

Proposed Amendment to AB 104
April 29, 2025

Deletes Sections 21.3

Amends Sections 2, 3, 4, 9, 10, 25.2

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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;

- 1 **Sec. 2.** NRS 533.370 is hereby amended to read as follows:
2 533.370 1. Except as otherwise provided in this section and
3 NRS 533.0241, 533.345, 533.371, 533.372 and 533.503, *and*
4 *section 4 of this act*, the State Engineer shall approve an application
5 submitted in proper form which contemplates the application of
6 water to beneficial use if:
7 (a) The application is accompanied by the prescribed fees;
8 (b) The proposed use or change, if within an irrigation district,
9 does not adversely affect the cost of water for other holders of water
10 rights in the district or lessen the efficiency of the district in its
11 delivery or use of water; and
12 (c) The applicant provides proof satisfactory to the State
13 Engineer of the applicant's:
14 (1) Intention in good faith to construct any work necessary to
15 apply the water to the intended beneficial use with reasonable
16 diligence; and
17 (2) Financial ability and reasonable expectation actually to
18 construct the work and apply the water to the intended beneficial use
19 with reasonable diligence.
20 2. Except as otherwise provided in subsection 10, ~~{where there}~~
21 *the State Engineer shall reject an application and refuse to issue*

22 *the requested permit if:*

23 (a) *There* is no unappropriated water in the proposed source of
24 supply ~~}; where the};~~ ;

25 (b) *The* groundwater that has not been committed for use has
26 been reserved pursuant to NRS 533.0241 ;

27 (c) *The application requests a change to or reinstatement of*
28 *groundwater rights that have been retired pursuant to*
29 *section 4 of this act; or* ~~{where its}~~

30 (d) *The* proposed use or change conflicts with existing rights or
31 with protectable interests in existing domestic wells as set forth in
32 NRS 533.024 ~~{}~~ or threatens to prove detrimental to the public
33 interest . ~~}; the State Engineer shall reject the application and refuse~~
~~to issue the requested permit.}~~

34 ➡ If a previous application for a similar use of water within the
35 same basin has been rejected on those grounds, the new application
36 may be denied without publication.

37 3. In addition to the criteria set forth in subsections 1 and 2, in
38 determining whether an application for an interbasin transfer of
39 groundwater must be rejected pursuant to this section, the State
40 Engineer shall consider:

41 (a) Whether the applicant has justified the need to import the
42 water from another basin;

43 (b) If the State Engineer determines that a plan for conservation
44 of water is advisable for the basin into which the water is to be

1 imported, whether the applicant has demonstrated that such a plan
2 has been adopted and is being effectively carried out;

3 (c) Whether the proposed action is environmentally sound as it
4 relates to the basin from which the water is exported;

5 (d) Whether the proposed action is an appropriate long-term use
6 which will not unduly limit the future growth and development in
7 the basin from which the water is exported; and

8 (e) Any other factor the State Engineer determines to be
9 relevant.

10 4. Except as otherwise provided in this subsection and
11 subsections 6 and 10 and NRS 533.365, the State Engineer shall
12 approve or reject each application within 2 years after the final date
13 for filing a protest. The State Engineer may postpone action:

14 (a) Upon written authorization to do so by the applicant.

15 (b) If an application is protested.

16 (c) If the purpose for which the application was made is
17 municipal use.

18 (d) In areas where studies of water supplies have been
19 determined to be necessary by the State Engineer pursuant to
20 NRS 533.368.

21 (e) Where court actions or adjudications are pending, which may

22 affect the outcome of the application.

23 (f) In areas in which adjudication of vested water rights is
24 deemed necessary by the State Engineer.

25 (g) On an application for a permit to change a vested water right
26 in a basin where vested water rights have not been adjudicated.

27 (h) Where authorized entry to any land needed to use the water
28 for which the application is submitted is required from a
29 governmental agency.

30 (i) On an application for which the State Engineer has required
31 additional information pursuant to NRS 533.375.

32 5. If the State Engineer does not act upon an application in
33 accordance with subsections 4 and 6, the application remains active
34 until approved or rejected by the State Engineer.

35 6. Except as otherwise provided in this subsection and
36 subsection 10, the State Engineer shall approve or reject, within 6
37 months after the final date for filing a protest, an application filed to
38 change the point of diversion of water already appropriated when
39 the existing and proposed points of diversion are on the same
40 property for which the water has already been appropriated under
41 the existing water right or the proposed point of diversion is on real
42 property that is proven to be owned by the applicant and is
43 contiguous to the place of use of the existing water right. The State
44 Engineer may postpone action on the application pursuant to
45 subsection 4.

1 7. If the State Engineer has not approved, rejected or held a
2 hearing on an application within 7 years after the final date for filing
3 a protest, the State Engineer shall cause notice of the application to
4 be republished and reposted pursuant to NRS 533.360 immediately
5 preceding the time at which the State Engineer is ready to approve
6 or reject the application. The cost of the republication must be paid
7 by the applicant. After such republication and reposting, a protest
8 may be filed in accordance with NRS 533.365.

9 8. If a hearing is held regarding an application, the decision of
10 the State Engineer must be in writing and include findings of fact,
11 conclusions of law and a statement of the underlying facts
12 supporting the findings of fact. The written decision may take the
13 form of a transcription of an oral ruling. The rejection or approval of
14 an application must be endorsed on a copy of the original
15 application, and a record must be made of the endorsement in the
16 records of the State Engineer. The copy of the application so
17 endorsed must be returned to the applicant. Except as otherwise
18 provided in subsection 11, if the application is approved, the
19 applicant may, on receipt thereof, proceed with the construction of
20 the necessary works and take all steps required to apply the water to
21 beneficial use and to perfect the proposed appropriation. If the

application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

9. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if the successor in interest were the former owner whose interest he or she succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer in a timely manner on a form provided by the State Engineer.

10. The provisions of subsections 1 to 9, inclusive, do not apply to an application for an environmental permit or a temporary permit issued pursuant to NRS 533.436 or 533.504.

11. The provisions of subsection 8 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

12. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 3. NRS 533.371 is hereby amended to read as follows:

533.371 The State Engineer shall reject the application and refuse to issue a permit to appropriate water for a specified period if the State Engineer determines that:

1. The application is incomplete;

2. The prescribed fees have not been paid;

3. The proposed use is not temporary;

4. There is no water available from the proposed source of supply without exceeding the perennial yield or safe yield of that source;

5. The groundwater that has not been committed for use from the proposed source of supply has been reserved pursuant to NRS 533.0241;

6. The application requests a change to or reinstatement of groundwater rights that have been retired pursuant to section 4 of this act;

7. The proposed use conflicts with existing rights; or

~~7.8.~~ 8. The proposed use threatens to prove detrimental to the public interest.

Sec. 4. Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Engineer shall retire all ~~vested~~ adjudicated or certificated groundwater rights purchased by or donated to the Nevada Voluntary Water Rights Retirement Program pursuant to section 10 of this act using any appropriate mechanism, as determined by the State Engineer, and preclude that groundwater from appropriation. Any ~~vested~~ adjudicated or certificated groundwater right that has been retired pursuant to this section is not available for any use and shall be deemed to be retired in the source in perpetuity.

2. The State Engineer shall not retire any vested or certificated groundwater right pursuant to subsection 1 unless the purchase of the groundwater right or the donation of the groundwater right was approved by the Director of the State Department of Conservation and Natural Resources pursuant to section 10 of this act on or before June 30, 2035.

Sec. 9. 1. The Account for Retiring Water Rights is hereby created in the State General Fund.

2. The Account for Retiring Water Rights must be administered by the Director in accordance with the Nevada Voluntary Water Rights Retirement Program established by section 10 of this act. In addition to any direct legislative appropriation, the Director may apply for and accept any gift, donation, bequest, grant, federal money or other source of money for deposit in the Account for Retiring Water Rights.

3. The money in the Account for Retiring Water Rights must only be used for administering the Nevada Voluntary Water Rights Retirement Program established by section 10 of this act, to purchase ~~vested~~ adjudicated or certificated groundwater rights for retirement pursuant to section 10 of this act and to provide matching money required as a condition of accepting any source of money that would result in the retirement of groundwater rights pursuant to sections 4 and 10 of this act.

4. The money in the Account for Retiring Water Rights or any portion of the money in the Account for Retiring Water Rights may be invested or reinvested in accordance with the provisions of chapter 355 of NRS. The proceeds of such investments and the interest and income earned on the money in the Account for Retiring Water Rights, after deducting any applicable charges, must be credited to the Account for Retiring Water Rights.

5. Any money remaining in the Account for Retiring Water Rights at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account for Retiring Water Rights must be carried forward to the next fiscal year.

6. The Director may enter into an agreement with a public or

2 private entity to apply for, obtain or manage any money
3 contributed to the Account for Retiring Water Rights.

4 **Sec. 10. 1.** The Nevada Voluntary Water Rights Retirement
5 Program is hereby established in the Nevada Conservation and
6 Recreation Program created by section 8 of this act to purchase
7 and retire ~~vested~~ adjudicated or certificated groundwater rights
8 from willing
9 sellers and to accept donations of groundwater rights for
10 retirement in order to:

11 (a) Protect the natural resources of this State;
12 (b) Address declining levels of groundwater; or
13 (c) Address conflicts with existing rights or with protectable
14 interests in existing domestic wells.

15 2. The Nevada Voluntary Water Rights Retirement Program
16 must be administered by the Director. In administering the
17 Program, the Director shall, to the extent money is available in the
18 Account for Retiring Water Rights created by section 9 of this act,
19 identify and purchase ~~vested~~ adjudicated or certificated
20 groundwater rights for
21 retirement by the State Engineer pursuant to section 4 of this act
22 from persons willing to retire those groundwater rights in
23 groundwater basins where:

24 (a) An order issued by the State Engineer precludes the
25 issuance of permits for new appropriations of groundwater in the
26 groundwater basin; ~~and~~ or

27 (b) The retirement of groundwater rights in the groundwater
28 basin meets any purpose set forth in subsection 1.

29 3. The Director shall document in writing the purpose of
30 each ~~vested~~ adjudicated or certificated groundwater right that is
31 purchased by
32 or donated to the Program and file the written document with the
33 State Engineer.

34 4. When sufficient money is available in the Account for
35 Retiring Water Rights created by section 9 of this act, the Director
36 may accept applications for the purchase and retirement of vested
or certificated groundwater rights.

5. The Director shall not accept donations or applications for
the purchase and retirement of ~~vested~~ adjudicated or certificated
groundwater rights after June 30, 2035.

1 **Sec. 21.** Section 10 of this act is hereby amended to read as
2 follows:

3 Sec. 10. 1. The Nevada Voluntary Water Rights
4 Retirement Program is hereby established in the Nevada
5 Conservation and Recreation Program created by section 8 of
6 this act to purchase and retire **adjudicated** ~~vested~~ or
certificated

7 groundwater rights from willing sellers and to accept
8 donations of groundwater rights for retirement in order to:

- 9 (a) Protect the natural resources of this State;
10 (b) Address declining levels of groundwater; or
11 (c) Address conflicts with existing rights or with
12 protectable interests in existing domestic wells.

13 2. The Nevada Voluntary Water Rights Retirement
14 Program must be administered by the Director. ~~{In~~
15 ~~administering the Program, the Director shall, to the extent~~
16 ~~money is available in the Account for Retiring Water Rights~~
17 ~~created by section 9 of this act, identify and purchase vested~~
18 ~~or certificated groundwater rights for retirement by the State~~
19 ~~Engineer pursuant to section 4 of this act from persons~~
20 ~~willing to retire those groundwater rights in groundwater~~
21 ~~basins where:~~

22 ~~—(a) An order issued by the State Engineer precludes the~~
23 ~~issuance of permits for new appropriations of groundwater in~~
24 ~~the groundwater basin; and~~

25 ~~—(b) The retirement of groundwater rights in the~~
26 ~~groundwater basin meets any purpose set forth in~~
27 ~~subsection 1.}~~

28 3. ~~{The Director shall document in writing the purpose~~
29 ~~of each vested or certificated groundwater right that is~~
30 ~~purchased by or donated to the Program and file the written~~
31 ~~document with the State Engineer.~~

32 ~~—4. When sufficient money is available in the Account for~~
33 ~~Retiring Water Rights created by section 9 of this act, the~~
34 ~~Director may accept applications for the purchase and~~
35 ~~retirement of vested or certificated groundwater rights.~~

36 ~~—5.} The Director shall not accept donations or~~
37 ~~applications for the purchase and retirement of vested or~~
38 ~~certificated groundwater rights after June 30, 2035.~~

1 **Sec. 21.3.** ~~The Conservation of Colorado River Water Act,~~
2 ~~being chapter 364, Statutes of Nevada 2021, at page 2179, is hereby~~
3 ~~amended by adding thereto a new section to be designated as section~~
4 ~~42, immediately following section 41, to read as follows:~~

5 ~~*If the Southern Nevada Water Authority or a member*~~
6 ~~*agency of the Southern Nevada Water Authority charges an*~~
7 ~~*excessive use fee to a residential customer who exceeds*~~
8 ~~*thresholds on water usage, the Southern Nevada Water*~~
9 ~~*Authority or member agency, as applicable, may use the*~~
10 ~~*proceeds of the fee for programs to assist the customer,*~~
11 ~~*including, without limitation, programs:*~~

12 ~~*1. To repair water leaks on or appurtenant to the*~~
13 ~~*property of the residential customer;*~~

14 ~~*2. To pay 100 percent of the cost for a residential*~~
15 ~~*customer with an existing septic system to abandon the*~~
16 ~~*septic system and connect to a municipal water system;*~~

17 ~~*3. To plant trees in the community to combat urban*~~
18 ~~*heat island effects;*~~

19 ~~*4. To provide financial assistance to low-income*~~
20 ~~*residential customers for the payment of water bills; or*~~

21 ~~*5. For any other purpose to protect the water supply of*~~
22 ~~*the community, as determined by the Southern Nevada*~~
23 ~~*Water Authority or member agency, as applicable.*~~

1 **Sec. 25.** 1. This section, sections 1 to 20, inclusive, and
2 sections 21.3 to 24, inclusive, of this act become effective on July 1,
3 2025.

4 2. Sections 9, 11, 12 ~~and 14~~ of this act expire by limitation on
20 June 30, 2035.

21 3. Section 21 of this act becomes effective on July 1, 2035.