

**EXECUTIVE AGENCY**  
**FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: March 23, 2025

Agency Submitting: State Department of Conservation and Natural Resources, Division of Water Resources

<b>Items of Revenue or Expense, or Both</b>	<b>Fiscal Year 2024-25</b>	<b>Fiscal Year 2025-26</b>	<b>Fiscal Year 2026-27</b>	<b>Effect on Future Biennia</b>
Personnel (Expense)		\$8,393,740	\$11,154,793	\$22,309,586
In-State Travel (Expense)		\$38,446	\$38,446	\$76,892
Operating (Expense)		\$1,442,999	\$928,868	\$1,857,736
Information Services (Expense)		\$271,086	\$184,443	\$368,886
Total	0	\$10,146,271	\$12,306,550	\$24,613,100

Explanation

(Use Additional Sheets of Attachments, if required)

AB419 creates a new process, timelines, and subjects the Division to the Nevada Administrative Procedures Act (NRS 233B). Due to the significantly increased workload outlined within the bill, the Division cannot absorb the implementation costs without a substantial increase in staff and resources. Details on the additional requirements, implementation process, and the fiscal impact are provided in the exhibits section of this fiscal note.

Name Christopher Thorson

Title Deputy Administrator

GOVERNOR'S OFFICE OF FINANCE COMMENTS

Date Friday, March 21, 2025

The agency's response appears reasonable.

Name Tiffany Greenameyer

Title Director

## DESCRIPTION OF FISCAL EFFECT

BDR/Bill/Amendment Number: BDR 48-736/ AB419 As Introduced

Name of Agency: Division of Water Resources

Division/Department: Department of Conservation and Natural Resources

Date: 3/21/2025

BDR 48-736 (AB419) creates new processes, timelines and other requirements for the Division (NDWR) as listed below:

- Section 1 establishes regulations for issuing preliminary decisions, handling objections, and conducting hearing for water right applications and aquifer storage and recovery applications.
- Sections 3 and 10 establishes timelines for issuing a preliminary decision, holding a hearing on an objection to the preliminary decision, and when a final decision needs to be made.
  - Preliminary decisions must be issued within 150 days of the final publication date.
  - If an objection is received, notice of an objection must be sent to applicant and all protestants within 15 days.
  - NDWR must hold a hearing on the objection within 120 days after the receipt of an objection. The hearing notice must be sent out at least 30 days prior to the hearing.
- Sections 6 and 7 establish final determination deadlines. If no objection is filed, NDWR must issue a final determination within 1 year of the preliminary decision. If no objection occurs, the final determination must be made within 240 days after an objection hearing is held.
- Decisions and objections must be posted on the Division's website.
- Section 4 requires NDWR to submit a report to LCB on any application that has been pending over 2 years.
- The bill changes the legal standard for which a court can review a decision of the State Engineer. (Section 9). Without having an understanding of the frequency of these challenges and the nature or complexity of the issues involved, the Division is unable to determine the extent and significance of the fiscal impacts.
- Section 11 subjects NDWR to the Nevada Administrative Procedures Act (APA), except for certain exemptions.
  - NDWR must comply with all administrative regulations provisions of APA (specifically, NRS 233B.0395-233B.120). These provisions would require NDWR to:
    - Adopt rules of practice and review these at least every three years, detailing all formal and informal procedures available, including a description of all forms and instructions used by the agency.
    - All agency rules or State Engineer Orders must be formalize as regulations. Each of Nevada's 256 basins would require its own section of regulation.
    - All undefined terms or areas of subjectivity need to be defined by regulation.
    - Conduct a mandatory regulation review at least once every 10 years.
    - All current rules must undergo the APA process prior to enforcement .
    - NDWR must reimburse LCB for all costs associated with drafting regulations (unknown costs).

- Under NRS 233B.0617, all existing regulations would become invalid, requiring the Division to reestablish all regulations.
- In addition to the administrative regulations provisions of the APA (outlined above), NDWR would also be subject to the contested cases provisions of the APA, with the exceptions provided for under AB419, NRS 233B.039, and Section 8. The exceptions provided for under the bill include subsections 1, 2, and 6 of NRS 233B.121, NRS 233B.124, and NRS 233B.126 to NRS 233B.135, inclusive. The remaining contested cases provisions would generally require as follows:
  - That no agency member who acts as an investigator or prosecutor in any contested case may take any part in the adjudication of such case (NRS 233B.122). In NDWR's case, this would prevent Division staff from participating in hearings on protested applications and/or any other adjudications proceeding in which the staff participated. Due to this restriction, NDWR would need to contract with an outside entity to support the Division in these cases.

NDWR cannot absorb these changes and has determined that implementing the bill's requirements will have a significant fiscal impact. NDWR receives about 1,200 applications annually, with 10-20% facing protest and 30-50 applications denied each year. Given the new timelines and processes, the Division estimates the following 73 positions and related resource needs:

- One Administrative Assistant III to send over 3,000 certified mail notifications of preliminary decisions and objection notices and post the decisions and objections on the website.
- The Water Rights Section will require five Staff I, Associate Engineers and five Staff II, Associate Engineers to meet timelines of preliminary and final decisions and to support drafting preliminary decisions, objection hearings and prepare final decisions. Additionally, two supervisors will oversee new staff, and a water rights manager to support section management.
- The Hydrology Section will require five Staff I, Associate Engineers and five Staff II, Associate Engineers to analyze applications, issue preliminary decisions on time, support objection hearings, and assist with final decisions. Additionally, two supervisors to oversee new staff and two Deputy Administrators to assist with making preliminary and final decisions.
- The Hearing Section will require additional staff dedicated solely to objection hearings.
  - Two Chief Administrative Law Judges and 16 Administrative Law Judges are required to handle potentially up to 200 hearings annually (requiring least two hearings per day just on potential objections to the preliminary decision.)
  - One Legal Secretary is needed for every two Administrative Law Judges to assist with decision drafting, hearing notification and scheduling, organizing hearing materials and exhibits, final decision drafting, and other administrative support for developing regulations.
  - Contracts to hire outside experts are required for support in contested cases under NRS 233B.122 (Section 11).
- Two additional Administrative Law Judges are needed to handle the increase in appealed and complex cases, along with additional Deputy Attorney General support (unknown costs) (Section 9).
- The Hearing Section will require additional staff to meet the APA requirements for regulations and rulemaking (Section 11).

- One Chief Administrative Law Judge to supervise new staff and nine Administrative Law Judges to conduct hearings, draft rules and regulations for 256 basins, and manage other rulemaking and regulation process under NRS 233B.
- One secretary is needed for every two Administrative Law Judges to assist with decision drafting, hearing notification and scheduling, organizing hearing materials and exhibits, final decision drafting, and regulatory development
- This will require Deputy Attorney General support (unknown costs)
- LCB drafting and support will be needed to comply with rulemaking requirements (unknown costs).

Additional operating costs, including computers, travel, vehicles, and building space, will also be required to support the new staff.