

AB104 Bill Overview
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Assembly Natural Resources Committee
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- Allen Biaggi, Nevada Mining Association and also representing a diverse group of water professionals that include agriculture, local governments, conservation interests, water purveyors, water authorities and mining.
- We all know groundwater in Nevada is a critical resource in Nevada and is facing pressures like none before including an increasing population and demands, climate change, and the need for reliable up to date resource information.
- Changes to Nevada water law are technically complex and politically challenging. Our group has been meeting in the interim to identify areas of consensus where changes to water law may be appropriate.
- While a lot of concepts were identified and discussed, this group landed on a water rights retirement program. This voluntary program would allow willing sellers to relinquish water rights for compensation and directs the state engineer to permanently retire those rights from future allocation. Through retirement, those waters will not be pumped and will remain in the ground. AB104 builds upon the great success of the Nevada Water Rights Retirement program which was operational in 2023 and 2024 and was funded through the American Rescue Plan Act and managed by Nevada water interests. It retired more than 25,000 acre feet of groundwater.
- While AB104 deals primarily with water rights retirement, it does have other water related issues which will be discussed. These include water reuse, variances to certain water quality standards, and, in Southern Nevada, revokable rights, septic tanks and turf removal.
- The language of AB104 has had a good deal of public review and input. Perhaps, most importantly, it was presented to the Joint Interim Standing Committee on Natural Resources which recommended the language move forward as a committee bill draft request.
- I will provide a brief overview of the bill, and there are some suggested amendments to AB104 that Mr. Belanger will discuss after my overview.

I would be happy to address any questions the committee may have before I move forward.

Section 1 simply amends NRS 533.030, which addresses the appropriation of ground water, in order to be consistent with Section 4 of this bill.

Sections 2 and 3 amend NRS 533.370 and 371 and directs the State Engineer to reject an application and refuse to issue a permit if groundwater rights are retired pursuant to Section 4 of this bill. This ensures that water rights that have been retired are not reallocated at a future date.

Section 4 amends Chapter 534 of NRS (underground water and wells) and does 4 things. First it establishes the “Nevada Voluntary Water Rights Retirement Program”. Second, it allows the State Engineer to retire water rights by means he or she deem appropriate. Third, it precludes water rights that have been retired from reallocation in perpetuity (this is also reflected in Section 2 and 3), and four, sunsets the program in 2035. The sunset provision was put in place to encourage willing water rights sellers to come forward, and recognizes this is a unique program that should be evaluated as to its success and effectiveness over time. Of course, the legislature has discretion of extending the sunset.

Sections 5 and 6 are not components of the Nevada Voluntary Water Rights Retirement Program, and were requested by the Southern Nevada Water Authority. These sections amend NRS 534.120 and 125 to clarify temporary versus revokable permits and establishes a 1,250 foot drilling prohibition for domestic wells from a municipal water service line. Revokable permits are primarily in the Las Vegas Valley.

Sections 7, 8, 9, 10, 11 and 12 amend NRS 232 which address Executive Departments of the State of Nevada and establishes the framework for the program.

Section 8 creates the Nevada Conservation and Recreation Program within the Department of Conservation and Natural Resources. The program is to be administered by its Director and includes a grants program, the Nevada Voluntary Water Rights Retirement Program and gives the Director the authority to establish regulations to operate the programs.

Section 9, subsection 1 establishes the Account for Retiring Water Rights within the General Fund.

Subsection 2 provides the authority for the account to accept any direct legislative appropriation (please note none are being requested in this bill) and for the Director to apply for and accept any gift, donation, bequest, grant, federal money or other sources of funding.

Subsection 3 states that the money in the account can only be used for the Nevada Voluntary Water Rights Retirement Program.

Subsection 4 allows for the investment and reinvestment of the funds with proceeds returning to the account. This must be done in accordance with the public investment provisions of NRS 355.

Subsection 5 allows for funds to remain in the account with no reversion to the General Fund.

Subsection 6 provides authority to the Director to partner with a public or private entity to apply for, obtain and manage the funds in the account.

Section 10 places the Nevada Voluntary Water Rights Retirement Program into the Nevada Conservation and Recreation Program (which was created in Section 8 of the bill).

Subsection 1 outlines the goals of the program, specifically:

- * Protect the natural resources;
- * Bring groundwater basins into balance;
- * Address conflicts with existing rights or with protectable interests;
- * Prevent overappropriated basins from becoming overpumped.

(Mr. Belanger will further address these goals in his amendments)

Subsection 2 outlines how the Director shall administer the program, specifically by using the funds in the account to identify and purchase water for retirement from willing sellers. Priority will be given to:

1. Basins where withdrawals exceed supply;
2. Basins that meet the criteria specified in Section 10, Subsection 1

Subsection 3 references the June 30, 2035 sunset provision.

Section 11, Subsection 1 establishes an Advisory Committee for the Nevada Voluntary Water Rights Retirement Program the members whom are appointed by the Director. The Committee includes two members of agriculture, two members of regional water authorities in counties with populations of 100,000 or more, one member of a regional water authority in a county of less than 100,000, a non-profit conservation member, a member who represents mining, and two ex-officio members representing the State Engineer and the State Land Registrar.

Subsection 2 directs the Advisory Committee to consult with the Director on regulation adoption and program administration.

Subsection 3 states the Committee shall not be paid or receive per diem.

Section 12 defines the regulations the Director may adopt to operate the program. This includes:

- The process for accepting applications;
- How water rights will be valued for purchase;
- Provisions to ensure the purchases and retirements are consistent with the goals and objectives of the program;
- Compliance with any funding conditions or requirements;
- The methods for identifying and purchasing water rights consistent with this bill and the requirements of the State Engineer.

Section 13 is simply a consistency change in NRS 232.010.

Section 14 Subsection 2 adds the Nevada Conservation and Recreation Program and the Advisory Committee for the Voluntary Water Rights Retirement Program into the Department of Conservation and Natural Resources.

Section 15 is intended to eliminate the advisory committee from the Department after sunset date.

Section 16 makes changes to NRS 349.981, the Program to provide grants for water conservation and capital improvements.

Subsection 1(b) clarifies wording concerning the recovery and measuring of water.

Subsection 1(b)(7) allows funds in the program to pay for the removal grass for water conservation purposes.

Subsection 1(b)(8) allows for program funds to be used for retiring groundwater.

Subsection 1(c) again addresses the revokable permits in the Las Vegas Valley.

Section 17 is a wording consistency change.

Section 18 is not associated with the Voluntary Water Rights Retirement Program. This Section amends NRS 439.3672 (Public Health and Safety) and clarifies in Subsection 4 the conditions for financial assistance to abandon a septic system and connect to a community system. This is an issue specific to Clark County requested by the Southern Nevada Water Authority.

Section 19 amends NRS 445A.305 (Water Pollution Control) and again, is not associated with the Voluntary Water Rights Retirement Program. This section was requested by the Nevada Division of Environmental Protection, and in Subsection 2(d) is a statement to encourage and promote the reuse and recycling of water by various means in Nevada.

Section 20 also amends NRS 445A (Water Pollution Control) and was again requested by the Nevada Division of Environmental Protection. Subsection 4 would allow the State Environmental Commission to establish a water quality standard variance pending the approval of the US Environmental Protection Agency. Such variances are allowed under the federal Clean Water Act. Conditions for the variance are outlined in Subsection 4(a) and (b).

Section 21 we believe, addresses the deletion of the program after the sunset date.

I would be happy to answer questions you may have, and there is a wealth of knowledge sitting behind me to fill in details.