

Amendment No. 218

Senate Amendment to Senate Bill No. 113	(BDR 48-595)
Proposed by: Senate 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.

ERS/HAC



Date: 4/14/2023

S.B. No. 113—Revises provisions relating to groundwater management plans.
(BDR 48-595)



SENATE BILL NO. 113—SENATORS GOICOECHEA, TITUS, BUCK, HANSEN, STONE; AND
KRASNER (BY REQUEST)

FEBRUARY 8, 2023

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to groundwater management plans.
(BDR 48-595)

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; **requiring the State Engineer to affirm or modify the perennial yield of a basin in a designated critical management area**; revising provisions relating to groundwater management plans; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the State Engineer: (1) may designate certain basins as critical management areas; and (2) is required to designate a basin as a critical management area upon receipt of a petition signed by a majority of the holders of certificates or permits to appropriate water in the basin. (NRS 534.110) Existing law further provides that in a basin that has been designated as a critical management area, a petition for the approval of a groundwater management plan may be submitted to the State Engineer by a majority of the holders of permits or certificates to appropriate water in the basin. (NRS 534.037) **Section 1 of this bill: (1) requires the State Engineer to affirm or modify the perennial yield of a basin at the same time he or she designates a basin as a critical management area; and (2) authorizes the State Engineer to modify the perennial yield for a critical management area based on the best available science. Section 1 also requires the State Engineer to review the perennial yield before reviewing the results of a groundwater management plan and modify the perennial yield if there has been a change.**

Section 1.5 of this bill provides that ~~such~~ a petition **for the approval of a groundwater management plan** must instead be signed by ~~the~~ holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer who represent a majority of the total groundwater ~~permitted or certificated~~ for use in the basin. ~~and (2) the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer who represent a majority of groundwater committed in the basin with dates of priority that are older than the date on which appropriations for withdrawals of groundwater in the basin were equal to the perennial yield of the basin.~~ **Section 1.5** also provides that the holder of a permit or certificate with ~~such~~ a date of priority **before the date on which permits or certificates for withdrawals of groundwater in the basin were equal to the perennial yield of the basin** who does not sign the petition may not be required to comply with an approved groundwater management plan.

Section 1.5 further provides that, if the State Engineer modifies the perennial yield of the basin, the holders of permits or certificates with dates of priority before or after the date on which withdrawals of groundwater in the basin were equal to the previous

perennial yield of the basin must be required to comply or allowed to opt out of complying with an approved groundwater management plan, depending on whether the perennial yield is increased or decreased.

Under existing law, the State Engineer is required to restrict withdrawals of groundwater to conform to priority rights under certain circumstances, including if a basin has been designated as a critical management area for at least 10 consecutive years. (NRS 534.110) ~~Section 1.5~~ requires the State Engineer to review an approved groundwater management plan that has been in effect for 10 consecutive years to determine whether there has been significant progress towards stabilizing the ~~drawdown~~ water level of ~~groundwater in~~ the basin and, if not, with certain exceptions, to restrict withdrawals of groundwater to conform to priority rights ~~until the water level is stabilized~~. ~~Section 2~~ of this bill makes a conforming change to create an exception for the restriction of withdrawals to allow a domestic well to continue to withdraw 0.5 acre-feet of water per year if the owner of the domestic well installs or has installed a water meter to record the withdrawal.

~~Section 3~~ of this bill requires that, beginning on October 1, 2033, 10 years after the effective date of this bill, the State Engineer must review any groundwater management plan that was approved before October 1, 2023, to determine whether there has been significant progress towards stabilizing the ~~drawdown~~ water level of ~~groundwater in~~ the basin and, if not, to restrict withdrawals in accordance with the requirements of this bill ~~until the water level is stabilized~~.

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

Section 1. Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the State Engineer designates a basin as a critical management area pursuant to subsection 7 of NRS 534.110, the State Engineer shall, in the order designating the critical management area, affirm or modify the perennial yield of the designated basin.

2. The State Engineer may, by order, modify the perennial yield of a basin set forth in the order designating the critical management area pursuant to subsection 1 if the State Engineer determines, after consideration of the best available science, that the perennial yield of the basin is different from the perennial yield set forth in such order.

3. The State Engineer shall, before reviewing the results of a groundwater management plan pursuant to subsection 8 of NRS 534.037, review the perennial yield of the basin set forth in the order pursuant to subsection 1 and may modify the perennial yield of the basin pursuant to subsection 2 if the State Engineer determines the perennial yield has changed.

~~[Section 1.]~~ Sec. 1.5. NRS 534.037 is hereby amended to read as follows:

534.037 1. In a basin that has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110, a petition for the approval of a groundwater management plan for the basin may be submitted to the State Engineer. The petition must ~~be~~:

~~(a) Be signed by a majority of the~~

~~(1) The~~ the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer who represent a majority of the total groundwater committed permitted or certificated for use in the basin; and ~~must be~~

~~(2) The holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer who represent a majority of groundwater committed in the basin with dates of priority that are older than~~

1 ~~the date on which appropriations for withdrawals of groundwater in the basin~~
2 ~~were equal to the perennial yield of the basin, and]~~

3 (b) *Be* accompanied by a groundwater management plan which must set forth
4 the necessary steps for removal of the basin's designation as a critical management
5 area.

6 2. In determining whether to approve a groundwater management plan
7 submitted pursuant to subsection 1, the State Engineer shall consider, without
8 limitation:

9 (a) The hydrology of the basin;

10 (b) The physical characteristics of the basin;

11 (c) The geographic spacing and location of the withdrawals of groundwater in
12 the basin;

13 (d) The quality of the water in the basin;

14 (e) The wells located in the basin, including, without limitation, domestic
15 wells;

16 (f) Whether a groundwater management plan already exists for the basin; and

17 (g) Any other factor deemed relevant by the State Engineer.

18 3. Before approving or disapproving a groundwater management plan
19 submitted pursuant to subsection 1, the State Engineer shall hold a public hearing to
20 take testimony on the plan in the county where the basin lies or, if the basin lies in
21 more than one county, within the county where the major portion of the basin lies.
22 The State Engineer shall cause notice of the hearing to be:

23 (a) Given once each week for 2 consecutive weeks before the hearing in a
24 newspaper of general circulation in the county or counties in which the basin lies.

25 (b) Posted on the Internet website of the State Engineer for at least 2
26 consecutive weeks immediately preceding the date of the hearing.

27 4. The decision of the State Engineer on a groundwater management plan
28 may be reviewed by the district court of the county pursuant to NRS 533.450.

29 5. An amendment to a groundwater management plan must be proposed and
30 approved in the same manner as an original groundwater management plan is
31 proposed and approved pursuant to this section.

32 6. *The State Engineer shall not require the holder of a permit or certificate*
33 *in the basin with a date of priority that is ~~older than~~ before the date on which*
34 *~~[appropriations]~~ permits or certificates for withdrawals of groundwater in the*
35 *basin were equal to the perennial yield of the basin who does not sign the petition*
36 *submitted pursuant to subsection 1 to comply with the provisions of a*
37 *groundwater management plan that is approved pursuant to this section, but the*
38 *holder of such a permit or certificate may notify the State Engineer in writing*
39 *that he or she intends to comply with the approved groundwater management*
40 *plan at any time after the groundwater management plan has been approved.*

41 7. *If the State Engineer modifies the perennial yield of a basin pursuant to*
42 *subsection 2 of section 1 of this act after a groundwater management plan is*
43 *submitted pursuant to subsection 1, the State Engineer shall, as applicable:*

44 (a) *If the perennial yield is decreased, require all holders of permits or*
45 *certificates in the basin with a date of priority that is after the date on which*
46 *permits or certificates for withdrawals of groundwater in the basin were equal to*
47 *the perennial yield of the basin to comply with the provisions of the approved*
48 *groundwater management plan; and*

49 (b) *If the perennial yield is increased, provide all holders of permits or*
50 *certificates in the basin with a date of priority that is before the date on which*
51 *permits or certificates for withdrawals of groundwater in the basin were equal to*
52 *the perennial yield of the basin the opportunity to opt out of complying with the*
53 *approved groundwater management plan by notifying the State Engineer in*

1 writing that he or she does not intend to comply with the approved groundwater
2 management plan.

3 8. If a groundwater management plan approved pursuant to this section has
4 been in effect for 10 consecutive years, the State Engineer shall review the results
5 of the groundwater management plan to determine whether there has been
6 significant progress towards stabilizing the ~~drawdown~~ water level of
7 ~~groundwater in~~ the basin, as determined by the State Engineer. If the State
8 Engineer determines there has not been significant progress, the State Engineer
9 shall, except as otherwise provided in subsection 9 of NRS 534.110, order:

10 (a) The groundwater management plan dissolved; and

11 (b) That withdrawals, including, without limitation, withdrawals from
12 domestic wells, be restricted in that basin to conform to priority rights ~~for~~ until the
13 water level of the basin is stabilized.

14 **Sec. 2.** NRS 534.110 is hereby amended to read as follows:

15 534.110 1. The State Engineer shall administer this chapter and shall
16 prescribe all necessary regulations within the terms of this chapter for its
17 administration.

18 2. The State Engineer may:

19 (a) Require periodical statements of water elevations, water used, and acreage
20 on which water was used from all holders of permits and claimants of vested rights.

21 (b) Upon his or her own initiation, conduct pumping tests to determine if
22 overpumping is indicated, to determine the specific yield of the aquifers and to
23 determine permeability characteristics.

24 3. The State Engineer shall determine whether there is unappropriated water
25 in the area affected and may issue permits only if the determination is affirmative.
26 The State Engineer may require each applicant to whom a permit is issued for a
27 well:

28 (a) For municipal, quasi-municipal or industrial use; and

29 (b) Whose reasonably expected rate of diversion is one-half cubic foot per
30 second or more,

31 **↳** to report periodically to the State Engineer concerning the effect of that well on
32 other previously existing wells that are located within 2,500 feet of the well.

33 4. It is a condition of each appropriation of groundwater acquired under this
34 chapter that the right of the appropriator relates to a specific quantity of water and
35 that the right must allow for a reasonable lowering of the static water level at the
36 appropriator's point of diversion. In determining a reasonable lowering of the static
37 water level in a particular area, the State Engineer shall consider the economics of
38 pumping water for the general type of crops growing and may also consider the
39 effect of using water on the economy of the area in general.

40 5. This section does not prevent the granting of permits to applicants later in
41 time on the ground that the diversions under the proposed later appropriations may
42 cause the water level to be lowered at the point of diversion of a prior appropriator,
43 so long as any protectable interests in existing domestic wells as set forth in NRS
44 533.024 and the rights of holders of existing appropriations can be satisfied under
45 such express conditions. At the time a permit is granted for a well:

46 (a) For municipal, quasi-municipal or industrial use; and

47 (b) Whose reasonably expected rate of diversion is one-half cubic foot per
48 second or more,

49 **↳** the State Engineer shall include as a condition of the permit that pumping water
50 pursuant to the permit may be limited or prohibited to prevent any unreasonable
51 adverse effects on an existing domestic well located within 2,500 feet of the well,
52 unless the holder of the permit and the owner of the domestic well have agreed to
53 alternative measures that mitigate those adverse effects.

1 6. Except as otherwise provided in subsection 7, the State Engineer shall
2 conduct investigations in any basin or portion thereof where it appears that the
3 average annual replenishment to the groundwater supply may not be adequate for
4 the needs of all permittees and all vested-right claimants, and if the findings of
5 the State Engineer so indicate, except as otherwise provided in subsection 9, the State
6 Engineer may order that withdrawals, including, without limitation, withdrawals
7 from domestic wells, be restricted to conform to priority rights ~~to~~ until the water
8 level of the basin is stabilized.

9 7. The State Engineer:

10 (a) May designate as a critical management area any basin in which
11 withdrawals of groundwater consistently exceed the perennial yield of the basin.

12 (b) Shall designate as a critical management area any basin in which
13 withdrawals of groundwater consistently exceed the perennial yield of the basin
14 upon receipt of a petition for such a designation which is signed by ~~a majority of~~
15 the holders of certificates or permits to appropriate water in the basin that are on
16 file in the Office of the State Engineer ~~to~~ who represent a majority of groundwater
17 permitted or certificated for use in the basin.

18 ↪ The designation of a basin as a critical management area pursuant to this
19 subsection may be appealed pursuant to NRS 533.450. If a basin has been
20 designated as a critical management area for ~~at least~~ 10 consecutive years, except
21 as otherwise provided in subsection 9, the State Engineer shall order that
22 withdrawals, including, without limitation, withdrawals from domestic wells, be
23 restricted in that basin to conform to priority rights ~~to~~ until the water level of the
24 basin is stabilized, unless a groundwater management plan has been approved for
25 the basin pursuant to NRS 534.037.

26 8. In any basin or portion thereof in the State designated by the State
27 Engineer, the State Engineer may restrict drilling of wells in any portion thereof if
28 the State Engineer determines that additional wells would cause an undue
29 interference with existing wells. Any order or decision of the State Engineer so
30 restricting drilling of such wells may be reviewed by the district court of the county
31 pursuant to NRS 533.450.

32 9. If a court of competent jurisdiction orders the State Engineer to restrict
33 withdrawals to conform to priority rights or if pursuant to subsection 6 or 7 ~~or~~
34 ~~subsection 7~~ 8 of NRS 534.037 the State Engineer orders that withdrawals be
35 restricted to conform to priority rights, the State Engineer must limit the restriction
36 of withdrawals from a domestic well to allow a domestic well to continue to
37 withdraw 0.5 acre-feet of water per year, which must be recorded by a water meter.

38 **Sec. 3.** 1. Except as otherwise provided in subsection 2, the amendatory
39 provisions of ~~section~~ sections 1 and 1.5 of this act do not apply to a groundwater
40 management plan approved before October 1, 2023.

41 2. Beginning on October 1, 2023, the State Engineer shall review any
42 groundwater management plan approved before October 1, 2023, to determine
43 whether there has been significant progress towards stabilizing the ~~drawdown~~
44 water level of ~~groundwater in~~ the basin, as determined by the State Engineer. If
45 the State Engineer determines there has not been significant progress, the State
46 Engineer shall, except as otherwise provided in subsection 9 of NRS 534.110, as
47 amended by section 2 of this act, order:

48 (a) The groundwater management plan dissolved; and

49 (b) That withdrawals, including, without limitation, withdrawals from domestic
50 wells, be restricted in that basin to conform to priority rights ~~to~~ until the water
51 level of the basin is stabilized.