

(Reprinted with amendments adopted on April 15, 2019)

FIRST REPRINT

A.B. 95

ASSEMBLY BILL NO. 95—COMMITTEE ON NATURAL
RESOURCES, AGRICULTURE, AND MINING

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON PUBLIC LANDS)

PREFILED JANUARY 24, 2019

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions relating to water. (BDR 48-504)

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

~

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 continue to allow withdrawals of groundwater from domestic wells under certain circumstances in groundwater basins where withdrawals have been restricted to conform to priority rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Engineer to conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all permittees and vested rights claimants. If the State Engineer confirms that the average annual replenishment to the groundwater supply may not be adequate, he or she may order that withdrawals, including withdrawals from domestic wells, be restricted to conform to priority rights. (NRS 534.110)

Existing law: (1) authorizes the State Engineer to designate as a critical management area any groundwater basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin; and (2) requires the State Engineer to designate as a critical management area any groundwater basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such designation. If a groundwater basin is designated as a critical management area for at least 10 consecutive years, the State Engineer is required to order that withdrawals, including withdrawals from domestic wells, be restricted to conform to priority rights. (NRS 534.110)

This bill provides that if a court of competent jurisdiction orders the State Engineer to restrict withdrawals to conform to priority rights or if the State



19 Engineer orders that withdrawals be restricted to conform to priority rights in any
20 of these groundwater basins, the State Engineer must limit the restriction on
21 withdrawals from domestic wells to allow a domestic well to continue to withdraw
22 0.5 acre-feet of water per year if the owner of the domestic well installs or has
23 installed a water meter to record the withdrawal.

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

1 **Section 1.** NRS 534.110 is hereby amended to read as follows:
2 534.110 1. The State Engineer shall administer this chapter
3 and shall prescribe all necessary regulations within the terms of this
4 chapter for its administration.
5 2. The State Engineer may:
6 (a) Require periodical statements of water elevations, water
7 used, and acreage on which water was used from all holders of
8 permits and claimants of vested rights.
9 (b) Upon his or her own initiation, conduct pumping tests to
10 determine if overpumping is indicated, to determine the specific
11 yield of the aquifers and to determine permeability characteristics.
12 3. The State Engineer shall determine whether there is
13 unappropriated water in the area affected and may issue permits
14 only if the determination is affirmative. The State Engineer may
15 require each applicant to whom a permit is issued for a well:
16 (a) For municipal, quasi-municipal or industrial use; and
17 (b) Whose reasonably expected rate of diversion is one-half
18 cubic foot per second or more,
19 ↳ to report periodically to the State Engineer concerning the effect
20 of that well on other previously existing wells that are located within
21 2,500 feet of the well.
22 4. It is a condition of each appropriation of groundwater
23 acquired under this chapter that the right of the appropriator relates
24 to a specific quantity of water and that the right must allow for a
25 reasonable lowering of the static water level at the appropriator's
26 point of diversion. In determining a reasonable lowering of the static
27 water level in a particular area, the State Engineer shall consider the
28 economics of pumping water for the general type of crops growing
29 and may also consider the effect of using water on the economy of
30 the area in general.
31 5. This section does not prevent the granting of permits to
32 applicants later in time on the ground that the diversions under the
33 proposed later appropriations may cause the water level to be
34 lowered at the point of diversion of a prior appropriator, so long as
35 any protectable interests in existing domestic wells as set forth in
36 NRS 533.024 and the rights of holders of existing appropriations



1 can be satisfied under such express conditions. At the time a permit
2 is granted for a well:

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

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

6 ↪ the State Engineer shall include as a condition of the permit that
7 pumping water pursuant to the permit may be limited or prohibited
8 to prevent any unreasonable adverse effects on an existing domestic
9 well located within 2,500 feet of the well, unless the holder of the
10 permit and the owner of the domestic well have agreed to alternative
11 measures that mitigate those adverse effects.

12 6. Except as otherwise provided in subsection 7, the State
13 Engineer shall conduct investigations in any basin or portion thereof
14 where it appears that the average annual replenishment to the
15 groundwater supply may not be adequate for the needs of all
16 permittees and all vested-right claimants, and if the findings of the
17 State Engineer so indicate, *except as otherwise provided in*
18 *subsection 9*, the State Engineer may order that withdrawals,
19 including, without limitation, withdrawals from domestic wells, be
20 restricted to conform to priority rights.

21 7. The State Engineer:

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

25 (b) Shall designate as a critical management area any basin in
26 which withdrawals of groundwater consistently exceed the perennial
27 yield of the basin upon receipt of a petition for such a designation
28 which is signed by a majority of the holders of certificates or
29 permits to appropriate water in the basin that are on file in the Office
30 of the State Engineer.

31 ↪ The designation of a basin as a critical management area pursuant
32 to this subsection may be appealed pursuant to NRS 533.450. If a
33 basin has been designated as a critical management area for at least
34 10 consecutive years, *except as otherwise provided in subsection 9*,
35 the State Engineer shall order that withdrawals, including, without
36 limitation, withdrawals from domestic wells, be restricted in that
37 basin to conform to priority rights, unless a groundwater
38 management plan has been approved for the basin pursuant to
39 NRS 534.037.

40 8. In any basin or portion thereof in the State designated by the
41 State Engineer, the State Engineer may restrict drilling of wells in
42 any portion thereof if the State Engineer determines that additional
43 wells would cause an undue interference with existing wells. Any
44 order or decision of the State Engineer so restricting drilling of such



1 wells may be reviewed by the district court of the county pursuant to
2 NRS 533.450.

3 *9. If a court of competent jurisdiction orders the State*
4 *Engineer to restrict withdrawals to conform to priority rights or if*
5 *pursuant to subsection 6 or 7 the State Engineer orders that*
6 *withdrawals be restricted to conform to priority rights, the State*
7 *Engineer must limit the restriction of withdrawals from a domestic*
8 *well to allow a domestic well to continue to withdraw 0.5 acre-feet*
9 *of water per year, which must be recorded by a water meter.*

10 **Sec. 2.** This act becomes effective on July 1, 2019.

