

ASSEMBLY BILL NO. 325—ASSEMBLYMAN O’NEILL

MARCH 17, 2023

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to water. (BDR 48-915)

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

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

AN ACT relating to water; providing that certain temporary changes to the place of diversion, manner of use or place of use of water are not required to be approved by the State Engineer under certain circumstances; authorizing the State Engineer to accept certain nonconforming maps under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires, with certain exceptions: (1) any person who wishes to
2 change the place of diversion, manner of use or place of use of water already
3 appropriated to apply to the State Engineer for a permit to do so; and (2) for a
4 temporary change of the place of diversion, manner of use or place of use of water
5 already appropriated, the State Engineer to approve such an application for a
6 temporary change if the State Engineer determines the temporary change is in the
7 public interest and does not impair the water rights held by other persons. (NRS
8 533.325, 533.345) **Section 2** of this bill creates an exception from these
9 requirements to allow a person to temporarily change the place of diversion,
10 manner of use or place of use of water already appropriated if: (1) the temporary
11 change occurs within the boundaries of an irrigation district within a federal
12 reclamation project; (2) the irrigation district approves the temporary change; and
13 (3) the temporary change does not exceed 1 year. **Section 5** of this bill provides that
14 the definition of the term “water already appropriated” applies to **section 2**. **Section**
15 **6** of this bill makes a conforming change to provide that the provisions of **section 2**
16 are an exception to the requirement for the State Engineer to approve a temporary
17 change.

18 Existing law requires certain applications relating to water to be accompanied
19 by a map which must meet certain requirements. (NRS 533.350, 533.355, 533.405,
20 533.415) **Section 3** of this bill authorizes the State Engineer to accept a map which
21 does not meet such requirements if: (1) the map is filed in connection with an
22 application to appropriate water or to change the place of diversion, manner of use
23 or place of use of water that is subject to the control of an irrigation district within a



24 federal reclamation project; and (2) the irrigation district approves the map. **Section**
25 **7** of this bill makes a conforming change to provide that the provisions of **section 3**
26 are an exception to the requirement that a map filed in connection with a proof of
27 application of water to beneficial use conform to the rules and regulations of the
28 State Engineer.

29 Existing law provides that a water right acquired for use in a federal
30 reclamation project is governed by, with certain exceptions, the applicable law of
31 this State in effect on the date on which the United States appropriated water for
32 initiation of the project. (NRS 533.037) **Section 4** of this bill makes a conforming
33 change to provide that a water right acquired for use in a federal reclamation
34 project is subject to the provisions of **sections 2 and 3**.

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 and 3 of this act.

3 **Sec. 2.** *A person is not required to file an application for a*
4 *temporary change of the point of diversion, manner of use or*
5 *place of use for water already appropriated pursuant to NRS*
6 *533.345 if the request is for a temporary change in which:*

7 *1. The temporary change occurs within the boundaries of an*
8 *irrigation district within a federal reclamation project;*

9 *2. The irrigation district approves the temporary change; and*

10 *3. The temporary change does not exceed 1 year.*

11 **Sec. 3.** *The State Engineer may, in his or her discretion,*
12 *accept a map that does not conform with the requirements of*
13 *chapter 533 of NRS and any regulations adopted pursuant thereto*
14 *if:*

15 *1. The map is filed in connection with an application to*
16 *appropriate water or to change the point of diversion, manner of*
17 *use or place of use of water that is subject to the control of an*
18 *irrigation district within a federal reclamation project; and*

19 *2. The irrigation district in which the water is located has*
20 *approved the map.*

21 **Sec. 4.** NRS 533.037 is hereby amended to read as follows:

22 533.037 1. The priority of a water right acquired by a person
23 for use in a federal reclamation project is determined according to
24 the date on which the United States appropriated water for initiation
25 of the project. Notwithstanding the fact that the water right so
26 appropriated and acquired may ultimately vest in the name of the
27 person at a later date, *and except as otherwise provided in sections*
28 *2 and 3 of this act*, all such water rights so acquired are governed by
29 the applicable law of this State in effect on the date on which the
30 United States appropriated water for initiation of the project, unless
31 the water rights vested under the law in this State before the time the



1 United States first appropriated or otherwise acquired the water for
2 initiation of the project. If the water right vested under the law in
3 this State before appropriation or acquisition by the United States,
4 the date of initiation of the water right is determined according to
5 the date on which the water was first diverted under that
6 appropriation or acquisition by the United States.

7 2. No water rights, in addition to those allocated under
8 applicable court decrees, are granted, stated or implied by the
9 determination of the date of priority pursuant to subsection 1.

10 **Sec. 5.** NRS 533.324 is hereby amended to read as follows:

11 533.324 As used in NRS 533.325, 533.345 and 533.425, *and*
12 *section 2 of this act*, “water already appropriated” includes water for
13 whose appropriation the State Engineer has issued a permit but
14 which has not been applied to the intended use before an application
15 to change the place of diversion, manner of use or place of use is
16 made.

17 **Sec. 6.** NRS 533.325 is hereby amended to read as follows:

18 533.325 Except as otherwise provided in NRS 533.027,
19 533.028 and 534.065, *and section 2 of this act*, any person who
20 wishes to appropriate any of the public waters, or to change the
21 place of diversion, manner of use or place of use of water already
22 appropriated, shall, before performing any work in connection with
23 such appropriation, change in place of diversion or change in
24 manner or place of use, apply to the State Engineer for a permit to
25 do so.

26 **Sec. 7.** NRS 533.405 is hereby amended to read as follows:

27 533.405 1. The State Engineer may, in his or her discretion,
28 request that the statement required by NRS 533.400 be accompanied
29 by a map on tracing linen on a scale of not less than 1,000 feet to the
30 inch, which shall show with substantial accuracy the following:

31 (a) The point of diversion by legal subdivisions or by metes and
32 bounds from some corner, when possible, from the source of supply.

33 (b) The traverse of the ditch or other conduit, together with cross
34 sections of the same.

35 (c) The legal subdivisions of the land embraced in the
36 application for the permit and the outline by metes and bounds of
37 the irrigated area, with the amount thereof.

38 (d) The average grade and the difference in elevation of the
39 termini of the conduit, and the carrying capacity of the same.

40 (e) The actual quantity of water flowing in the canal or conduit
41 during the time the survey was being made.

42 2. The map must bear the affidavit of the surveyor or engineer
43 making such survey and map. If the survey and map are made by
44 different persons the affidavit of each must be on the map, showing
45 that the map as compiled agrees with the survey.



- 1 3. ~~The~~ *Except as otherwise provided in section 3 of this act,*
- 2 *the* map shall conform with such rules and regulations as the State
- 3 Engineer shall make, which rules shall not be in conflict herewith.

