 *(f) Procedures that describe how, if approved, the proposed*
4 *statutory water bank will:*

5 *(1) Calculate and fund the administrative costs for the*
6 *operation of the statutory water bank.*

7 *(2) Design, facilitate and conduct transactions between*
8 *borrowers and depositors for the use of banked water.*

9 *(3) Accept, reject and manage banked water rights,*
10 *including, without limitation:*

11 *(I) The information that a depositor is required to*
12 *provide to demonstrate the feasibility of using his or her perfected*
13 *water right within the service area of the statutory water bank.*

14 *(II) A description of the process for a depositor to work*
15 *with the statutory water bank in order to file a change application*
16 *with the State Engineer for the deposit of a perfected water right*
17 *into the statutory water bank.*

18 *(III) The conditions for depositing a perfected water*
19 *right into the statutory water bank.*

20 *(IV) A description of how the statutory water bank will*
21 *determine prices for the use of banked water and make payments*
22 *to a depositor for the use of his or her perfected water rights.*

23 *(V) The conditions, if any, under which a depositor may*
24 *continue to use his or her perfected water right at the original*
25 *place of use, which must be consistent with the requirements of*
26 *subsection 3 of section 31 of this act.*

27 *(4) Accept, review and approve delivery requests for banked*
28 *water, including, without limitation:*

29 *(I) The process and deadline for submitting a delivery*
30 *request to the statutory water bank.*

31 *(II) Any costs or fees associated with submitting a*
32 *delivery request and how those costs and fees will be applied or*
33 *used by the statutory water bank.*

34 *(III) The information that a borrower must include in a*
35 *delivery request in order to sufficiently demonstrate the feasibility*
36 *of receiving the requested water within the service area of the*
37 *statutory water bank.*

38 *(IV) Procedures for providing notice to other water*
39 *users in the service area of the statutory water bank and receiving*
40 *comments on delivery requests and the approval or denial, thereof.*

41 *(V) The appeal or grievance procedures for a borrower*
42 *seeking to challenge the denial of a delivery request, including,*
43 *without limitation, setting forth which party has the burden in an*
44 *appeal and the standard of review.*



1 (VI) A description of how the statutory water bank will
2 coordinate with the State Engineer to facilitate the distribution of
3 approved delivery requests.

4 (5) Ensure that the aggregate amount of banked water that
5 is delivered to borrowers by the statutory water bank during any
6 calendar year does not exceed the total amount of banked water
7 that has been deposited into the statutory water bank.

8 (6) Resolve any complaint regarding the operations of the
9 statutory water bank.

10 (g) The process for dissolving or terminating the operation of
11 the proposed statutory water bank, including, without limitation,
12 how the statutory water bank will return banked water rights to
13 depositors and how the statutory water bank will make any
14 payments that are owed to depositors at the time of dissolution or
15 termination.

16 (h) The application fee set forth in NRS 533.435.

17 2. An application submitted pursuant to subsection 1 must be
18 signed by the applicant and at least two persons who will be the
19 initial members of the governing body of the proposed statutory
20 water bank if the application is approved, affirming, under penalty
21 of perjury, that:

22 (a) The information contained in the application is true and
23 correct;

24 (b) If approved, the statutory water bank:

25 (1) Will not discriminate between depositors, borrowers or
26 the manner of use for any banked water right.

27 (2) Will comply with any condition set forth by the State
28 Engineer in an approved change application for a banked water
29 right; and

30 (3) Will report to the State Engineer any known violations
31 of approved change applications for banked water rights.

32 3. The place of use and point of diversion for the perfected
33 water rights owned by a person or group of persons who submit an
34 application for the creation of a statutory water bank pursuant to
35 this section must be located within the proposed service area of the
36 statutory water bank.

37 4. The United States or an agency of the United States may
38 not apply for the creation of a statutory water bank pursuant to
39 this section.

40 **Sec. 21.** 1. Upon receipt of an application to create a
41 statutory water bank, the State Engineer shall:

42 (a) Record the date on which the application was received; and

43 (b) Determine if the application meets the requirements set
44 forth in section 20 of this act. If the application is incomplete, the



1 *State Engineer must notify the applicant of any additional*
2 *information or changes that are needed to process the application.*

3 2. *Within 30 days after the date on which the State Engineer*
4 *determines that an application to create a statutory water bank is*
5 *complete, the State Engineer shall post a notice of the application*
6 *on the Internet website of the State Engineer and publish or cause*
7 *to be published a notice of the application once a week for 4*
8 *consecutive weeks in a newspaper of general circulation in the*
9 *county where the service area of the proposed statutory water bank*
10 *will be located. The notice must set forth:*

11 (a) *That an application to create a statutory water bank has*
12 *been filed with the State Engineer;*

13 (b) *Where any person may obtain a copy of the application and*
14 *any additional information related to the application; and*

15 (c) *The date, time and location of the public meeting required*
16 *pursuant to section 22 of this act.*

17 **Sec. 22.** 1. *On the date indicated in the notice posted*
18 *pursuant to section 21 of this act, the State Engineer shall hold a*
19 *public meeting to:*

20 (a) *Inform water users within the proposed service area of the*
21 *application to create the statutory water bank; and*

22 (b) *Receive comments from water users on the application.*

23 2. *After the public meeting, the State Engineer shall accept*
24 *public comments for a period of not less than 30 days. A person*
25 *who submits a public comment pursuant to this section is not*
26 *entitled to appeal the decision of the State Engineer whether to*
27 *create the statutory water bank pursuant to NRS 533.450.*

28 3. *The State Engineer shall review any public comments*
29 *when considering whether to approve an application to create a*
30 *statutory water bank, but is not required to address how or*
31 *whether any public comments impacted his or her decision.*

32 4. *The applicant may:*

33 (a) *Review any public comments and comments of the State*
34 *Engineer related to the application before the State Engineer*
35 *makes a decision whether to approve the creation of the statutory*
36 *water bank; and*

37 (b) *Amend the application before the State Engineer makes a*
38 *decision by notifying the State Engineer in writing that the*
39 *applicant will be submitting a revised application. Any revised*
40 *application is subject to the same requirements as the original*
41 *application.*

42 **Sec. 23.** 1. *After the hearing and public comment period, if*
43 *the State Engineer determines the information in the application*
44 *is satisfactory and consistent with the intent and purposes set forth*



1 *in section 3 of this act, the State Engineer must approve the*
2 *creation of the statutory water bank.*

3 *2. In approving the application, the State Engineer shall:*

4 *(a) Issue an order approving the creation of the statutory water*
5 *bank; and*

6 *(b) Publish the order and approved application on the Internet*
7 *website of the Office of the State Engineer.*

8 *3. If the State Engineer does not approve the application for*
9 *the creation of a statutory water bank, the State Engineer must:*

10 *(a) Issue a written explanation to the applicant setting forth*
11 *the reason or reasons for the denial; and*

12 *(b) Publish the written explanation on the Internet website of*
13 *the Office of the State Engineer.*

14 **Sec. 24.** *If the State Engineer approves the creation of a*
15 *statutory water bank pursuant to section 23 of this act, the*
16 *governing body of the statutory water bank must obtain approval*
17 *from the State Engineer before implementing any change to the*
18 *information set forth in the approved application. The governing*
19 *body must file with the State Engineer a revised application on a*
20 *form provided by the State Engineer for approval of any such*
21 *change.*

22 **Sec. 25.** *1. A statutory water bank:*

23 *(a) Is subject to all applicable provisions of the Nevada Water*
24 *Banking Act as a condition of the State Engineer's approval to*
25 *create the statutory water bank.*

26 *(b) Except as otherwise provided in this paragraph, may accept*
27 *deposits of perfected water rights. A statutory water bank may*
28 *accept perfected water rights for surface water or groundwater,*
29 *but not both.*

30 *(c) May deliver banked water that has been deposited into the*
31 *statutory water bank in any way that is authorized pursuant to the*
32 *Act but is not required to strictly conform to priority of rights in*
33 *relation to banked water.*

34 *(d) May not discriminate between depositors, borrowers or the*
35 *manner of use for water that is distributed from a banked water*
36 *right.*

37 *2. A banked water right deposited into a statutory water bank*
38 *is not subject to cancellation pursuant to NRS 533.390 or 533.410*
39 *or to abandonment or forfeiture pursuant to NRS 533.060 or*
40 *534.090.*

41 **Sec. 26.** *1. A public entity may submit to the State Engineer*
42 *an application to create a contract water bank. The application*
43 *must be on a form prescribed by the State Engineer and include,*
44 *without limitation:*



1 (a) *The name and mailing address of the proposed contract*
2 *water bank.*

3 (b) *A map of the intended service area of the proposed contract*
4 *water bank, which must be within the jurisdiction of the public*
5 *entity.*

6 (c) *A statement of whether the proposed contract water bank*
7 *will accept deposits of perfected water rights for surface water or*
8 *groundwater.*

9 (d) *A copy of the contract between the public entity and the*
10 *person or persons to whom the proposed contract water bank will*
11 *supply water if the application to create the contract water bank is*
12 *approved. The contract may be redacted as necessary to exclude*
13 *any information that is proprietary, protected or confidential.*

14 (e) *A description of how the governing body of the proposed*
15 *contract water bank will be structured and operate.*

16 (f) *An explanation of how delivery requests and banked water*
17 *rights will be administered.*

18 (g) *An explanation of the procedures that describe how, if*
19 *approved, the proposed contract water bank will ensure that the*
20 *aggregate amount of banked water that is delivered to users*
21 *during any calendar year does not exceed the total amount of*
22 *banked water that has been deposited into the contract water bank.*

23 (h) *Criteria, if any, for the participation in the proposed*
24 *contract water bank of a person that is not a public entity.*

25 (i) *A description of how the public entity will notify the public*
26 *of the activities of the proposed contract water bank.*

27 (j) *The process for dissolving or terminating the operation of*
28 *the proposed contract water bank, including, without limitation,*
29 *how the contract water bank will return banked water rights to*
30 *depositors and how the contract water bank will make any*
31 *payments owed to depositors.*

32 (k) *The application fee set forth in NRS 533.435.*

33 2. *An application for the creation of a contract water bank*
34 *must be signed, under penalty of perjury, attesting that:*

35 (a) *The information contained in the application is true and*
36 *correct;*

37 (b) *If approved, the contract water bank:*

38 (1) *Will comply with any condition set forth by the State*
39 *Engineer in an approved change application for a banked water*
40 *right; and*

41 (2) *Will report to the State Engineer any known violation of*
42 *an approved change application for a banked water right.*

43 3. *The public entity must post any application for the creation*
44 *of a contract water bank that is submitted to the State Engineer on*
45 *the Internet website of the public entity.*



1 **Sec. 27. 1. Upon receipt of an application to create a**
2 **contract water bank, the State Engineer shall:**

3 (a) **Record the date on which the application was received; and**

4 (b) **Determine if the application meets the requirements of**
5 **section 26 of this act. If the application is incomplete, the State**
6 **Engineer must notify the public entity of any additional**
7 **information or changes that are needed to process the application.**

8 2. **Within 30 days after the date on which the State Engineer**
9 **determines that an application is complete, the State Engineer**
10 **shall post a notice of the application on the Internet website of the**
11 **State Engineer and publish or cause to be published a notice of**
12 **the application once a week for 4 consecutive weeks in a**
13 **newspaper of general circulation in the county where the service**
14 **area of the proposed contract water bank is located. The notice**
15 **must set forth:**

16 (a) **That an application to create a contract water bank has**
17 **been filed with the State Engineer; and**

18 (b) **Where any person may obtain a copy of the application and**
19 **any additional information related to the application.**

20 3. **The State Engineer may hold a public meeting to:**

21 (a) **Inform water users within the service area of the proposed**
22 **contract water bank; and**

23 (b) **Receive comments from water users regarding the**
24 **application.**

25 4. **The State Engineer may accept public comments on the**
26 **application. A person who submits a public comment on an**
27 **application is not entitled to appeal the decision of the State**
28 **Engineer whether to create the contract water bank pursuant to**
29 **NRS 533.450.**

30 5. **The State Engineer is not required to address how or**
31 **whether any public comment impacted his or her decision.**

32 6. **The public entity may:**

33 (a) **Review any public comment and comments of the State**
34 **Engineer related to the application before the State Engineer**
35 **makes a decision whether to approve the creation of the contract**
36 **water bank; and**

37 (b) **Amend the application before the State Engineer makes a**
38 **decision by notifying the State Engineer in writing that the public**
39 **entity will be submitting a revised application. Any revised**
40 **application is subject to the requirements set forth in section 26 of**
41 **this act.**

42 **Sec. 28. 1. If the State Engineer determines that the**
43 **information in the application is satisfactory and is consistent with**
44 **the intent and purposes set forth in section 3 of this act, the State**
45 **Engineer must approve the creation of the contract water bank.**



1 2. *In approving the application, the State Engineer shall:*
2 (a) *Issue an order approving the creation of the contract water*
3 *bank; and*

4 (b) *Publish the order and approved application on the Internet*
5 *website of the State Engineer.*

6 3. *If the State Engineer does not approve an application for*
7 *the creation of a contract water bank, the State Engineer must:*

8 (a) *Issue a written explanation to the public entity setting forth*
9 *the reasons for the denial; and*

10 (b) *Publish the written explanation on the Internet website of*
11 *the Office of the State Engineer.*

12 **Sec. 29.** *If the State Engineer approves the creation of a*
13 *contract water bank pursuant to section 28 of this act, the public*
14 *entity must obtain approval from the State Engineer before*
15 *implementing any change to the information set forth in the*
16 *approved application. The public entity must file with the State*
17 *Engineer a revised application on a form provided by the State*
18 *Engineer for approval of any such change.*

19 **Sec. 30.** *1. A contract water bank:*

20 (a) *Is subject to all applicable provisions of the Nevada Water*
21 *Banking Act as a condition of the State Engineer's approval to*
22 *create the contract water bank.*

23 (b) *Except as otherwise provided in this paragraph, may accept*
24 *deposits of perfected water rights. A contract water bank may*
25 *accept deposits of perfected water rights for surface water or*
26 *groundwater, but not both.*

27 (c) *May deliver banked water that has been deposited into the*
28 *contract water bank in any way that is authorized pursuant to the*
29 *Act but is not required to strictly conform to priority of rights in*
30 *relation to banked water.*

31 2. *A banked water right deposited into a contract water bank*
32 *is not subject to cancellation pursuant to NRS 533.390 or 533.410*
33 *or to abandonment or forfeiture pursuant to NRS 533.060 or*
34 *534.090.*

35 **Sec. 31.** *1. The owner of a perfected water right may apply*
36 *to deposit the perfected water right into a water bank by jointly*
37 *submitting a change application with the water bank to the State*
38 *Engineer for approval pursuant to NRS 533.370. If the change*
39 *application is approved by the State Engineer, the perfected water*
40 *right is deposited into the water bank.*

41 2. *The State Engineer shall not approve a change application*
42 *for the deposit of a perfected water right into the water bank if the*
43 *change application does not meet the requirements set forth in*
44 *NRS 533.370 or the deposit of the perfected water right into the*
45 *water bank is not consistent with the provisions set forth in the*



1 *application to create the water bank that was approved by the State*
2 *Engineer pursuant to the Nevada Water Banking Act. If the State*
3 *Engineer approves a change application, the permit expires*
4 *automatically upon the date of the dissolution of the water bank or*
5 *on December 31, 2031, whichever occurs first.*

6 3. *If a perfected water right is deposited into a water bank:*

7 (a) *The depositor's permit related to the perfected water right*
8 *is not subject to cancellation pursuant to NRS 533.390 or 533.410.*

9 (b) *The depositor may continue to use such water for its*
10 *original use if:*

11 (1) *The depositor does so under the authority, control and*
12 *accounting of the water bank;*

13 (2) *The depositor's original use is consistent with the*
14 *operating procedures of the water bank; and*

15 (3) *The water bank does not allow the banked water to be*
16 *delivered to any other borrower within the service area of the*
17 *water bank.*

18 4. *A depositor retains title to any perfected water right that is*
19 *deposited into a water bank and the water bank or borrowers have*
20 *no claim of ownership.*

21 **Sec. 32.** 1. *To receive banked water from a water bank, a*
22 *borrower must submit a delivery request to the water bank that*
23 *complies with the provisions related to such a request that were set*
24 *forth in the application to create the water bank that was approved*
25 *by the State Engineer pursuant to the Nevada Water Banking Act.*

26 2. *Before any water bank may grant a delivery request, the*
27 *water bank must apply for and obtain a permit to change the point*
28 *of diversion, manner of use or place of use of water already*
29 *appropriated pursuant to NRS 533.370. If the State Engineer*
30 *grants such a permit, the permit expires automatically upon the*
31 *date of the dissolution of the water bank or on December 31, 2031,*
32 *whichever occurs first.*

33 3. *If a delivery request would result in:*

34 (a) *The transfer of water to and beneficial use of water in a*
35 *county in this State other than the county in which the water is*
36 *appropriated or in another state, the water bank must comply with*
37 *all other relevant provisions of law related to the transfer*
38 *including, without limitation, NRS 533.438 and 533.4385.*

39 (b) *An interbasin transfer of groundwater, the provisions of*
40 *this chapter related to an interbasin transfer of groundwater*
41 *apply.*

42 **Sec. 33.** 1. *A borrower may only receive banked water from*
43 *a water bank within the service area of the water bank. The use of*
44 *banked water must comply with the conditions, if any, set forth in*
45 *the approved change application for the banked water right.*



1 2. *The State Engineer shall administratively supervise the*
2 *delivery of banked water to a borrower. The State Engineer:*

3 (a) *May review an approved delivery request to ensure the*
4 *delivery request complies with an order by the State Engineer*
5 *approving water rights for use in the water bank, or established*
6 *distribution procedures; and*

7 (b) *Must restrict delivery of banked water that would conflict*
8 *with existing rights or with protectable interests in existing*
9 *domestic wells of persons who are not members of the water bank.*

10 **Sec. 34.** *A water bank shall:*

11 1. *Keep a daily accounting of banked water rights and*
12 *banked water that is delivered to borrowers;*

13 2. *Report any illegal water use to the State Engineer;*

14 3. *Pay all distribution costs assessed for the delivery of*
15 *banked water; and*

16 4. *Maintain an Internet website.*

17 **Sec. 35.** *No person may exercise the right of eminent domain*
18 *pursuant to chapter 37 of NRS or NRS 533.050 in relation to a*
19 *perfected water right while the person uses banked water from the*
20 *perfected water right and within 5 years after the date on which*
21 *such use ceases.*

22 **Sec. 36.** 1. *On or before January 31 of each year, each*
23 *water bank shall submit to the State Engineer, on a form provided*
24 *by the State Engineer, an annual report on the management and*
25 *operations of the water bank which must include, without*
26 *limitation, the following information for the previous calendar*
27 *year:*

28 (a) *The number of perfected water rights and volume of*
29 *banked water that were deposited into the water bank;*

30 (b) *The change application number for each perfected water*
31 *right deposited into the water bank;*

32 (c) *The number of banked water rights that were loaned to*
33 *borrowers and the volume of banked water that was delivered by*
34 *the water bank;*

35 (d) *The nature of use of all banked water that was delivered by*
36 *the water bank;*

37 (e) *The name of every borrower of banked water;*

38 (f) *The amount that the water bank charged each borrower of*
39 *banked water and the amount the water bank paid to the depositor*
40 *of that banked water;*

41 (g) *The revenue generated by the water bank, including,*
42 *without limitation, an explanation of the sources of revenue;*

43 (h) *The total expenses related to the operation of the water*
44 *bank;*

45 (i) *The accounting practices used by the water bank;*



1 (j) An explanation of all pending or ongoing litigation
2 involving the water bank;

3 (k) If any audit of the water bank was performed, a summary
4 of the audit report and findings;

5 (l) If the water bank submitted a revised application to change
6 the information that was included in the original application for
7 the creation of the water bank that was approved by the State
8 Engineer, an explanation of each proposed change;

9 (m) A narrative explanation of any inconsistencies in the
10 annual report or in the operation of the water bank; and

11 (n) A narrative explanation of how the statutory water bank is
12 or is not fulfilling the intent and purposes set forth in section 3 of
13 this act.

14 2. The report required pursuant to subsection 1 must be
15 signed under penalty of perjury by at least two members of the
16 governing body of the water bank attesting that the information
17 contained in the report is truthful and accurate.

18 3. If the annual report does not meet the requirements set
19 forth in subsections 1 and 2, the State Engineer must immediately
20 notify the governing body of the water bank in writing and provide
21 a written explanation of the information that needs to be submitted
22 or corrected. The water bank shall correct all deficiencies in the
23 annual report within 90 days after the date such notice is sent by
24 the State Engineer.

25 4. The State Engineer shall consider satisfactory evidence
26 that the water bank has mailed, hand-delivered or sent the annual
27 report electronically as proof of compliance with this section.

28 5. Every annual report must be posted:

29 (a) On the Internet website of the Office of the State Engineer;
30 and

31 (b) On the Internet website of the water bank.

32 **Sec. 37.** 1. If a water bank does not submit an annual
33 report that satisfies the requirements set forth in section 36 of this
34 act, the State Engineer must provide to the water bank a written
35 notice of noncompliance that:

36 (a) Explains why the water bank is noncompliant; and

37 (b) Gives the water bank 90 days from the date of the notice to
38 correct the cause of the noncompliance.

39 2. The State Engineer shall post the notice of noncompliance
40 on the Internet website of the Office of the State Engineer.

41 3. If the State Engineer determines that the water bank has
42 corrected the noncompliance within the 90-day period, the State
43 Engineer must:

44 (a) Provide the water bank with written notice that the water
45 bank's noncompliance has been cured; and



1 (b) Post on the Internet website of the Office of the State
2 Engineer notice that the water bank's noncompliance has been
3 cured.

4 4. If the water bank fails to correct the noncompliance within
5 the 90-day period, the State Engineer shall terminate the approval
6 for the water bank to operate. If the State Engineer terminates
7 approval for the water bank to operate:

8 (a) The termination is effective on December 31 of the current
9 calendar year;

10 (b) The State Engineer shall:

11 (1) Mail written notice to the water bank that the water
12 bank's approval to operate has been terminated and that the
13 operations of the water bank must cease by December 31 of the
14 current calendar year; and

15 (2) Post on the Internet website of the Office of the State
16 Engineer notice that the water bank's approval to operate has
17 been terminated; and

18 (c) The water bank shall:

19 (1) Notify depositors and borrowers of the termination not
20 later than 60 days after the date the notice of the termination is
21 mailed pursuant to this subsection; and

22 (2) Enact the procedures set forth in the water bank
23 application to terminate the operations of the water bank.

24 **Sec. 38.** The State Engineer shall on or before December 31
25 of each even-numbered year submit to the Director of the
26 Legislative Counsel Bureau for transmittal to the next regular
27 session of the Legislature a written report regarding the
28 implementation of sections 2 to 38, inclusive, of this act. The
29 report must include, without limitation:

30 1. A summary of the implementation of the Nevada Water
31 Banking Act;

32 2. The recommendation of the State Engineer as to whether
33 the Legislature should take one or more of the following actions:

34 (a) Remove or extend the expiration date of the Nevada Water
35 Banking Act;

36 (b) Amend the Nevada Water Banking Act;

37 (c) Take no action in relation to the Nevada Water Banking
38 Act; or

39 (d) Allow the Nevada Water Banking Act to expire;

40 3. An explanation of any recommendation made pursuant to
41 subsection 2; and

42 4. Arguments for and against any recommendation made
43 pursuant to subsection 2.



1 **Sec. 39.** NRS 533.050 is hereby amended to read as follows:
2 533.050 The beneficial use of water is hereby declared a public
3 use, and *except as otherwise provided in section 35 of this act*, any
4 person may exercise the right of eminent domain to condemn all
5 lands and other property or rights required for the construction, use
6 and maintenance of any works for the lawful diversion, conveyance
7 and storage of waters.

8 **Sec. 40.** NRS 533.060 is hereby amended to read as follows:
9 533.060 1. Rights to the use of water must be limited and
10 restricted to as much as may be necessary, when reasonably and
11 economically used for irrigation and other beneficial purposes,
12 irrespective of the carrying capacity of the ditch. The balance of the
13 water not so appropriated must be allowed to flow in the natural
14 stream from which the ditch draws its supply of water, and must not
15 be considered as having been appropriated thereby.

16 2. Rights to the use of surface water shall not be deemed to be
17 lost or otherwise forfeited for the failure to use the water therefrom
18 for a beneficial purpose.

19 3. A surface water right that is appurtenant to land formerly
20 used primarily for agricultural purposes is not subject to a
21 determination of abandonment if the surface water right:

22 (a) Is appurtenant to land that has been converted to urban use;
23 or

24 (b) Has been dedicated to or acquired by a water purveyor,
25 public utility or public body for municipal use.

26 4. *A surface water right that has been deposited into a water*
27 *bank pursuant to the Nevada Water Banking Act is not subject to*
28 *a determination of abandonment.*

29 5. In a determination of whether a right to use surface water
30 has been abandoned, a presumption that the right to use the surface
31 water has not been abandoned is created upon the submission of
32 records, photographs, receipts, contracts, affidavits or any other
33 proof of the occurrence of any of the following events or actions
34 within a 10-year period immediately preceding any claim that the
35 right to use the water has been abandoned:

36 (a) The delivery of water;

37 (b) The payment of any costs of maintenance and other
38 operational costs incurred in delivering the water;

39 (c) The payment of any costs for capital improvements,
40 including works of diversion and irrigation; or

41 (d) The actual performance of maintenance related to the
42 delivery of the water.

43 ~~5.~~ 6. A prescriptive right to the use of the water or any of the
44 public water appropriated or unappropriated may not be acquired by
45 adverse possession. Any such right to appropriate any of the water



1 must be initiated by applying to the State Engineer for a permit to
2 appropriate the water as provided in this chapter.

3 ~~6.7~~ 7. The State of Nevada reserves for its own present and
4 future use all rights to the use and diversion of water acquired
5 pursuant to chapter 462, Statutes of Nevada 1963, or otherwise
6 existing within the watersheds of Marlette Lake, Franktown Creek
7 and Hobart Creek and not lawfully appropriated on April 26, 1963,
8 by any person other than the Marlette Lake Company. Such a right
9 must not be appropriated by any person without the express consent
10 of the Legislature.

11 **Sec. 41.** NRS 533.370 is hereby amended to read as follows:

12 533.370 1. Except as otherwise provided in this section and
13 NRS 533.0241, 533.345, 533.371, 533.372 and 533.503, *and*
14 *section 31 of this act*, the State Engineer shall approve an
15 application submitted in proper form which contemplates the
16 application of water to beneficial use *or the depositing of a*
17 *perfected water right into a water bank pursuant to the Nevada*
18 *Water Banking Act* if:

19 (a) The application is accompanied by the prescribed fees;

20 (b) The proposed use or change, if within an irrigation district,
21 does not adversely affect the cost of water for other holders of water
22 rights in the district or lessen the efficiency of the district in its
23 delivery or use of water; and

24 (c) The applicant provides proof satisfactory to the State
25 Engineer ~~to~~:

26 (1) *Of* the applicant's:

27 ~~(1)~~ (I) Intention in good faith to construct any work
28 necessary to apply the water to the intended beneficial use with
29 reasonable diligence; and

30 ~~(2)~~ (II) Financial ability and reasonable expectation
31 actually to construct the work and apply the water to the intended
32 beneficial use with reasonable diligence ~~to~~; *or*

33 (2) *If the applicant is proposing to deposit a perfected water*
34 *right into a water bank pursuant to the Nevada Water Banking*
35 *Act, that the deposit is consistent with the requirements of section*
36 *31 of this act.*

37 2. Except as otherwise provided in subsection 10, where there
38 is no unappropriated water in the proposed source of supply, where
39 the groundwater that has not been committed for use has been
40 reserved pursuant to NRS 533.0241 or where its proposed use or
41 change conflicts with existing rights or with protectable interests in
42 existing domestic wells as set forth in NRS 533.024, or threatens to
43 prove detrimental to the public interest, the State Engineer shall
44 reject the application and refuse to issue the requested permit. If a
45 previous application for a similar use of water within the same basin



1 has been rejected on those grounds, the new application may be
2 denied without publication.

3 3. In addition to the criteria set forth in subsections 1 and 2, in
4 determining whether an application for an interbasin transfer of
5 groundwater must be rejected pursuant to this section, the State
6 Engineer shall consider:

7 (a) Whether the applicant has justified the need to import the
8 water from another basin;

9 (b) If the State Engineer determines that a plan for conservation
10 of water is advisable for the basin into which the water is to be
11 imported, whether the applicant has demonstrated that such a plan
12 has been adopted and is being effectively carried out;

13 (c) Whether the proposed action is environmentally sound as it
14 relates to the basin from which the water is exported;

15 (d) Whether the proposed action is an appropriate long-term use
16 which will not unduly limit the future growth and development in
17 the basin from which the water is exported; and

18 (e) Any other factor the State Engineer determines to be
19 relevant.

20 4. Except as otherwise provided in this subsection and
21 subsections 6 and 10 and NRS 533.365, the State Engineer shall
22 approve or reject each application within 2 years after the final date
23 for filing a protest. The State Engineer may postpone action:

24 (a) Upon written authorization to do so by the applicant.

25 (b) If an application is protested.

26 (c) If the purpose for which the application was made is
27 municipal use.

28 (d) In areas where studies of water supplies have been
29 determined to be necessary by the State Engineer pursuant to
30 NRS 533.368.

31 (e) Where court actions or adjudications are pending, which may
32 affect the outcome of the application.

33 (f) In areas in which adjudication of vested water rights is
34 deemed necessary by the State Engineer.

35 (g) On an application for a permit to change a vested water right
36 in a basin where vested water rights have not been adjudicated.

37 (h) Where authorized entry to any land needed to use the water
38 for which the application is submitted is required from a
39 governmental agency.

40 (i) On an application for which the State Engineer has required
41 additional information pursuant to NRS 533.375.

42 5. If the State Engineer does not act upon an application in
43 accordance with subsections 4 and 6, the application remains active
44 until approved or rejected by the State Engineer.



1 6. Except as otherwise provided in this subsection and
2 subsection 10, the State Engineer shall approve or reject, within 6
3 months after the final date for filing a protest, an application filed to
4 change the point of diversion of water already appropriated when
5 the existing and proposed points of diversion are on the same
6 property for which the water has already been appropriated under
7 the existing water right or the proposed point of diversion is on real
8 property that is proven to be owned by the applicant and is
9 contiguous to the place of use of the existing water right. The State
10 Engineer may postpone action on the application pursuant to
11 subsection 4.

12 7. If the State Engineer has not approved, rejected or held a
13 hearing on an application within 7 years after the final date for filing
14 a protest, the State Engineer shall cause notice of the application to
15 be republished pursuant to NRS 533.360 immediately preceding the
16 time at which the State Engineer is ready to approve or reject
17 the application. The cost of the republication must be paid by the
18 applicant. After such republication, a protest may be filed in
19 accordance with NRS 533.365.

20 8. If a hearing is held regarding an application, the decision of
21 the State Engineer must be in writing and include findings of fact,
22 conclusions of law and a statement of the underlying facts
23 supporting the findings of fact. The written decision may take the
24 form of a transcription of an oral ruling. The rejection or approval of
25 an application must be endorsed on a copy of the original
26 application, and a record must be made of the endorsement in the
27 records of the State Engineer. The copy of the application so
28 endorsed must be returned to the applicant. Except as otherwise
29 provided in subsection 11, if the application is approved, the
30 applicant may, on receipt thereof, proceed with the construction of
31 the necessary works and take all steps required to apply the water to
32 beneficial use and to perfect the proposed appropriation. If the
33 application is rejected, the applicant may take no steps toward
34 the prosecution of the proposed work or the diversion and use of the
35 public water while the rejection continues in force.

36 9. If a person is the successor in interest of an owner of a water
37 right or an owner of real property upon which a domestic well is
38 located and if the former owner of the water right or real property on
39 which a domestic well is located had previously filed a written
40 protest against the granting of an application, the successor in
41 interest must be allowed to pursue that protest in the same manner
42 as if the successor in interest were the former owner whose interest
43 he or she succeeded. If the successor in interest wishes to pursue the
44 protest, the successor in interest must notify the State Engineer in a
45 timely manner on a form provided by the State Engineer.



1 10. The provisions of subsections 1 to 9, inclusive, do not
2 apply to an application for an environmental permit or a temporary
3 permit issued pursuant to NRS 533.436 or 533.504.

4 11. The provisions of subsection 8 do not authorize the
5 recipient of an approved application to use any state land
6 administered by the Division of State Lands of the State Department
7 of Conservation and Natural Resources without the appropriate
8 authorization for that use from the State Land Registrar.

9 12. As used in this section, "domestic well" has the meaning
10 ascribed to it in NRS 534.350.

11 **Sec. 42.** NRS 533.371 is hereby amended to read as follows:

12 533.371 The State Engineer shall reject the application and
13 refuse to issue a permit to appropriate water for a specified period if
14 the State Engineer determines that:

15 1. The application is incomplete;

16 2. The prescribed fees have not been paid;

17 3. The proposed use is not temporary;

18 4. There is no water available from the proposed source of
19 supply without exceeding the perennial yield or safe yield of that
20 source;

21 5. The groundwater that has not been committed for use from
22 the proposed source of supply has been reserved pursuant to
23 NRS 533.0241;

24 6. The proposed use conflicts with existing rights; ~~or~~

25 7. The proposed use threatens to prove detrimental to the
26 public interest ~~or~~; *or*

27 **8. *The application does not meet the requirements set forth in***
28 ***section 31 of this act, if applicable.***

29 **Sec. 43.** NRS 533.380 is hereby amended to read as follows:

30 533.380 1. Except as otherwise provided in subsection 5 ~~or~~,
31 ***and section 31 of this act***, in an endorsement of approval upon any
32 application, the State Engineer shall:

33 (a) Set a time before which the construction of the work must be
34 completed, which must be within 5 years after the date of approval.

35 (b) Except as otherwise provided in this paragraph, set a time
36 before which the complete application of water to a beneficial use
37 must be made, which must not exceed 10 years after the date of the
38 approval. The time set under this paragraph respecting an
39 application for a permit to apply water to a municipal or quasi-
40 municipal use on any land:

41 (1) For which a final subdivision map has been recorded
42 pursuant to chapter 278 of NRS;

43 (2) For which a plan for the development of a project has
44 been approved by the local government pursuant to NRS 278.010 to
45 278.460, inclusive; or



1 (3) On any land for which a plan for the development of a
2 planned unit development has been recorded pursuant to chapter
3 278A of NRS,

4 ↪ must not be less than 5 years.

5 2. The State Engineer may limit the applicant to a smaller
6 quantity of water, to a shorter time for the completion of work, and,
7 except as otherwise provided in paragraph (b) of subsection 1, to a
8 shorter time for the perfecting of the application than named in the
9 application.

10 3. Except as otherwise provided in subsection 4 and NRS
11 533.395 and 533.4377, the State Engineer may, for good cause
12 shown, grant any number of extensions of time within which
13 construction work must be completed, or water must be applied to a
14 beneficial use under any permit therefor issued by the State
15 Engineer, but a single extension of time must not exceed 5 years. An
16 application for the extension must in all cases be:

17 (a) Made within 30 days following notice by registered or
18 certified mail that proof of the work is due as provided for in NRS
19 533.390 and 533.410; and

20 (b) Accompanied by proof and evidence of the good faith and
21 reasonable diligence with which the applicant is pursuing the
22 perfection of the application.

23 ↪ The State Engineer shall not grant an extension of time unless the
24 State Engineer determines from the proof and evidence so submitted
25 that the applicant is proceeding in good faith and with reasonable
26 diligence to perfect the application. The failure to provide the proof
27 and evidence required pursuant to this subsection is prima facie
28 evidence that the holder is not proceeding in good faith and with
29 reasonable diligence to perfect the application.

30 4. Except as otherwise provided in subsection 5 and NRS
31 533.395, whenever the holder of a permit issued for any municipal
32 or quasi-municipal use of water on any land referred to in paragraph
33 (b) of subsection 1, or for any use which may be served by a county,
34 city, town, public water district or public water company, requests
35 an extension of time to apply the water to a beneficial use, the State
36 Engineer shall, in determining whether to grant or deny the
37 extension, consider, among other factors:

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

40 (b) The number of parcels and commercial or residential units
41 which are contained in or planned for the land being developed or
42 the area being served by the county, city, town, public water district
43 or public water company;



1 (c) Any economic conditions which affect the ability of the
2 holder to make a complete application of the water to a beneficial
3 use;

4 (d) Any delays in the development of the land or the area being
5 served by the county, city, town, public water district or public
6 water company which were caused by unanticipated natural
7 conditions; and

8 (e) The period contemplated in the:

9 (1) Plan for the development of a project approved by the
10 local government pursuant to NRS 278.010 to 278.460, inclusive; or

11 (2) Plan for the development of a planned unit development
12 recorded pursuant to chapter 278A of NRS,

13 ↪ if any, for completing the development of the land.

14 5. The provisions of subsections 1 and 4 do not apply to an
15 environmental permit or a temporary permit issued pursuant to NRS
16 533.436 or 533.504.

17 6. For the purposes of this section, the measure of reasonable
18 diligence is the steady application of effort to perfect the application
19 in a reasonably expedient and efficient manner under all the facts
20 and circumstances. When a project or integrated system is
21 composed of several features, work on one feature of the project or
22 system may be considered in finding that reasonable diligence has
23 been shown in the development of water rights for all features of the
24 entire project or system.

25 7. The State Engineer shall:

26 (a) Adopt any regulation necessary to carry out the provisions of
27 this section; and

28 (b) Provide a copy of such regulations to any person upon
29 request.

30 **Sec. 44.** NRS 533.390 is hereby amended to read as follows:

31 533.390 1. ~~[Any]~~ *Except as otherwise provided in section 31*
32 *of this act, any* person holding a permit from the State Engineer
33 shall, on or before the date set for the completion of the work, file in
34 detail a description of the work as actually constructed. This
35 statement must be verified by the affidavit of the applicant or the
36 applicant's agent or attorney.

37 2. Should any person holding a permit from the State Engineer
38 fail to file with the State Engineer the proof of completion of work,
39 as provided in this chapter, the State Engineer shall advise the
40 holder of the permit, by registered or certified mail, that it is held for
41 cancellation, and should the holder, within 30 days after the mailing
42 of such advice, fail to file the required affidavit, the State Engineer
43 shall cancel the permit. For good cause shown, upon application
44 made prior to the expiration of the 30-day period, the State Engineer



1 may, in his or her discretion, grant an extension of time in which to
2 file the instruments.

3 **Sec. 45.** NRS 533.395 is hereby amended to read as follows:

4 533.395 1. ~~##~~ *Except as otherwise provided in section 31*
5 *of this act, if*, at any time in the judgment of the State Engineer, the
6 holder of any permit to appropriate the public water is not
7 proceeding in good faith and with reasonable diligence to perfect the
8 appropriation, the State Engineer shall require the submission of
9 such proof and evidence as may be necessary to show a compliance
10 with the law. If, in the judgment of the State Engineer, the holder of
11 a permit is not proceeding in good faith and with reasonable
12 diligence to perfect the appropriation, the State Engineer shall
13 cancel the permit, and advise the holder of its cancellation. The
14 failure to provide the proof and evidence required pursuant to this
15 subsection is prima facie evidence that the holder is not proceeding
16 in good faith and with reasonable diligence to perfect the
17 appropriation.

18 2. If any permit is cancelled under the provisions of this section
19 or NRS 533.390 or 533.410, the holder of the permit may within 60
20 days of the cancellation of the permit file a written petition with the
21 State Engineer requesting a review of the cancellation by the State
22 Engineer at a public hearing. The State Engineer may, after
23 receiving and considering evidence, affirm, modify or rescind the
24 cancellation.

25 3. If the decision of the State Engineer modifies or rescinds the
26 cancellation of a permit, the effective date of the appropriation
27 under the permit is vacated and replaced by the date of the filing of
28 the written petition with the State Engineer.

29 4. The cancellation of a permit may not be reviewed or be the
30 subject of any judicial proceedings unless a written petition for
31 review has been filed and the cancellation has been affirmed,
32 modified or rescinded pursuant to subsection 2.

33 5. For the purposes of this section, the measure of reasonable
34 diligence is the steady application of effort to perfect the
35 appropriation in a reasonably expedient and efficient manner under
36 all the facts and circumstances. When a project or integrated system
37 is comprised of several features, work on one feature of the project
38 or system may be considered in finding that reasonable diligence
39 has been shown in the development of water rights for all features of
40 the entire project or system.

41 6. The appropriation of water or the acquisition or lease of
42 appropriated water from any:

- 43 (a) Stream system as provided for in this chapter; or
44 (b) Underground water as provided for in NRS 534.080,



1 ↪ by a political subdivision of this State or a public utility, as
2 defined in NRS 704.020, to serve the present or the reasonably
3 anticipated future municipal, industrial or domestic needs of its
4 customers for water, as determined in accordance with a master plan
5 adopted pursuant to chapter 278 of NRS or a plan approved by the
6 State Engineer, must be considered when reviewing an extension of
7 time.

8 **Sec. 46.** NRS 533.410 is hereby amended to read as follows:

9 533.410 ~~HH~~ *Except as otherwise provided in section 31 of this*
10 *act, if,* any holder of a permit from the State Engineer fails, before
11 the date set for filing in the permit or the date set by any extension
12 granted by the State Engineer, to file with the State Engineer proof
13 of application of water to beneficial use, and the accompanying
14 map, if a map is required, the State Engineer shall advise the holder
15 of the permit, by registered or certified mail, that the permit is held
16 for cancellation. If the holder, within 30 days after the mailing of
17 this notice, fails to file with the State Engineer the required affidavit
18 and map, if a map is required, or an application for an extension of
19 time to file the instruments, the State Engineer shall cancel the
20 permit. For good cause shown, upon application made before the
21 expiration of the 30-day period, the State Engineer may grant an
22 extension of time in which to file the instruments.

23 **Sec. 47.** NRS 533.435 is hereby amended to read as follows:

24 533.435 1. The State Engineer shall collect the following
25 fees:

- 26
- 27 For examining and filing an application for a
- 28 permit to appropriate water \$360.00
- 29 This fee includes the cost of publication,
- 30 which is \$50.
- 31 For reviewing a corrected application or map, or
- 32 both, in connection with an application for a
- 33 water right permit..... 100.00
- 34 For examining and acting upon plans and
- 35 specifications for construction of a dam..... 1,200.00
- 36 For examining and filing an application for each
- 37 permit to change the point of diversion,
- 38 manner of use or place of use of an existing
- 39 right 240.00
- 40 This fee includes the cost of publication,
- 41 which is \$50.
- 42 For examining and filing an application for a
- 43 temporary permit to change the point of
- 44 diversion, manner of use or place of use of an
- 45 existing right..... 180.00



1	For issuing and recording each permit to	
2	appropriate water for any purpose, except for	
3	generating hydroelectric power which results	
4	in nonconsumptive use of the water, watering	
5	livestock or wildlife purposes	\$360.00
6	plus \$3 per acre-foot approved or fraction	
7	thereof.	
8	Except for generating hydroelectric power,	
9	watering livestock or wildlife purposes, for	
10	issuing and recording each permit to change an	
11	existing water right whether temporary or	
12	permanent for any purpose.....	300.00
13	plus \$3 per acre-foot approved or fraction	
14	thereof.	
15	For issuing and recording each permit for	
16	additional rate of diversion from a well where	
17	no additional volume of water is granted	1,000.00
18	For issuing and recording each permit to change	
19	the point of diversion or place of use of an	
20	existing right whether temporary or permanent	
21	for irrigation purposes, a maximum fee of	750.00
22	For issuing and recording each permit to	
23	appropriate or change the point of diversion or	
24	place of use of an existing right whether	
25	temporary or permanent for watering livestock	
26	or wildlife purposes.....	240.00
27	plus \$50 for each cubic foot of water per	
28	second approved or fraction thereof.	
29	For issuing and recording each permit to	
30	appropriate or change an existing right whether	
31	temporary or permanent for water for	
32	generating hydroelectric power which results	
33	in nonconsumptive use of the water	480.00
34	plus \$50 for each cubic foot per second of	
35	water approved or fraction thereof.	
36	For filing and examining a request for a waiver in	
37	connection with an application to drill a well	120.00
38	For filing and examining a notice of intent to drill	
39	a well	25.00
40	For filing and examining an affidavit to relinquish	
41	water rights in favor of use of water for	
42	domestic wells.....	300.00
43	For filing a secondary application under a	
44	reservoir permit	300.00



1	For approving and recording a secondary permit	
2	under a reservoir permit	\$540.00
3	For reviewing each tentative subdivision map	180.00
4	plus \$1 per lot.	
5	For reviewing and approving each final	
6	subdivision map	120.00
7	For storage approved under a dam permit for	
8	privately owned nonagricultural dams which	
9	store more than 50 acre-feet	480.00
10	plus \$1.25 per acre-foot storage capacity.	
11	This fee includes the cost of inspection	
12	and must be paid annually.	
13	For flood control detention basins	480.00
14	plus \$1.25 per acre-foot storage capacity.	
15	This fee includes the cost of inspection	
16	and must be paid annually.	
17	For filing proof of completion of work	60.00
18	For filing proof of beneficial use	60.00
19	For issuing and recording a certificate upon	
20	approval of the proof of beneficial use	350.00
21	For filing proof of resumption of a water right	360.00
22	For filing any protest	30.00
23	For filing any application for extension of time	
24	within which to file proofs, of completion or	
25	beneficial use, for each year for which the	
26	extension of time is sought	120.00
27	For filing any application for extension of time to	
28	prevent a forfeiture, for each year for which	
29	the extension of time is sought	120.00
30	For reviewing a cancellation of a water right	
31	pursuant to a petition for review	360.00
32	For examining and filing a report of conveyance	
33	filed pursuant to paragraph (a) of subsection 1	
34	of NRS 533.384	120.00
35	plus \$20 per conveyance document.	
36	For filing any other instrument	10.00
37	For making a copy of any document recorded or	
38	filed in the Office of the State Engineer, for the	
39	first page	1.00
40	For each additional page20
41	For certifying to copies of documents, records or	
42	maps, for each certificate	6.00
43	For each copy of any full size drawing or map	6.00
44	For each color copy of any full size drawing or	
45	map (2' x 3')	12.00



1 For colored mylar plots \$10.00
 2 *For examining and filing an application to*
 3 *create a water bank 360.00*
 4 *This fee includes the cost of publication,*
 5 *which is \$50.*
 6

7 2. When fees are not specified in subsection 1 for work
 8 required of the Office of the State Engineer, the State Engineer shall
 9 collect the actual cost of the work.

10 3. Except as otherwise provided in this subsection, all fees
 11 collected by the State Engineer under the provisions of this section
 12 must be deposited in the State Treasury for credit to the State
 13 General Fund. All fees received for copies of any drawing or map
 14 must be kept by the State Engineer and used only to pay the costs of
 15 printing, replacement and maintenance of printing equipment. Any
 16 publication fees received which are not used by the State Engineer
 17 for publication expenses must be returned to the persons who paid
 18 the fees. If, after exercising due diligence, the State Engineer is
 19 unable to make the refunds, the State Engineer shall deposit the fees
 20 in the State Treasury for credit to the State General Fund.

21 **Sec. 48.** NRS 533.450 is hereby amended to read as follows:

22 533.450 1. Except as otherwise provided in NRS 533.353,
 23 *and section 22 of this act*, any person feeling aggrieved by any
 24 order or decision of the State Engineer, acting in person or through
 25 the assistants of the State Engineer or the water commissioner,
 26 affecting the person's interests, when the order or decision relates to
 27 the administration of determined rights or is made pursuant to NRS
 28 533.270 to 533.445, inclusive, *and sections 2 to 38, inclusive, of*
 29 *this act*, or NRS 533.481, 534.193, 535.200 or 536.200, may have
 30 the same reviewed by a proceeding for that purpose, insofar as may
 31 be in the nature of an appeal, which must be initiated in the proper
 32 court of the county in which the matters affected or a portion thereof
 33 are situated, but on stream systems where a decree of court has been
 34 entered, the action must be initiated in the court that entered the
 35 decree. The order or decision of the State Engineer remains in full
 36 force and effect unless proceedings to review the same are
 37 commenced in the proper court within 30 days after the rendition of
 38 the order or decision in question and notice thereof is given to the
 39 State Engineer as provided in subsection 3.

40 2. The proceedings in every case must be heard by the court,
 41 and must be informal and summary, but full opportunity to be heard
 42 must be had before judgment is pronounced.

43 3. No such proceedings may be entertained unless notice
 44 thereof, containing a statement of the substance of the order or
 45 decision complained of, and of the manner in which the same



1 injuriously affects the petitioner's interests, has been served upon
2 the State Engineer, personally or by registered or certified mail, at
3 the Office of the State Engineer at the State Capital within 30 days
4 following the rendition of the order or decision in question. A
5 similar notice must also be served personally or by registered or
6 certified mail upon the person who may have been affected by the
7 order or decision.

8 4. Where evidence has been filed with, or testimony taken
9 before, the State Engineer, a transcribed copy thereof, or of any
10 specific part of the same, duly certified as a true and correct
11 transcript in the manner provided by law, must be received in
12 evidence with the same effect as if the reporter were present and
13 testified to the facts so certified. A copy of the transcript must be
14 furnished on demand, at actual cost, to any person affected by the
15 order or decision, and to all other persons on payment of a
16 reasonable amount therefor, to be fixed by the State Engineer.

17 5. An order or decision of the State Engineer must not be
18 stayed unless the petitioner files a written motion for a stay with the
19 court and serves the motion personally or by registered or certified
20 mail upon the State Engineer, the applicant or other real party in
21 interest and each party of record within 10 days after the petitioner
22 files the petition for judicial review. Any party may oppose the
23 motion and the petitioner may reply to any such opposition. In
24 determining whether to grant or deny the motion for a stay, the court
25 shall consider:

26 (a) Whether any nonmoving party to the proceeding may incur
27 any harm or hardship if the stay is granted;

28 (b) Whether the petitioner may incur any irreparable harm if the
29 stay is denied;

30 (c) The likelihood of success of the petitioner on the merits; and

31 (d) Any potential harm to the members of the public if the stay
32 is granted.

33 6. Except as otherwise provided in this subsection, the
34 petitioner must file a bond in an amount determined by the court,
35 with sureties satisfactory to the court and conditioned in the manner
36 specified by the court. The bond must be filed within 5 days after
37 the court determines the amount of the bond pursuant to this
38 subsection. If the petitioner fails to file the bond within that period,
39 the stay is automatically denied. A bond must not be required for a
40 public agency of this State or a political subdivision of this State.

41 7. Costs must be paid as in civil cases brought in the district
42 court, except by the State Engineer or the State.

43 8. The practice in civil cases applies to the informal and
44 summary character of such proceedings, as provided in this section.



1 9. Appeals may be taken to the appellate court of competent
2 jurisdiction pursuant to the rules fixed by the Supreme Court
3 pursuant to Section 4 of Article 6 of the Nevada Constitution from
4 the judgment of the district court in the same manner as in other
5 civil cases.

6 10. The decision of the State Engineer is prima facie correct,
7 and the burden of proof is upon the party attacking the same.

8 11. Whenever it appears to the State Engineer that any
9 litigation, whether now pending or hereafter brought, may adversely
10 affect the rights of the public in water, the State Engineer shall
11 request the Attorney General to appear and protect the interests of
12 the State.

13 **Sec. 49.** NRS 533.480 is hereby amended to read as follows:

14 533.480 Any person violating any of the provisions of NRS
15 533.005 to 533.475, inclusive, *and sections 2 to 38, inclusive, of*
16 *this act* shall be guilty of a misdemeanor.

17 **Sec. 50.** NRS 533.515 is hereby amended to read as follows:

18 533.515 1. No permit for the appropriation of water or
19 application to change the point of diversion, manner of use or place
20 of use under an existing water right may be denied because of the
21 fact that the point of diversion described in the application for the
22 permit, or any portion of the works in the application described and
23 to be constructed for the purpose of storing, conserving, diverting or
24 distributing the water are situated in any other state; but in all such
25 cases where the place of intended use, or the lands, or part of the
26 lands identified as the place of use, are situated within this state, the
27 permit must be issued as in other cases, pursuant to the provisions of
28 NRS 533.324 to 533.450, inclusive, *and sections 2 to 38, inclusive,*
29 *of this act*, and chapter 534 of NRS.

30 2. The permit must not purport to authorize the doing or
31 refraining from any act or thing, in connection with the system of
32 appropriation, not properly within the scope of the jurisdiction of
33 this state and the State Engineer to grant.

34 **Sec. 51.** NRS 534.090 is hereby amended to read as follows:

35 534.090 1. Except as otherwise provided in this section, *and*
36 *section 31 of this act*, failure for 5 successive years after April 15,
37 1967, on the part of the holder of any right, whether it is an
38 adjudicated right, an unadjudicated right or a right for which a
39 certificate has been issued pursuant to NRS 533.425, and further
40 whether the right is initiated after or before March 25, 1939, to use
41 beneficially all or any part of the underground water for the purpose
42 for which the right is acquired or claimed, works a forfeiture of both
43 undetermined rights and determined rights to the use of that water to
44 the extent of the nonuse.



1 2. If the records of the State Engineer or any other documents
2 obtained by or provided to the State Engineer indicate 4 or more
3 consecutive years of nonuse of all or any part of a water right which
4 is governed by this chapter:

5 (a) The State Engineer shall notify the owner of the water right,
6 as determined in the records of the Office of the State Engineer, by
7 registered or certified mail of the nonuse and that the owner has 1
8 year after the date of the notice of nonuse in which to use the water
9 right beneficially and to provide proof of such use to the State
10 Engineer or apply for relief pursuant to subsection 3 to avoid
11 forfeiting the water right.

12 (b) If, after 1 year after the date of the notice of nonuse pursuant
13 to paragraph (a), proof of resumption of beneficial use is not filed in
14 the Office of the State Engineer, the State Engineer shall, unless the
15 State Engineer has granted a request to extend the time necessary to
16 work a forfeiture of the water right, send a final notice to the owner
17 of the water right, as determined in the records of the Office of the
18 State Engineer, by registered or certified mail, that the water right is
19 held for forfeiture. If the owner of the water right, within 30 days
20 after the date of such final notice, fails to file the required proof of
21 resumption of beneficial use or an application for an extension of
22 time to prevent forfeiture, the State Engineer shall declare the right,
23 or the portion of the right not returned to beneficial use, forfeited.
24 The State Engineer shall send notice of the declaration of forfeiture,
25 by registered or certified mail, to the owner of record, as determined
26 in the records of the Office of the State Engineer, of the water right
27 that has been declared forfeited.

28 (c) If, after receipt of a notice of the declaration of forfeiture
29 pursuant to paragraph (b), the owner of record of the water right
30 fails to appeal the ruling in the manner provided for in NRS
31 533.450, and within the time provided for therein, the forfeiture
32 becomes final. Upon the forfeiture of the water right, the water
33 reverts to the public and is available for further appropriation,
34 subject to existing rights.

35 3. The State Engineer may, upon the request of the holder of
36 any right described in subsection 1, extend the time necessary to
37 work a forfeiture under subsection 2 if the request is made before
38 the expiration of the time necessary to work a forfeiture. Except as
39 otherwise provided in subsection 4, the State Engineer may grant,
40 upon request and for good cause shown, any number of extensions,
41 but a single extension must not exceed 1 year. In determining
42 whether to grant or deny a request, the State Engineer shall, among
43 other reasons, consider:

44 (a) Whether the holder has submitted proof and evidence that
45 the holder is proceeding in good faith and with reasonable diligence



1 to resume use of the water beneficially for the purpose for which the
2 holder's right is acquired or claimed;

3 (b) The number of years during which the water has not been
4 put to the beneficial use for which the right is acquired or claimed;

5 (c) Any economic conditions or natural disasters which made
6 the holder unable to put the water to that use;

7 (d) Whether the water right is located in a basin within a county
8 under a declaration of drought by the Governor, United States
9 Secretary of Agriculture or the President of the United States;

10 (e) Whether the holder has demonstrated efforts to conserve
11 water which have resulted in a reduction in water consumption;

12 (f) Whether the water right is located in a basin that has been
13 designated as a critical management area by the State Engineer
14 pursuant to subsection 7 of NRS 534.110;

15 (g) The date of priority of the water right as it relates to the
16 potential curtailment of water use in the basin;

17 (h) The availability of water in the basin, including, without
18 limitation, whether withdrawals of water consistently exceed the
19 perennial yield of the basin; and

20 (i) Any orders restricting use or appropriation of water in the
21 basin.

22 ➤ The State Engineer shall notify, by registered or certified mail,
23 the owner of the water right, as determined in the records of the
24 Office of the State Engineer, of whether the State Engineer has
25 granted or denied the holder's request for an extension pursuant to
26 this subsection. If the State Engineer grants an extension pursuant to
27 this subsection and, before the expiration of that extension, proof of
28 resumption of beneficial use or another request for an extension is
29 not filed in the Office of the State Engineer, the State Engineer shall
30 send a final notice to the owner of the water right, by registered or
31 certified mail, that the water right will be declared forfeited if the
32 owner of the water right fails to file the required proof of
33 resumption of beneficial use or an application for an extension of
34 time to prevent forfeiture within 30 days after the date of the final
35 notice. If the owner of the water right fails to file the required proof
36 of resumption of beneficial use or an application for an extension of
37 time to prevent forfeiture within 30 days after the date of such final
38 notice, the State Engineer shall declare the water right, or the
39 portion of the right not returned to beneficial use, forfeited.

40 4. If the State Engineer grants an extension pursuant to
41 subsection 1 in a basin:

42 (a) Where withdrawals of groundwater consistently exceed the
43 perennial yield of the basin; or

44 (b) That has been designated as a critical management area by
45 the State Engineer pursuant to subsection 7 of NRS 534.110,



1 ↪ a single extension must not exceed 3 years, but any number of
2 extensions may be granted to the holder of such a right.

3 5. The failure to receive a notice pursuant to subsection 2 or 3
4 does not nullify the forfeiture or extend the time necessary to work
5 the forfeiture of a water right.

6 6. A right to use underground water whether it is vested or
7 otherwise may be lost by abandonment. If the State Engineer, in
8 investigating a groundwater source, upon which there has been a
9 prior right, for the purpose of acting upon an application to
10 appropriate water from the same source, is of the belief from his or
11 her examination that an abandonment has taken place, the State
12 Engineer shall so state in the ruling approving the application. If,
13 upon notice by registered or certified mail to the owner of record
14 who had the prior right, the owner of record of the prior right fails to
15 appeal the ruling in the manner provided for in NRS 533.450, and
16 within the time provided for therein, the alleged abandonment
17 declaration as set forth by the State Engineer becomes final.

18 **Sec. 52.** NRS 37.010 is hereby amended to read as follows:

19 37.010 1. Subject to the provisions of this chapter and the
20 limitations in subsections 2 and 3 **§ and section 35 of this act**, the
21 right of eminent domain may be exercised in behalf of the following
22 public uses:

23 (a) Federal activities. All public purposes authorized by the
24 Government of the United States.

25 (b) State activities. Public buildings and grounds for the use of
26 the State, the Nevada System of Higher Education and all other
27 public purposes authorized by the Legislature.

28 (c) County, city, town and school district activities. Public
29 buildings and grounds for the use of any county, incorporated city or
30 town, or school district, reservoirs, water rights, canals, aqueducts,
31 flumes, ditches or pipes for conducting water for the use of the
32 inhabitants of any county, incorporated city or town, for draining
33 any county, incorporated city or town, for raising the banks of
34 streams, removing obstructions therefrom, and widening, deepening
35 or straightening their channels, for roads, streets and alleys, and all
36 other public purposes for the benefit of any county, incorporated
37 city or town, or the inhabitants thereof.

38 (d) Bridges, toll roads, railroads, street railways and similar
39 uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll
40 roads, byroads, plank and turnpike roads, roads for transportation by
41 traction engines or locomotives, roads for logging or lumbering
42 purposes, and railroads and street railways for public transportation.

43 (e) Ditches, canals, aqueducts for smelting, domestic uses,
44 irrigation and reclamation. Reservoirs, dams, water gates, canals,
45 ditches, flumes, tunnels, aqueducts and pipes for supplying persons,



1 mines, mills, smelters or other works for the reduction of ores, with
2 water for domestic and other uses, for irrigating purposes, for
3 draining and reclaiming lands, or for floating logs and lumber on
4 streams not navigable.

5 (f) Byroads. Byroads leading from highways to residences and
6 farms.

7 (g) Public utilities. Lines for telephone, electric light and electric
8 power and sites for plants for electric light and power.

9 (h) Sewerage. Sewerage of any city, town, settlement of not less
10 than 10 families or any public building belonging to the State or
11 college or university.

12 (i) Water for generation and transmission of electricity. Canals,
13 reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying
14 and storing water for the operation of machinery to generate and
15 transmit electricity for power, light or heat.

16 (j) Cemeteries, public parks. Cemeteries or public parks.

17 (k) Pipelines for petroleum products, natural gas. Pipelines for
18 the transportation of crude petroleum, petroleum products or natural
19 gas, whether interstate or intrastate.

20 (l) Aviation. Airports, facilities for air navigation and aerial
21 rights-of-way.

22 (m) Monorails. Monorails and any other overhead or
23 underground system used for public transportation.

24 (n) Video service providers. Video service providers that are
25 authorized pursuant to chapter 711 of NRS to operate a video
26 service network. The exercise of the power of eminent domain may
27 include the right to use the wires, conduits, cables or poles of any
28 public utility if:

29 (1) It creates no substantial detriment to the service provided
30 by the utility;

31 (2) It causes no irreparable injury to the utility; and

32 (3) The Public Utilities Commission of Nevada, after giving
33 notice and affording a hearing to all persons affected by the
34 proposed use of the wires, conduits, cables or poles, has found that it
35 is in the public interest.

36 (o) Redevelopment. The acquisition of property pursuant to
37 chapter 279 of NRS.

38 2. Notwithstanding any other provision of law and except as
39 otherwise provided in this subsection, the public uses for which
40 private property may be taken by the exercise of eminent domain do
41 not include the direct or indirect transfer of any interest in the
42 property to another private person or entity. Property taken by the
43 exercise of eminent domain may be transferred to another private
44 person or entity in the following circumstances:



1 (a) The entity that took the property transfers the property to a
2 private person or entity and the private person or entity uses the
3 property primarily to benefit a public service, including, without
4 limitation, a utility, railroad, public transportation project, pipeline,
5 road, bridge, airport or facility that is owned by a governmental
6 entity.

7 (b) The entity that took the property leases the property to a
8 private person or entity that occupies an incidental part of an airport
9 or a facility that is owned by a governmental entity and, before
10 leasing the property:

11 (1) Uses its best efforts to notify the person from whom the
12 property was taken that the property will be leased to a private
13 person or entity that will occupy an incidental part of an airport or
14 facility that is owned by a governmental entity; and

15 (2) Provides the person from whom the property was taken
16 with an opportunity to bid or propose on any such lease.

17 (c) The entity that took the property:

18 (1) Took the property in order to acquire property that was
19 abandoned by the owner, abate an immediate threat to the safety of
20 the public or remediate hazardous waste; and

21 (2) Grants a right of first refusal to the person from whom
22 the property was taken that allows that person to reacquire the
23 property on the same terms and conditions that are offered to the
24 other private person or entity.

25 (d) The entity that took the property exchanges it for other
26 property acquired or being acquired by eminent domain or under the
27 threat of eminent domain for roadway or highway purposes, to
28 relocate public or private structures or to avoid payment of
29 excessive compensation or damages.

30 (e) The person from whom the property is taken consents to the
31 taking.

32 3. The entity that is taking property by the exercise of eminent
33 domain has the burden of proving that the taking is for a public use.

34 4. For the purposes of this section, an airport authority or any
35 public airport is not a private person or entity.

36 **Sec. 53.** The provisions of subsection 1 of NRS 218D.380 do
37 not apply to any provision of this act which adds or revises a
38 requirement to submit a report to the Legislature.

39 **Sec. 54.** 1. If a water bank is created pursuant to the
40 provisions of sections 2 to 38, inclusive, of this act:

41 (a) The water bank shall not on or after January 1, 2032:

42 (1) Receive any deposit of a perfected water right; or

43 (2) Approve any delivery request or deliver any banked
44 water.



1 (b) A banked water right that is deposited into a water bank on
2 December 31, 2031, reverts back to the owner on January 1, 2032,
3 subject to the permit that existed before the State Engineer approved
4 the change application to deposit the perfected water right into the
5 water bank.

6 2. As used in this section:

7 (a) “Banked water” has the meaning ascribed to it in section 4 of
8 this act.

9 (b) “Banked water right” has the meaning ascribed to it in
10 section 5 of this act.

11 (c) “Delivery request” has the meaning ascribed to it in section 8
12 of this act.

13 (d) “Deposit” has the meaning ascribed to it in section 9 of this
14 act.

15 (e) “Perfected water right” has the meaning ascribed to it in
16 section 11 of this act.

17 (f) “Water bank” has the meaning ascribed to it in section 15 of
18 this act.

19 **Sec. 55.** This act becomes effective on July 1, 2021, and
20 expires by limitation on December 31, 2031.

