
ASSEMBLY BILL NO. 26—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF WATER RESOURCES
OF THE STATE DEPARTMENT OF
CONSERVATION AND NATURAL RESOURCES)

PREFILED NOVEMBER 12, 2024

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to dams. (BDR 48-261)

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; exempting the State Engineer from liability for certain damages resulting from the performance of certain duties; revising provisions relating to the construction, reconstruction or alteration of a dam; exempting certain works under the jurisdiction of the United States Bureau of Reclamation or the United States Army Corps of Engineers from certain requirements relating to dams; requiring that certain applications relating to dams be made available to the Department of Wildlife; authorizing the State Engineer to enter certain parcels of land to access a dam or other obstruction; revising provisions relating to the removal of any dam, diversion works or obstruction; revising provisions relating to the removal of certain animals interfering with the flow of water; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the State Engineer is authorized to regulate the
2 construction, reconstruction, alteration and operation of dams and other
3 obstructions of waterways in the State of Nevada. (NRS 532.110, 532.120, chapter
4 535 of NRS) **Section 1** of this bill exempts the State Engineer and any assistant or
5 authorized agent of the State Engineer from liability for damages caused by certain
6 failures of a dam or reservoir that may occur as a result of an inspection, emergency



7 response or enforcement of an order or regulation by the State Engineer or his or
8 her assistant or authorized agent.

9 Under existing law, any person proposing to construct a dam in this State must
10 obtain a permit from the State Engineer to appropriate, store and use the water
11 impounded or diverted by the proposed dam before beginning construction and,
12 upon obtaining or possessing such a permit, must submit, in triplicate, to the State
13 Engineer for approval plans and specifications for certain dams. Existing law
14 further: (1) authorizes the State Engineer to inspect the construction of a dam at any
15 time for compliance with the approved plans and specifications; (2) prohibits the
16 construction and use of any dam, under certain circumstances, before the approval
17 of plans and specifications by the State Engineer; and (3) makes it a misdemeanor
18 to construct or use a dam without first obtaining such approval. (NRS 535.010)
19 **Section 2** of this bill makes these provisions applicable to the reconstruction or
20 alteration of a dam. **Section 2** also removes the requirement that any person
21 proposing to construct a dam in this State obtain a permit to appropriate, store and
22 use water impounded or diverted by the proposed dam before beginning
23 construction of the dam and instead requires any person proposing to construct,
24 reconstruct or alter a dam to obtain approval from the State Engineer before
25 beginning construction, reconstruction or alteration of the dam. **Section 2** further:
26 (1) requires a person to submit plans and specifications to the State Engineer for
27 approval if the dam is classified by the State Engineer as a high hazard or
28 significant hazard dam; and (2) removes the requirement that such plans and
29 specifications be submitted in triplicate.

30 Under existing law, the State Engineer is authorized to impose certain
31 administrative fines for, or may seek injunctive relief upon, the violation of any
32 permit issued by the State Engineer relating to the construction, reconstruction or
33 alteration of a dam. (NRS 535.200, 535.210) **Sections 8 and 9** of this bill authorize
34 the imposition of certain administrative fines or the seeking of injunctive relief
35 upon the violation of any approval issued by the State Engineer in conformity with
36 the removal of the requirement to obtain a permit made in **section 2**.

37 Under existing law, the State Engineer is required to file with the Board of
38 Wildlife Commissioners a copy of applications for approval of plans and
39 specifications for a new dam or for the alteration and enlargement of any dam in a
40 stream. (NRS 535.020) **Section 3** of this bill instead requires the State Engineer to
41 notify the Department of Wildlife when an application for decommissioning a dam
42 is filed or a request for approval of plans and specifications of a new dam or for the
43 alteration and enlargement of any dam in a stream is submitted and to make the
44 application or plans and specifications available to the Department.

45 Under existing law, works constructed by the United States Bureau of
46 Reclamation or the United States Army Corps of Engineers are exempt from certain
47 requirements relating to dams, including requirements for the approval of plans and
48 specifications and inspections and safety and repair requirements. (NRS 535.010,
49 535.030) **Sections 2 and 4** of this bill exempt any works under the jurisdiction of
50 the United States Bureau of Reclamation or the United States Army Corps of
51 Engineers from such requirements.

52 Under existing law, the State Engineer or any assistant or authorized agent of
53 the State Engineer is authorized to enter any land, at a reasonable hour, where a
54 dam or obstruction is situated to investigate and carry out the duties of the State
55 Engineer. (NRS 535.035) **Section 5** of this bill further authorizes the State Engineer
56 or any assistant or authorized agent of the State Engineer to enter the land of any
57 parcel adjacent to where a dam or other obstruction is located as is necessary to
58 access the dam or other obstruction.

59 Under existing law, the State Engineer is authorized to order the removal of any
60 dam, diversion works or obstruction that has not been legally established by certain
61 means. If such a dam, diversion works or obstruction is ordered removed by the



62 State Engineer and is not removed after the service of a 30-day notice upon the
63 owner or person controlling the dam, diversion works or obstruction, or an appeal
64 of the removal order has not been filed, the State Engineer may remove the dam,
65 diversion works or obstruction. (NRS 535.050) **Section 6** of this bill authorizes the
66 State Engineer to remove a dam, diversion works or obstruction not legally
67 established after providing a written, not served, copy of the 30-day notice on the
68 owner of the dam, diversion works or obstruction.

69 Under existing law, the State Engineer is authorized to remove a beaver on
70 privately owned land if it is determined the beaver is interfering with the flow of
71 water to the detriment of water users and after service of a written notice on the
72 owner of the private land. (NRS 535.060) **Section 7** of this bill requires that the
73 written notice be provided to the land owner and need not be served.

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

1 **Section 1.** Chapter 535 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *The State Engineer and any assistant or authorized agent of*
4 *the State Engineer are not liable for any damages caused by the*
5 *partial or total failure of a dam or reservoir as a result of any*
6 *inspection, emergency response or enforcement of an order or*
7 *regulation by the State Engineer or his or her assistant or*
8 *authorized agent.*

9 **Sec. 2.** NRS 535.010 is hereby amended to read as follows:

10 535.010 1. Any person proposing to construct , *reconstruct*
11 *or alter* a dam in this state shall, before beginning construction,
12 *reconstruction or alteration of the dam*, obtain *approval* from the
13 State Engineer . ~~[a permit to appropriate, store and use the water to~~
14 ~~be impounded by or diverted by the dam.]~~

15 2. Any ~~[such]~~ person ~~[obtaining or possessing such a permit]~~
16 *who obtains approval from the State Engineer pursuant to*
17 *subsection 1* shall:

18 (a) Before constructing, reconstructing or altering in any way
19 any dam, notify the State Engineer thereof; and

20 (b) ~~[Where the dam is]~~ *Submit to the State Engineer for*
21 *approval plans and specifications for the construction,*
22 *reconstruction or alteration of the dam, if the dam:*

23 (1) *Is* or will be 20 feet or more in height, measured from the
24 downstream toe to the crest of the dam ~~[, or is]~~ ;

25 (2) *Is* less than 20 feet in height and will impound more than
26 20 acre-feet of water ~~[, submit to the State Engineer in triplicate~~
27 ~~plans and specifications thereof for approval 30 days before~~
28 ~~construction is to begin.]~~ ; *or*

29 (3) *Is classified by the State Engineer as a high hazard or*
30 *significant hazard dam.*



1 3. The State Engineer shall examine ~~[such]~~ *any* plans and
2 specifications *submitted pursuant to subsection 2* and if ~~[the State~~
3 ~~Engineer approves them]~~ *approved*, the State Engineer shall return
4 ~~[one]~~ *a copy of the plans and specifications* with such approval to
5 the applicant. If the State Engineer disapproves any part of the plans
6 and specifications the State Engineer shall return them to the
7 applicant for correction or revision.

8 4. The construction, *reconstruction, alteration* and use of any
9 dam is prohibited before approval ~~[of the plans and specifications]~~
10 by the State Engineer ~~[]~~ *is obtained pursuant to subsection 1.*

11 5. The State Engineer may at any time inspect or cause to be
12 inspected the construction, *reconstruction or alteration* work *on a*
13 *dam* while it is in progress to determine that it is being done in
14 accordance with the approved plans and specifications ~~[]~~, *if*
15 *applicable.*

16 6. ~~[This section applies to new construction, reconstruction and~~
17 ~~alteration of old structures.~~

18 ~~—7.]~~ The provisions of this section relating to *the* approval of
19 plans and specifications and inspection of dams do not apply to
20 works ~~[constructed by]~~ *under the jurisdiction of* the United States
21 Bureau of Reclamation or the United States Army Corps of
22 Engineers, ~~[]~~ but such federal agencies shall file duplicate plans
23 and specifications with the State Engineer.

24 ~~[8.]~~ 7. Any person beginning the construction, *reconstruction*
25 *or alteration* of any dam before *notifying the State Engineer in*
26 *accordance with paragraph (a) of subsection 2 or obtaining*
27 approval of the plans and specifications by the State Engineer, ~~[or~~
28 ~~without having given the State Engineer 30 days' advance notice of~~
29 ~~any proposed change, reconstruction or alteration thereof.]~~ *if*
30 *required pursuant to paragraph (b) of subsection 2*, is guilty of a
31 misdemeanor. Each day of violation of this section constitutes a
32 separate offense and is separately punishable.

33 **Sec. 3.** NRS 535.020 is hereby amended to read as follows:

34 535.020 1. Whenever an application for *decommissioning a*
35 *dam is filed or a request for* approval of plans and specifications for
36 a new dam or for the alteration and enlargement of any dam in any
37 stream in this state is ~~[filed with]~~ *submitted to* the State Engineer,
38 the State Engineer shall ~~[file a copy of the application with]~~ *notify*
39 the ~~[Board]~~ *Department* of Wildlife ~~[Commissioners.]~~ *and make*
40 *the application or plans and specifications, as applicable, available*
41 *to the Department of Wildlife.*

42 2. In the construction of a dam, or the alteration or enlargement
43 of a dam, the owner shall conform with the provisions of law for the
44 installation of fishways over or around dams and for the protection
45 and preservation of fish in streams obstructed by dams.



1 **Sec. 4.** NRS 535.030 is hereby amended to read as follows:

2 535.030 1. The State Engineer from time to time shall:

3 (a) Make inspections of dams at state expense for the purpose of
4 determining their safety; and

5 (b) Require owners to perform at their expense such work as
6 may be necessary to supply the State Engineer with information as
7 to the safety of such dams.

8 2. The owners shall perform at their expense any other work
9 necessary to maintenance and operation which will safeguard life
10 and property.

11 3. If at any time the condition of any dam becomes so
12 dangerous to the safety of life or property as not to permit sufficient
13 time for the issuance and enforcement of an order relative to the
14 maintenance or operation thereof, the State Engineer may, if he or
15 she deems it necessary, immediately employ the following remedial
16 measures to protect either life or property:

17 (a) Lower the water level by releasing water from the reservoir.

18 (b) Completely empty the reservoir.

19 (c) Take such other steps as may be essential to safeguard life
20 and property.

21 4. The provisions of this section shall not apply to works
22 ~~constructed by~~ *under the jurisdiction of* the United States Bureau
23 of Reclamation or the United States Army Corps of Engineers.

24 **Sec. 5.** NRS 535.035 is hereby amended to read as follows:

25 535.035 In addition to any inspection conducted pursuant to
26 NRS 535.010 or 535.030, the State Engineer or any assistant or
27 authorized agent of the State Engineer may enter the land of any
28 owner or proprietor where any dam or other obstruction is ~~situated~~
29 *located, and any adjacent parcel of land as is necessary to access*
30 *the dam or other obstruction*, at any reasonable hour of the day to
31 investigate and carry out the duties of the State Engineer pursuant to
32 this chapter.

33 **Sec. 6.** NRS 535.050 is hereby amended to read as follows:

34 535.050 1. The State Engineer has the right, power and
35 authority to order the removal of any dam, diversion works or
36 obstruction that ~~has been placed in any stream channel or~~
37 ~~watercourse when the dam, diversion works or obstruction~~ has not
38 been legally established and recognized through a valid claim of
39 vested right, by decree of court or ~~by a permit issued~~ *approved*
40 *by the State of Nevada* ~~in accordance with the provisions of this~~
41 *section.*

42 2. Nothing in this section is to be construed as giving the State
43 Engineer any right or authority to remove any dam or diversion
44 works that has been so legally recognized and established.



1 3. If the dam, diversion works or obstruction has not been
2 removed after 30 days' notice in writing given by the State Engineer
3 ~~[and served upon]~~ to the owner ~~[or person controlling]~~ of the dam,
4 diversion works or obstruction, or if no appeal has been taken from
5 the order of the State Engineer as is provided for in NRS 533.450,
6 then the State Engineer may remove the dam, diversion works or
7 obstruction.

8 4. The State Engineer shall charge the actual cost of ~~[that]~~ *the*
9 removal *of the dam, diversion works or obstruction* to the water
10 distribution account and thereafter present an itemized statement of
11 the charge to the board of county commissioners of the county
12 wherein those expenses were incurred. The board of county
13 commissioners shall thereupon present a bill for the expenses to the
14 person liable therefor under this section, and if that person neglects
15 for 30 days thereafter to pay it, the bill and costs become a lien upon
16 the lands and property of the person so liable for the payment of the
17 bill, and must be collected as delinquent taxes against the lands and
18 property are collected.

19 **Sec. 7.** NRS 535.060 is hereby amended to read as follows:

20 535.060 1. On any stream system and its tributaries in this
21 state the distribution of the waters of which are vested in the State
22 Engineer by law or the final decree of court, where beaver, by the
23 construction of dams or otherwise, are found to be interfering with
24 the lawful and necessary distribution of water to the proper users
25 thereof, the State Engineer, upon complaint of any interested water
26 user, shall investigate or cause the investigation of the matter.

27 2. The State Engineer and his or her assistants and water
28 commissioners and the Department of Wildlife and its agents may
29 enter upon privately owned lands for the purposes of investigating
30 the conditions complained of and the removal and trapping of
31 beaver.

32 3. If satisfied that such beaver are interfering with the flow of
33 water to the detriment of water users, the State Engineer shall
34 ~~[serve]~~ *provide* a written notice ~~[on]~~ to the owner of the land, if it is
35 privately owned, stating:

36 (a) That the beaver thereon are interfering with or stopping the
37 flow of water necessary for the proper serving of water rights; and

38 (b) That unless, within 10 days from receipt of the notice,
39 written objection to the removal of such beaver is filed with the
40 State Engineer by the landowner, the Department of Wildlife will
41 remove such beaver or as many thereof as will rectify the existing
42 conditions.

43 4. Failure of the landowner to file such written objections shall
44 be deemed a waiver thereof. Upon receipt of written objections, the
45 State Engineer may make further investigation and may sustain or



1 overrule the objections as the facts warrant. Upon the overruling of
2 the objections, the landowner may have them reviewed by the
3 district court having jurisdiction of the land by filing therein a
4 petition for review within 10 days from the receipt of the order of
5 the State Engineer overruling the objections. The proceedings on the
6 petition must be informal and heard by the court at the earliest
7 possible moment.

8 5. Upon the landowner's waiver of objections to the removal of
9 beaver from his or her land, or upon final determination by the court
10 that the beaver should be removed, the State Engineer shall
11 immediately notify the Department of Wildlife of the waiver or
12 determination and the Department or its agents shall enter upon the
13 land from which the beaver are to be removed and remove them or
14 as many as may be necessary to prevent the improper flow of water
15 as directed by the State Engineer.

16 6. The State Engineer may remove or cause the removal of any
17 beaver dam found to be obstructing the proper and necessary flow of
18 water to the detriment of water users.

19 **Sec. 8.** NRS 535.200 is hereby amended to read as follows:

20 535.200 1. In addition to any other penalty provided by law,
21 the State Engineer may, after notice and opportunity for a hearing,
22 require a person who violates any provision of this chapter, any
23 ~~permit,~~ *approval*, order or decision issued by the State Engineer
24 pursuant to this chapter or any regulation adopted by the State
25 Engineer pursuant to NRS 532.120 to pay an administrative fine not
26 to exceed \$10,000 per day for each violation as determined by the
27 State Engineer.

28 2. If an administrative fine is imposed against a person
29 pursuant to subsection 1, the State Engineer may require the person
30 to pay the costs of the proceeding, including investigative costs and
31 attorney's fees.

32 3. An order imposing an administrative fine or requiring the
33 payment of costs or fees pursuant to this section may be reviewed
34 by a district court pursuant to NRS 533.450.

35 **Sec. 9.** NRS 535.210 is hereby amended to read as follows:

36 535.210 1. The State Engineer may seek injunctive relief in
37 the appropriate court to prevent the continuance or occurrence of
38 any act or practice which violates any provision of this chapter, any
39 ~~permit,~~ *approval*, order or decision issued by the State Engineer
40 pursuant to this chapter or any regulation adopted by the State
41 Engineer pursuant to NRS 532.120.

42 2. On a showing by the State Engineer that a person is
43 engaged, or is about to engage, in any act or practice which violates
44 or will violate any provision of this chapter, any ~~permit,~~ *approval*,
45 order or decision issued by the State Engineer pursuant to this



1 chapter or any regulation adopted by the State Engineer pursuant to
2 NRS 532.120, the court may issue, without a bond, any prohibitory
3 or mandatory injunction that the facts may warrant, including a
4 temporary restraining order issued ex parte or, after notice and
5 hearing, a preliminary or permanent injunction.

6 3. Failure to establish lack of an adequate remedy at law or
7 irreparable harm is not a ground for denying a request for a
8 temporary restraining order or injunction.

9 4. The court may require the posting of a sufficient
10 performance bond or other security to ensure compliance with the
11 court order within the period prescribed.

12 5. Any proceeding conducted or injunction or order issued
13 pursuant to this section is in addition to, and not in lieu of, any other
14 penalty or remedy available for a violation of this chapter.

15 **Sec. 10.** This act becomes effective upon passage and
16 approval.

