

Amendment No. 109

Assembly Amendment to Assembly Bill No. 325	(BDR 48-915)
Proposed by: Assembly Committee on Natural Resources	
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. 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 surface 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:

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

Existing law requires certain applications relating to water to be accompanied by a map which must meet certain requirements. (NRS 533.350, 533.355, 533.405, 533.415) **Section 3** of this bill authorizes the State Engineer to accept a map which does not meet such requirements if: (1) the map is filed in connection with an application to appropriate surface water or to change the place of diversion, manner of use or place of use of surface water that is subject to the control of an irrigation district within a federal reclamation project; and (2) the irrigation district approves the map. **Section 7** of this bill makes a conforming change to provide that the provisions of **section 3** are an exception to the requirement that a map filed in connection with a proof of application of water to beneficial use conform to the rules and regulations of the State Engineer.

Existing law provides that a water right acquired for use in a federal reclamation project is governed by, with certain exceptions, the applicable law of this State in effect on the date on which the United States appropriated water for initiation of the project. (NRS 533.037) **Section 4** of this bill makes a conforming change to provide that a water right acquired for use in a federal reclamation 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 thereto the
2 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 temporary*
4 *change of the point of diversion, manner of use or place of use for water already*
5 *appropriated pursuant to NRS 533.345 if the request is for a temporary change*
6 *for surface water in which:*

7 1. *The temporary change occurs within the boundaries of an irrigation*
8 *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, accept a map that*
12 *does not conform with the requirements of chapter 533 of NRS and any*
13 *regulations adopted pursuant thereto if:*

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

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

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

21 533.037 1. The priority of a water right acquired by a person for use in a
22 federal reclamation project is determined according to the date on which the United
23 States appropriated water for initiation of the project. Notwithstanding the fact that
24 the water right so appropriated and acquired may ultimately vest in the name of the
25 person at a later date, *and except as otherwise provided in sections 2 and 3 of this*
26 *act*, all such water rights so acquired are governed by the applicable law of this
27 State in effect on the date on which the United States appropriated water for
28 initiation of the project, unless the water rights vested under the law in this State
29 before the time the United States first appropriated or otherwise acquired the water
30 for initiation of the project. If the water right vested under the law in this State
31 before appropriation or acquisition by the United States, the date of initiation of the
32 water right is determined according to the date on which the water was first
33 diverted under that appropriation or acquisition by the United States.

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

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

38 533.324 As used in NRS 533.325, 533.345 and 533.425, *and section 2 of this*
39 *act*, "water already appropriated" includes water for whose appropriation the State
40 Engineer has issued a permit but which has not been applied to the intended use
41 before an application to change the place of diversion, manner of use or place of
42 use is made.

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

44 533.325 Except as otherwise provided in NRS 533.027, 533.028 and 534.065,
45 *and section 2 of this act*, any person who wishes to appropriate any of the public
46 waters, or to change the place of diversion, manner of use or place of use of water
47 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.

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

4 533.405 1. The State Engineer may, in his or her discretion, request that the
5 statement required by NRS 533.400 be accompanied by a map on tracing linen on a
6 scale of not less than 1,000 feet to the inch, which shall show with substantial
7 accuracy the following:

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

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

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

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

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

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

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