

Amendment No. 332

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| Assembly Amendment to Assembly Bill No. 333 | (BDR 22-357) |
| Proposed by: Assembly Committee on Government Affairs | |
| Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes | |

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

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



ASSEMBLY BILL NO. 333—ASSEMBLYMEN KRASNER, ROBERTS; ELLISON, HARDY AND O’NEILL

MARCH 18, 2021

Referred to Committee on Government Affairs

SUMMARY—Makes changes to provisions relating to land use planning. (BDR 22-357)

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

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

AN ACT relating to land use planning; establishing certain requirements for judicial review of certain land use planning decisions of a governing body, commission or board; exempting under certain circumstances, the retention or detention of developed stormwater flow from ~~certain appropriation procedures under certain circumstances;~~ provisions related to the appropriation of water; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Existing law authorizes the governing bodies of cities and counties to regulate and restrict land use within their jurisdictions, which may include requirements for the retention or detention of stormwater before approving the development, division or subdivision of a parcel of land. (NRS 278.020)~~ Existing law prohibits the filing of an action against a governing body, commission or board with respect to any final action, decision or order related to land use planning unless the action is commenced within 25 days after the filing of the notice of a final action, decision or order. (NRS 278.0235) **Section 1** of this bill establishes deadlines for: (1) filing a memorandum of points and authorities; (2) serving and filing a reply memorandum of points and authorities; and (3) requesting a hearing. **Section 1** authorizes the court to extend the deadlines and requires all memoranda of points and authorities to comply with Rule 28 of the Nevada Rules of Appellate Procedure.

Existing law requires that, subject to existing rights, the appropriation of any water in this State is subject to the provisions of chapter 533 of NRS, which, among other things, require any person seeking to appropriate water to obtain a permit to do so. (NRS 533.030, 533.325) ~~Section 2 of this bill provides that if the governing body of a county or city requires the retention or detention of stormwater before approving the development, division or subdivision of land, the retention or detention of stormwater is exempted from the requirements of chapter 533 of NRS so that the stormwater may be retained or detained without a water right or permit to appropriate water.~~ **Section 2.5 of this bill provides that in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County), the requirements of chapter 533 of NRS do not apply to the retention or detention of developed stormwater flow for the purpose of flood control or stormwater management if: (1) the governing body of the county or city requires such retention or detention as a condition of the approval of a development; and (2) such retention or detention does not impair the predevelopment flow or predevelopment recharge of the**

26 relevant sources of surface water or groundwater. Sections 3 and 4 of this bill make
27 conforming changes related to exempting such retention or detention of developed
28 stormwater flow from the general requirements of chapter 533 of NRS.

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

1 **Section 1.** NRS 278.0235 is hereby amended to read as follows:

2 278.0235 **1.** No action or proceeding may be commenced for the purpose of
3 seeking judicial relief or review from or with respect to any final action, decision or
4 order of any governing body, commission or board authorized by NRS 278.010 to
5 278.630, inclusive, unless the action or proceeding is commenced within 25 days
6 after the date of filing of notice of the final action, decision or order with the clerk
7 or secretary of the governing body, commission or board.

8 **2.** *A petitioner or cross-petitioner who is seeking judicial review must serve*
9 *and file a memorandum of points and authorities within 40 days after an action is*
10 *commenced.*

11 **3.** *The respondent or cross-petitioners shall serve and file a reply*
12 *memorandum of points and authorities within 30 days after the service of the*
13 *memorandum of points and authorities.*

14 **4.** *The petition or cross-petitioner may serve and file a reply memorandum*
15 *of points and authorities within 30 days after service of the reply memorandum.*

16 **5.** *Within 7 days after the expiration of the time within which the petitioner*
17 *is required to reply, any party may request a hearing. Unless a request for*
18 *hearing has been filed, the matter shall be deemed submitted.*

19 **6.** *All memoranda of points and authorities filed in proceedings involving*
20 *petitions for judicial review must be in the form provided for appellate briefs in*
21 *Rule 28 of the Nevada Rules of Appellate Procedure.*

22 **7.** *The court, for good cause, may extend the times allowed in this section*
23 *for filing memoranda.*

24 **Sec. 2.** ~~NRS 533.027 is hereby amended to read as follows:~~

25 ~~533.027 1. The provisions of this chapter do not apply to [the]:~~

26 ~~(a) The de minimus collection of precipitation;~~

27 ~~[(a)] (I) From the rooftop of a single family dwelling for nonpotable domestic~~
28 ~~use; or~~

29 ~~[(b)] (2) If the collection does not conflict with any existing water rights as~~
30 ~~determined by the State Engineer, in a guzzler to provide water for use by wildlife.~~
31 ~~The guzzler must:~~

32 ~~_____ [(1)] (I) Have a capacity of 20,000 gallons or less;~~

33 ~~_____ [(2)] (II) Have a capture area of 1 acre or less;~~

34 ~~_____ [(3)] (III) Have a pipe length of 1/4 mile or less;~~

35 ~~_____ [(4)] (IV) Be developed by a state or federal agency responsible for~~
36 ~~wildlife management or by any other person in consultation with the Department of~~
37 ~~Wildlife; and~~

38 ~~_____ [(5)] (V) Be approved for use by the Department of Wildlife [,]; or~~

39 ~~(b) The retention or detention of stormwater for the purpose of flood control~~
40 ~~if the governing body of a county or city has required the retention or detention~~
41 ~~of stormwater pursuant to the provisions of NRS 278.010 to 278.630, inclusive.~~

42 ~~2. As used in this section:~~

43 ~~(a) "Domestic use" has the meaning ascribed to it in NRS 534.013; and~~

1 ~~“(b) ‘‘Guzzler’’ has the meaning ascribed to it in NRS 501.121.” (Deleted by~~
2 ~~amendment.)~~

3 **Sec. 2.5. Chapter 533 of NRS is hereby amended by adding thereto a**
4 **new section to read as follows:**

5 **1. In a county whose population is 100,000 or more but less than 700,000,**
6 **the provisions of this chapter do not apply to the retention or detention of**
7 **developed stormwater flow for the purpose of flood control or stormwater**
8 **management if:**

9 **(a) The governing body of the county or city requires such retention or**
10 **detention as a condition of the approval of a development pursuant to NRS**
11 **278.010 to 278.630, inclusive; and**

12 **(b) Such retention or detention does not impair the predevelopment flow or**
13 **predevelopment recharge of the relevant sources of surface water or**
14 **groundwater.**

15 **2. As used in this section, ‘‘developed stormwater flow’’ means the increase**
16 **of surface stormwater runoff created by or resulting from the construction of**
17 **man-made impervious surfaces as part of the development of land.**

18 **Sec. 3. NRS 533.030 is hereby amended to read as follows:**

19 533.030 1. Subject to existing rights, and except as otherwise provided in
20 this section and NRS 533.0241 and 533.027, ~~and~~ **and section 2.5 of this act**, all water
21 may be appropriated for beneficial use as provided in this chapter and not
22 otherwise.

23 2. The use of water, from any stream system as provided in this chapter and
24 from underground water as provided in NRS 534.080, for any recreational purpose,
25 or the use of water from the Muddy River or the Virgin River to create any
26 developed shortage supply or intentionally created surplus, is hereby declared to be
27 a beneficial use. As used in this subsection:

28 (a) ‘‘Developed shortage supply’’ has the meaning ascribed to it in Volume 73
29 of the Federal Register at page 19884, April 11, 2008, and any subsequent
30 amendment thereto.

31 (b) ‘‘Intentionally created surplus’’ has the meaning ascribed to it in Volume 73
32 of the Federal Register at page 19884, April 11, 2008, and any subsequent
33 amendment thereto.

34 3. Except as otherwise provided in subsection 4, in any county whose
35 population is 700,000 or more:

36 (a) The board of county commissioners may prohibit or restrict by ordinance
37 the use of water and effluent for recreational purposes in any artificially created
38 lake or stream located within the unincorporated areas of the county.

39 (b) The governing body of a city may prohibit or restrict by ordinance the use
40 of water and effluent for recreational purposes in any artificially created lake or
41 stream located within the boundaries of the city.

42 4. In any county whose population is 700,000 or more, the provisions of
43 subsection 1 and of any ordinance adopted pursuant to subsection 3 do not apply to:

44 (a) Water stored in an artificially created reservoir for use in flood control, in
45 meeting peak water demands or for purposes relating to the treatment of sewage;

46 (b) Water used in a mining reclamation project; or

47 (c) A body of water located in a recreational facility that is open to the public
48 and owned or operated by the United States or the State of Nevada.

49 **Sec. 4. NRS 533.325 is hereby amended to read as follows:**

50 533.325 Except as otherwise provided in NRS 533.027 and 534.065, ~~and~~ **and**
51 **section 2.5 of this act**, any person who wishes to appropriate any of the public
52 waters, or to change the place of diversion, manner of use or place of use of water
53 already appropriated, shall, before performing any work in connection with such

- 1 appropriation, change in place of diversion or change in manner or place of use,
- 2 apply to the State Engineer for a permit to do so.