

# SB 108 - 1999

**Introduced on** Feb 04, 1999

**By** Natural Resources,

**Fiscal Note**

Effect On Local Government: *No*

Effect on the State or on Industrial Insurance: *No*

*Revises provisions governing applications for use of water. (BDR 48-922)*

**Current Status:** In Senate at Governor  
**Chapter 236** Effective October 1, 1999.

<b>Hearings</b>			
	Senate Natural Resources	<u>Feb-10-1999</u>	No Action
	Senate Natural Resources	<u>Feb-22-1999</u>	Subcommittee
	Senate Natural Resources	<u>Mar-08-1999</u>	No Action
	Senate Natural Resources	<u>Mar-17-1999</u>	Amend, and do pass as amended
	Assembly Natural Resources, Agriculture, and Mining	<u>Apr-21-1999</u>	No Action
	Assembly Natural Resources, Agriculture, and Mining	<u>May-05-1999</u>	Do pass

04-Feb-99 Read first time. Referred to Committee on Natural Resources. To printer.

05-Feb-99 From printer. To committee.

31-Mar-99 From committee: Amend, and do pass as amended.

✓01-Apr-99 Read second time. Amended. (Amend. No. 309). To printer.

✓02-Apr-99 From printer. To engrossment. Engrossed. First reprint. ✓ Read third time. Passed, as amended. Title approved, as amended. (Yeas: 21, Nays: None). To Assembly.

06-Apr-99 In Assembly. Read first time. Referred to Committee on Natural Resources, Agriculture, and Mining. To committee.

12-May-99 From committee: Do pass.

13-May-99 Read second time.

✓14-May-99 Read third time. Passed. Title approved. (Yeas: 41, Nays: None, Excused: 1). To Senate.

15-May-99 In Senate. To enrollment.

18-May-99 Enrolled and delivered to Governor.

24-May-99 Approved by the Governor. Chapter 236.

**NEVADA LEGISLATURE**

**SEVENTIETH SESSION**

**1999**

**SUMMARY OF LEGISLATION**

**PREPARED BY**

**RESEARCH DIVISION**

**LEGISLATIVE COUNSEL BUREAU**



**BILL SUMMARY**  
**70th REGULAR SESSION**  
**OF THE NEVADA STATE LEGISLATURE**

**PREPARED BY**  
**RESEARCH DIVISION**  
**LEGISLATIVE COUNSEL BUREAU**  
Nonpartisan Staff of the Nevada State Legislature

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**SENATE BILL 108**  
**(Enrolled)**

Senate Bill 108 outlines the criteria the State Engineer must consider in reviewing an application for an interbasin transfer of ground water. The bill also provides a statutory definition of “interbasin transfer of ground water,” and it clarifies that the State Engineer must determine that additional studies are actually necessary before postponing action on an application.

The criteria that the State Engineer must consider in reviewing an interbasin transfer include whether:

- The applicant has justified the need to import the water from another basin;
- The applicant has demonstrated, if applicable, that a conservation plan has been adopted and is being effectively carried out in the basin into which the water is being imported;
- The proposed action is environmentally sound as it relates to the basin from which the water is exported;
- The proposed action is an appropriate use that does not unduly limit the future growth and development in the basin from which the water is being exported; and
- Any other factors exist that he determines to be relevant.

**Background Information**

The criteria that the State Engineer must consider are drawn from the “Study of the Use, Allocation and Management of Water,” which was conducted during the 1993-1994 legislative interim, and from the State Water Plan.

**LEGISLATIVE HEARINGS**

**MINUTES AND EXHIBITS**

**MINUTES OF THE  
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventieth Session  
February 10, 1999**

The Senate Committee on Natural Resources was called to order by Chairman Dean A. Rhoads, at 01:45 p.m., on Wednesday, February 10, 1999, in Room 2144 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dean A. Rhoads, Chairman  
Senator Lawrence E. Jacobsen, Vice Chairman  
Senator Mike McGinness  
Senator Mark A. James  
Senator Raymond C. Shaffer  
Senator Bob Coffin  
Senator Maggie Carlton

**GUEST LEGISLATORS PRESENT:**

Assemblyman P.M. "Roy" Neighbors, Esmeralda, Lincoln, Mineral and Nye counties Assembly District No. 35

**STAFF MEMBERS PRESENT:**

Fred Welden, Committee Policy Analyst  
Scott Corbett, Committee Secretary  
Billie Brinkman, Personal Secretary

**OTHERS PRESENT:**

Jolaine Johnson, Chief, Bureau of Air Quality, Division of Environmental Protection, State Department of Conservation and Natural Resources  
Susan Miller, Lobbyist, Sierra Pacific Power Company  
Robert S. Hadfield, Lobbyist, Nevada Association of Counties  
Ray E. Bacon, Lobbyist, Nevada Manufacturers Association  
Doug Busselman, Lobbyist, Nevada Farm Bureau

Senator Coffin asked if enforcement is being delegated to the local governments. Ms. Johnson responded by saying that legislation establishes the county health authorities as having jurisdiction over air-quality issues. Senator Coffin continued by asking if the state agency can resume its supremacy if it feels the local government is not doing its job. Ms. Johnson clarified that the State Environmental Commission has the legislative power to withdraw the local authority.

Chairman Rhoads closed the hearing on S.J.R. 3, and opened the hearing on Senate Bill (S.B.) 108.

**SENATE BILL 108:** Revises provisions governing interbasin transfers of water.  
(BDR 48-922)

Steve Bradhurst, Planning Consultant, Nye, Lincoln and White Pine counties stated the counties he is representing are in support of S.B. 108.

Rey Flake, County Commissioner, Lincoln County, strongly recommended that S.B. 108 be passed.

Richard L. Carver, Chairman, Board of Commissioners, Nye County, pointed out that Nye County voted unanimously to support S.B. 108.

Senator Coffin questioned the threat of future litigation if this bill is passed, and if the rural counties and individuals have the means to pursue a lawsuit. Mr. Bradhurst replied that there is no alternative because the rural counties need water to look to the future for land-use plans. Mr. Carver added the rural counties cannot afford not to pass this bill because everything that happens in rural counties is dependent on water.

Assemblyman R.M. "Roy" Neighbors, Esmeralda, Lincoln, Mineral and Nye counties Assembly District No. 35, testified that rural Nevada will only have a future with water and stated support of S.B. 108.

Joseph Johnson, Lobbyist, Sierra Club, went on record to say they support S.B. 108.

Senator James expressed concern with the subsection 3 language that makes an exception to the prior appropriation doctrine. R. Michael Turnipseed, State

Engineer, Division of Water Resources, Department of Natural Resources, pointed out the biggest problem that he has with S.B. 108 is the 5-year provision. Mr. Turnipseed explained that he now has 3200 backlogged applications, 1700 of which are protested and the time-constraint provision would allow speculators to become first in line for water use. Chairman Rhoads asked Mr. Turnipseed to clarify. Mr. Turnipseed responded by saying if an individual had an application in the backlog that expired after the 5 years, he then would have to approve a new application or one that came in after the original from another individual.

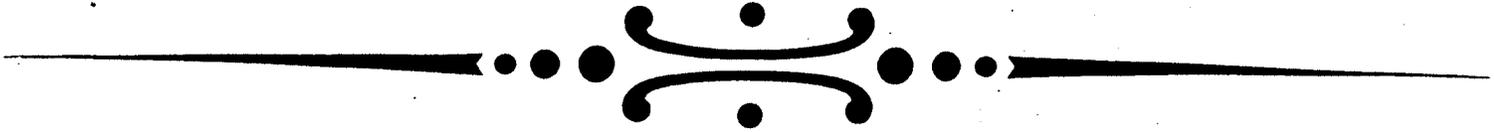
Senator James called attention to the fact that Nevada has been built on interbasin transfers for development and the basis for the prior appropriation doctrine is to move water. The Senator went on to say, "... interbasin transfers are fundamental to the prior appropriation doctrine, this here would virtually overrule the prior appropriation doctrine in Nevada".

Naomi Smith Duerr, State Water Planner, Division of Water Planning, Department of Conservation and Natural Resources, clarified where her department stands on interbasin transfers from an excerpt of the state water plan (Exhibit G). Ms. Duerr continued by saying the state water plan does support the concept of S.B. 108.

Chris D. Weiss, Lobbyist, Southern Nevada Water Authority, testifying on behalf of the Colorado River Commission at the request of George Caan, Director of the Colorado River Commission, read a prepared statement (Exhibit H) against S.B. 108.

Julie A. Wilcox Slay, Lobbyist, Southern Nevada Water Authority, and Las Vegas Valley Water District, expressed concern with prohibiting or restricting interbasin transfers because of the impact it would have on southern Nevada's position on the Colorado River. Ms. Wilcox remarked, "The current water law as it exists does have the flexibility and the framework and the authorities to allow the state engineer to do all of the things he needs to do . . . ."

Chairman Rhoads referred S.B. 108 to a subcommittee with Senator McGinness as chairman and Senators James and Coffin as members.



**Excerpt from the  
Draft Nevada State Water Plan**

**Nevada Division of  
Water Planning**

**Naomi S. Duerr  
Administrator and  
State Water Planner  
(775) 687-3600 ext. 21**

## **Interbasin and Intercounty Transfers**

Water transfers involve withdrawing either groundwater or surface water from one basin or county for beneficial use in another. Water transfers have been around for a long time and are an integral part of the settlement of Nevada. There are over 20 interbasin transfers occurring in the state today. Growing urban areas are looking to appropriate available water rights and transfer them to the place of need or purchase existing water rights and change them to municipal use, frequently in a different basin or county. Water right transfers are also being viewed as an important way to augment instream flows.

State water allocation law does not contain special criteria for evaluating interbasin or intercounty transfers. As long as unappropriated water is available, existing water rights are not impacted, and the transfer does not threaten to prove detrimental to the public interest, the State Engineer may approve the transfer. However, other sections of state law contain special requirements for water transfers, including public noticing and the establishment of a water transfer tax and mitigation plans.

Water transfers have contributed to economic development, growth and prosperity in Nevada, but there are also costs associated with such transfers. A water transfer can enable a receiving area to meet current or projected water needs, or lead to economic development or expansion. An area-of-origin can benefit from a water transfer if the area has excess water resources not otherwise needed to meet future growth or resource conservation needs. Water transfer concerns center on whether a water transfer has the potential to impact the rights of existing water users, reduce instream flows, decrease flows to wetlands or lakes downstream of the point of diversion, or decrease recharge to aquifers. Social, economic and fiscal concerns center on potential losses of taxable income, social stability or the ability to economically develop in the future. Other concerns include the impacts that population growth may bring.

Interest in water marketing, and associated water transfers, is increasing as the demand and price for water rights increases. The 1994 Nevada Legislative Committee to Study the Use, Allocation and Management of Water recommended that the water plan include general criteria for the approval of interbasin water transfer applications. The 1995 Nevada State Legislature amended the water planning statute to require that the state water plan include provisions to protect water supplies in rural areas for future development and quality of life benefits.

### ***Issues***

1. Water transfers can impact third parties. It is sometimes difficult to determine who the affected parties are and to inform them about proposed water transfers.
2. Concerns have been expressed about water transfers and their potential impacts. Regional water planning enables local officials to be prepared when water transfers are proposed for their area, and to better capitalize on any benefits and mitigate any impacts water transfers may bring.
3. Water transfers may have relatively larger impacts on rural counties. Rural counties must carefully evaluate the potential social, fiscal and economic impacts of water right transfers.
4. Nevada has many threatened and endangered species and unique ecosystems, and has lost much

of its wetland environments. Protection of water quality and recreation opportunities depend in large part on water availability. Because the water needs for these beneficial uses of water have not been adequately quantified and few water rights have been obtained to support them in the past, a thorough evaluation of the potential environmental impacts must precede any large scale water transfer.

5. Water markets are developing in various ways in different parts of Nevada. There are few, if any, mechanisms to bring buyers into contact with sellers or to bring order and rationality to the process. Therefore, transaction costs are high and water rights may not be appropriately valued.

### ***Recommendations***

The following recommendations were significantly influenced by the recommendations made by various Nevada County Commissioners and the public at more than 25 different public meetings and workshops on the state water plan held in 1998. The recommendations were also influenced by the recommendations found in the 1994 *Study of the Use, Allocation and Management of Water* prepared by the Legislative Commission of the Legislative Council Bureau, State of Nevada, and in *Water Transfers in the West - Efficiency, Equity and the Environment*, 1992, prepared by the National Research Council. The recommendations below are designed to balance the positive and negative impacts interbasin and intercounty transfers may have.

1. All levels of government should recognize the potential net value of water transfers as a way to respond to changing demands for water, and encourage voluntary transfers, as long as the public interest is protected. Efforts should continue to make information available to the public concerning water transfer proposals and to provide affected interests with an opportunity to participate in any proceedings.
2. In applying the public interest test (under NRS 533.370(3)) to an interbasin or intercounty water right appropriation or change request, the State Engineer should continue to consider whether:
  - the applicant for the water transfer has justified the need to import the water and demonstrated that an effective conservation plan has been adopted for the region in need and is being effectively implemented;
  - the transfer plan conforms to or conflicts with the substance of any adopted water plans for either the area-of-origin or the area to receive the water;
  - the project is environmentally sound; and
  - the project is an appropriate long-term solution which will not unduly limit future development and growth in the area-of-origin.
3. When in the public interest, the State Engineer should continue to place conditions on water right permits to mitigate impacts of interbasin or intercounty water transfers.
4. The state should continue to provide, and accelerate where funding allows, water planning assistance to local governments to help them develop regional water plans and to identify their future water needs. Regional water planning will enable local governments to better plan for their economic development and protect their natural resources, and prepare them to respond to proposals to transfer water into, or out of, their areas.
5. The Division of Water Planning, with the assistance of others, should conduct additional research on the opportunities and costs associated with water banking and water marketing in Nevada, and develop additional recommendations to improve future water transfers.

**Testimony to Senate Committee on Natural Resources  
on Senate Bill 108, Interbasin Transfers  
February 10, 1999**

**NAME:** Chris Weiss, Southern Nevada Water Authority  
(testifying on behalf of the Colorado River Commission)

**TESTIMONY:**

Thank you, Mr. Chairman and members of the committee. For the record, my name is Chris Weiss and I'm with the Southern Nevada Water Authority. I'm testifying today on behalf of the State of Nevada Colorado River Commission. At the request of George Caan, Executive Director of the Colorado River Commission, I've been asked to read the following comments into the record.

The CRC opposes this bill. They believe SB 108 sets a bad precedent for Nevada's ongoing negotiations with the states of Arizona and California for additional water from the Lower Colorado River Basin.

This additional water may take the form of banking arrangements or other types of interstate transfers, and represents our number one priority for achieving additional water resources to meet the future needs of Southern Nevada.

To preserve the state's position in those negotiations, Nevada needs to demonstrate a commitment to doing all it can within its own borders to address its water resource needs. By prohibiting or unduly restricting interbasin transfers within Nevada, we make it difficult to argue for similar interstate transfers within the Lower Colorado River Basin.

Thank you.

**END OF TESTIMONY**

**EXHIBIT H**

**MINUTES OF THE SUBCOMMITTEE MEETING OF THE  
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventieth Session  
February 22, 1999**

The subcommittee meeting of the Senate Committee on Natural Resources was called to order by Chairman Mike McGinness, at 3:10 p.m., on Monday, February 22, 1999, in Room 2144 of the Legislative Building, Carson City, Nevada. There was no Agenda. There was no Attendance Roster.

**SUBCOMMITTEE MEMBERS PRESENT:**

Senator Mike McGinness, Chairman  
Senator Mark A. James  
Senator Bob Coffin

**STAFF MEMBERS PRESENT:**

Fred Welden, Committee Policy Analyst  
Scott Corbett, Committee Secretary

**OTHERS PRESENT:**

R. Michael Turnipseed, State Engineer, Division of Water Resources,  
Department of Conservation and Natural Resources  
Julie A. Wilcox Slay, Lobbyist, Southern Nevada Water Authority  
Tim Crowley, Lobbyist, Nevada Mining Association  
Mike L. Baughman, Lobbyist, Humboldt River Basin Water Authority  
Naomi Smith Duerr, State Water Planner, Division of Water Planning,  
Department of Conservation and Natural Resources

Chairman McGinness opened the subcommittee hearing on Senate Bill (S.B.) 108.

**SENATE BILL 108:** Revises provisions governing interbasin transfers of water.  
(BDR 48-922)

Senator James introduced an amendment (Exhibit A) to S.B. 108 and pointed out the amendment would remove the current drafted provisions and replace them with language from *Nevada Revised Statutes* (NRS) chapter 540. This

language would require the state water plan to consider a balance in the area of interbasin transfers between competing interests.

Chairman McGinness asked for comments from interested parties.

R. Michael Turnipseed, State Engineer, Division of Water Resources, Department of Conservation and Natural Resources, spoke from a prepared handout (Exhibit B) and stated he preferred the language in Senator James' proposed amendment over the original bill language. Mr. Turnipseed drew attention to the fact that the town of Searchlight and a number of mines in Nevada need to be added to his list of communities that get all or a portion of their water from a basin other than which they are situated. Mr. Turnipseed also expressed concern with Senator James' amendment in regards to the wording pertaining to the adoption of an effective conservation plan for the importer of water from an interbasin transfer.

Senator James responded by saying the language pertaining to an effective conservation plan is to give some legislative guidance and not to restrict the state water engineer's authority. Chairman McGinness added that some language could be changed to allow a more lenient conservation program for smaller communities that cannot implement a water conservation plan.

Mr. Turnipseed asserted he also has a problem with part of Senator James' amendment referring to an interbasin transfer of water project being environmentally sound. Mr. Turnipseed stated, "I generally don't consider myself to be the guardian of the environment. I am comfortable being the guardian of the state ground water and surface water . . . I am not a range manager or environmental scientist . . . ."

Chairman McGinness asked Mr. Turnipseed if the environmental impact portion of the bill could be defined further.

Mr. Turnipseed said he did not know if it could be defined further, and added he should not be held responsible for the environmental impact in the basin of destination.

Senator James pointed out it is not his intention to create an environmental impact statement (EIS) for every interbasin water transfer application. Senator James went on to explain the law now requires a determination to see if a

project is detrimental to the public interest. Senator James clarified it is not his intention as the proposer of the amendment to require an EIS for the importer of water but to consider the environmental impact on the basin of origin.

Senator McGinness noted the language in section 3 regarding the 5-year hold on applications will not be included in this bill.

Senator Coffin asked if any of the pending applications would have to abide by the criteria outlined in S.B. 108, and Mr. Turnipseed commented the effective date for this bill is July 1, 1999. Senator McGinness remarked the bill cannot be made retroactive and should become effective, per the Legislative Counsel Bureau, on October 1, 1999.

Fred Welden, Committee Policy Analyst, Research Division, Legislative Counsel Bureau, called attention to the fact that the bill, ". . . would apply to any action that the state engineer takes after the time this bill is acted upon, rather than applying only to applications he receives after that date." Mr. Turnipseed agreed and said the attorney general has an opinion that is concurrent with Mr. Welden's comment.

Julie A. Wilcox Slay, Lobbyist, Southern Nevada Water Authority (SNWA) agreed with the proposed amendment and added the SNWA is putting together a written policy for subordination and applications to rural county water issues.

Tim Crowley, Lobbyist, Nevada Mining Association, expressed concern with part of Senator James' amendment referring to the need for a conservation plan.

Senator James commented that the language referring to a conservation plan will be changed to add "if applicable" and asked Mr. Crowley if this would address his concern. Mr. Crowley agreed with this language change.

Mike L. Baughman, Lobbyist, Humboldt River Basin Water Authority, went on record to support S.B. 108 and referred to a proposed amendment (Exhibit C) if the 5-year provision were lost in the bill. Mr. Baughman stated the Humboldt River Basin Water Authority is looking for a link between the environmental studies being used to delay action on an application and the information needed by the state water engineer to render a decision for that application. Mr. Baughman noted the statutes now interpret any study involving water could be

Senate Subcommittee on Natural Resources  
February 22, 1999  
Page 4

used as a reason to delay action on an application and the state water engineer is authorized by statute to request these studies.

Mr. Turnipseed responded to Mr. Baughman's comments by saying he agreed with his amendment and would like any changes to speed up the process, but he is not sure Mr. Baughman's proposed amendment would do it.

Naomi Smith Duerr, State Water Planner, Division of Water Planning, Department of Conservation and Natural Resources, stated he supports Senator James' proposed amendment and S.B. 108.

Senator James recommended that they amend and do pass S.B. 108 with his amendment including the language "if applicable" between "and" and "demonstrated."

SENATOR JAMES MOVED TO AMEND AND DO PASS S.B. 108 AS AMENDED.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**PROPOSED AMENDMENT TO  
SENATE BILL 108**

Eliminate the substantive amendments in S.B. 108 and replace them with the following provision:

Page 3; Lines 35-38

In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this subsection, the state engineer must consider, without limitation, whether:

- The applicant for the water transfer has justified the need to import the water and demonstrated that an effective conservation plan has been adopted for the region in need and is being effectively implemented;
- The project is environmentally sound; and
- The project is an appropriate long-term solution which will not unduly limit future development and growth in the area-of-origin.

(These factors are derived from the draft State Water Plan and the Interim Legislative “Study on the Use, Allocation and Management of Water.”)

W90744.43



DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
**DIVISION OF WATER RESOURCES**

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(775) 687-4380 • (775) 687-6972

February 18, 1999

**M E M O R A N D U M**

TO: Senator Dean Rhoads, Chairman  
Senate and Natural Resources Committee  
and Committee Members

THROUGH: Peter G. Morros  
Director

FROM: R. Michael Turnipseed, P.E.   
State Engineer

RE: SB 108

The following are communities and municipalities that get all or a portion of their water from a basin other than which they are situated:

Moapa Valley Water District  
Wendover  
Tonopah  
Lovelock  
Beatty  
Carson City  
Utilities Inc. of Nevada in Cold Springs Valley  
Winnemucca  
Sierra Pacific Power Company (proposed)  
Southern Nevada Water Authority (proposed)

I have 3,200 backlogged applications, 1,700 of which are protested. There may well be bonafide interbasin transfer applications within that 3,200 for the benefit of one or more of these communities.

The reason I bring this to your attention is because of Section 1, Subsection 3 of Senate Bill 108, wherein those communities would have to subordinate their priority to a later

**EXHIBIT B**

Senator Dean Rhoads, Chairman  
February 18, 1999  
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application or even an application that was taken today. I doubt seriously whether any of these communities or municipalities would want to be in that position.

If you have any questions or if I can be of further assistance, please feel free to contact me.

RMT/bk

**AMENDMENT TO SB108**  
**Humboldt River Basin Water Authority**  
**(new language in italics, deleted language in brackets)**  
**2/16/99**

Section 2, Subsection 2., Subpart (b) should be revised as follows:

(b) In areas where studies of water supplies [are being made] *have been ordered by the State Engineer pursuant to NRS 533.368 through 533.369* or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

For Additional Information Contact:  
Mike L. Baughman - (775) 883-2051  
Doug Bierman - (775) 882-2632

meeting the board may recommend a course of action to the state engineer, but the recommendation is not binding on the state engineer.

(Added to NRS by 1981, 782; A 1991, 758)

**NRS 533.365 Interested person may file verified protest with state engineer against granting of application; notice to applicant of protest; rules of practice for hearing; technical rules of evidence do not apply.**

1. Any person interested may, within 30 days from the date of last publication of the notice of application, file with the state engineer a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which shall be verified by the affidavit of the protestant, his agent or attorney.
2. On receipt of a protest, the state engineer shall advise the applicant whose application has been protested of the fact that the protest has been filed with him, which advice shall be sent by certified mail.
3. The state engineer shall consider the protest, and may, in his discretion, hold hearings and require the filing of such evidence as he may deem necessary to a full understanding of the rights involved. The state engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.
4. The state engineer shall adopt rules of practice regarding the conduct of such hearings. The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

[62:140:1913; A 1951, 132]-(NRS A 1967, 192; 1993, 2081)

#### NEVADA CASES.

In considering protest, state engineer may determine water rights existing before adoption of statute. In proceeding on application to appropriate water, protested by one claiming right to adverse use, where NCL § 7947 (cf. NRS 533.365) provided that any interested person could protest granting of application and that state engineer should consider protest and could hold hearing, state engineer could ascertain and determine water rights existing prior to adoption of statute, and those which came into existence by virtue of legal right existing prior to statute. In re Filippini, 66 Nev. 17, 202 P.2d 535 (1949), cited, McCormick v. Sixth Judicial Dist. Court, 69 Nev. 214, at 218, 246 P.2d 805 (1952)

#### ATTORNEY GENERAL'S OPINIONS.

Untimely protests may not be received and filed. State engineer is without authority to receive and file protests against granting of application after 30-day period for filing has elapsed. Sec. 62, ch. 140, Stats. 1913 (cf. NRS 533.365). AGO 97 (2-23-1922)

Order of presentation of evidence is matter within discretion of state engineer. It is within discretion of state engineer, under his rulemaking power, to decide whether applicant or protestant in water appropriation proceedings will present evidence first, and procedure requiring protestant to present evidence first is valid. NCL § 9747 (cf. NRS 533.365). AGO 422 (2-11-1947)

**NRS 533.367 Requirement to ensure access of wildlife to water it customarily uses; waiver.** Before a person may obtain a right to the use of water from a spring or water which has seeped to the surface of the ground, he must ensure that wildlife which customarily uses the water will have access to it. The state engineer may waive this requirement for a domestic use of water.

(Added to NRS by 1981, 1840)

#### NEVADA CASES.

Providing water to wildlife is beneficial use of water. On cross-appeal from order of district court reversing state engineer's grant of applications by United States for appropriative water rights in Blue Lake for recreational, stock-watering and wildlife-watering purposes, court held that wildlife watering is encompassed in NRS 533.030 definition of recreation as beneficial use of water. NRS 501.100 recognizes recreational value of wildlife and NRS 501.181 and 533.367 recognize need to provide wildlife with water. NRS 533.030 indicates that legislature intended provision to include wildlife watering under rubric of recreation as beneficial use of water. Court concluded that providing water to wildlife is beneficial use of water. State, Bd. of Agriculture v. Morros, 104 Nev. 709, 766 P.2d 263 (1988)

**NRS 533.368 Hydrological, environmental or other study: State engineer to determine need for study; cost of study paid by applicant; regulations.**

1. If the state engineer determines that a hydrological study, an environmental study or any other study is necessary before he makes a final determination on an application pursuant to NRS 533.370 and the applicant, a governmental agency or other person has not conducted such a study or the required study is not available, the state engineer shall

advise the applicant of the need for the study and the type of study required.

2. The required study must be conducted by the state engineer or by a person designated by him, the applicant or a consultant approved by the state engineer, as determined by the state engineer.

3. The applicant shall bear the cost of a study required pursuant to subsection 1. A study must not be conducted by the state engineer or by a person designated by him until the applicant has paid a cash deposit to the state engineer which is sufficient to defray the cost of the study.

4. The state engineer shall:

(a) Consult with the applicant and the governing body of the county or counties in which the point of diversion and the place of use is located concerning the scope and progress of the study.

(b) Send a copy of the completed study to all attorneys of record, to a public library, if any, or other public building located in the county of origin, to the county or counties in which the point of diversion and the place of use is located and to the governing bodies of the county of origin and of the county or counties in which the point of diversion and the place of use is located.

5. The state engineer may adopt regulations to carry out the provisions of this section.

(Added to NRS by 1991, 1367)

**NRS 533.369 Special account for studies concerning water: Deposits; interest and income; limitation on use of money; refund of money to applicant; balance does not revert to state general fund.**

1. All money collected pursuant to subsection 3 of NRS 533.368 must be deposited with the state treasurer for credit to a special account for studies concerning water.

2. The interest and income earned on the money in the account for studies concerning water, after deducting any applicable charges, must be credited to the account.

3. The money received pursuant to subsection 3 of NRS 533.368 must be used to defray the cost of conducting the studies required pursuant to subsection 1 of NRS 533.368. Any money paid by an applicant that exceeds the amount required to conduct a study must be refunded to the applicant.

4. Any balance remaining in the account does not revert to the state general fund at the end of the fiscal year.

(Added to NRS by 1991, 1368)

**NRS 533.370 Approval or rejection of application by state engineer: Conditions; procedure.**

1. Except as otherwise provided in NRS 533.345, 533.371, 533.372 and 533.503 and this section, the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the district's efficiency in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the state engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection 5, the state engineer shall either approve or reject each application within

**MINUTES OF THE  
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventieth Session  
March 8, 1999**

The Senate Committee on Natural Resources was called to order by Chairman Dean A. Rhoads, at 1:45 p.m., on Monday, March 8, 1999, in Room 2144 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dean A. Rhoads, Chairman  
Senator Lawrence E. Jacobsen, Vice Chairman  
Senator Mike McGinness  
Senator Mark A. James  
Senator Raymond C. Shaffer  
Senator Bob Coffin  
Senator Maggie Carlton

**STAFF MEMBERS PRESENT:**

Fred Welden, Committee Policy Analyst  
Scott Corbett, Committee Secretary

**OTHERS PRESENT:**

Jolaine Johnson, Chief, Bureau of Air Quality, Division of Environmental Protection, State Department of Conservation and Natural Resources  
Joseph L. Johnson, Lobbyist, Sierra Club  
Michelle M. Gamble, Lobbyist, Nevada Association of Counties  
Don Henderson, Deputy Administrator, Division of Agriculture, Department of Business and Industry  
Stephanie D. Licht, Lobbyist, Elko County Commissioners, and Nevada Woolgrowers Association  
C. Joseph Guild, Lobbyist, Nevada Cattlemen's Association  
Doug Busselman, Lobbyist, Nevada Farm Bureau  
Rey Flake, Chairman, Board of Commissioners, Lincoln County  
Douglas N. Bierman, Lobbyist, Eureka County, Lander County, Lincoln County  
Amy Halley Hill, Lobbyist, Barrick Goldstrike Mines Incorporated

Senator Coffin commented land-based protein sources should be increasing because of the reduction of fish stocks and increased regulation of the fishing industry. Mr. Henderson concurred with Senator Coffin's remark and added beef protein is a good and cheap source of protein for the country's population.

Stephanie D. Licht, Lobbyist, Elko County Commissioners, and Nevada Woolgrowers Association, spoke in support of S.J.R. 12 because it supports the economic diversification of rural counties and communication between the local and federal government regarding the livestock industries.

C. Joseph Guild, Lobbyist, Nevada Cattlemen's Association, said legislation like S.J.R. 12 which raises awareness for the need of local and federal government agencies to cooperate is needed, and that is why they support S.J.R. 12.

Doug Busselman, Lobbyist, Nevada Farm Bureau, spoke in support of S.J.R. 12 and mentioned there has been a strong emphasis over the past few years for local and federal agencies to cooperate. Mr. Busselman said S.J.R. 12 encourages and recognizes the current cooperation.

Rey Flake, Chairman, Board of Commissioners, Lincoln County, agreed with Mr. Busselman's comments and added how important it is for the rural counties to maintain cooperation with federal agencies since they have to work with them on many issues.

Douglas N. Bierman, Lobbyist, Eureka County, used a handout (Exhibit E) to outline the AUM and economic reductions that have affected Eureka County. Mr. Bierman went on record for the people of Eureka County in support Senate Joint Resolution 12.

Chairman Rhoads closed the hearing on S.J.R. 12 and opened the work session on S.B. 108.

**SENATE BILL 108:** Revises provisions governing interbasin transfers of water.  
(BDR 48-922)

Senator McGinness, Chairman of the subcommittee on S.B. 108, went over the two proposed amendments (Exhibit F) to S.B. 108. The first amendment was proposed by the subcommittee on S.B. 108 which was derived from language found in the State Water Plan, and the other proposed amendment by the

Humboldt River Basin Water Authority which was found to be acceptable by the subcommittee members but not specifically voted on by the subcommittee. Senator McGinness added that Barrick Goldstrike Mines Inc. would like an additional amendment regarding mine dewatering activities.

Amy Halley Hill, Lobbyist, Barrick Goldstrike Mines Incorporated, said they had spoken with the State Water Engineer, R. Michael Turnipseed, in regards to the proposed amendment (Exhibit G) for mine dewatering activities not to be considered an interbasin transfer, and Mr. Turnipseed has found it to be acceptable.

R. Michael Turnipseed, State Engineer, Division of Water Resources, Department of Conservation and Natural Resources, said he has no problems with the three aforementioned proposed amendments to S.B. 108, but still is concerned with the part of the subcommittee's proposed amendment regarding the environment and his responsibilities to guarding it. Mr. Turnipseed stated:

We did have some additional discussion regarding bullet 2, whether the project is environmentally sound. I brought up the situation where we get caught in the chicken and the egg thing on whether an environmental impact statement should be done if required or whether I should take action on the water appropriations before they begin the environmental review process. I brought up my being comfortable with administering the water rights of the state or water resources of the state, but I didn't [did not] feel comfortable being the guardian of increased smog or increased traffic or increased crime if the water was to be exported to a municipality.

Senator James stated he thinks Mr. Turnipseed is saying the state water engineer should be responsible for the hydrologic environmental impact in the export of water in the basin of origin but should not be responsible for the environmental effects in the basin importing this water.

Fred Welden, Committee Policy Analyst, Research Division, Legislative Counsel Bureau, commented he needs clarification on the proposed amendment dealing with mine dewatering, in regards to it being drafted specific to the public interest discussed in *Nevada Revised Statutes* (NRS) 533.370 or to be inclusive of all portions of the statutes dealing with interbasin transfers of water. Mr.

Turnipseed stated that the proposed amendment would address interbasin transfers of water as used in NRS 533.370 and would state that mine-dewatering activities that ultimately flow out of the basin of origin shall not be treated as interbasin transfers. Ms. Hill commented that her understanding was this proposed amendment was to address NRS 533.370.

Senator James questioned if all mine-dewatering projects should be exempt per the proposed amendment from the Barrick Goldstrike Mine or should all mine dewatering projects be subject to the criteria outlined in the subcommittee's proposed amendment regarding environmental impact like any other interbasin transfer of water. Ms. Hill stated they are not asking that mine-dewatering projects be exempted from permits with respect to water, but mine-dewatering not be considered an interbasin transfer of water. Senator James responded by saying any amendment to NRS 533.370 (water permit requirements) needs to meet three requirements. One of these requirements involves public interest; i.e., an environmental impact study, and exempting mine dewatering from being subject to an environmental impact study could result in possible litigation. Ms. Hill stated that this is not their intention and they would like to address Senator James' concerns.

Chairman Rhoads stated the committee will take no action on S.B. 108 for other concerns to be addressed and asked if anyone else would like to testify on S.B. 108.

Steve Bradhurst, Lobbyist, Planning Consultant, Nye, Lincoln and White Pine counties, commented that the mine-dewatering issue may be solved by adding another part to the subcommittee's proposed amendment defining an interbasin transfer of water to be permanent and a mine-dewatering project as temporary. Since mines are temporary this might address the concerns of Senator James and allow for a differentiation of a mine-dewatering project (temporary) and an interbasin transfer of water (permanent). Mr. Bradhurst added he understands Senator James' point of the importance of an environmental impact analysis as related to mine dewatering, whether or not the permit is considered temporary or permanent.

Chairman Rhoads closed the work session on S.B. 108 and opened the work session on Senate Concurrent Resolution (S.C.R.) 15.

**ADDITIONAL AMENDMENT  
PROPOSED FOR  
SENATE BILL 108**

As Chairman of the Subcommittee on Senate Bill 108, I would ask that the full Committee also consider the following amendment proposed by the Humboldt River Basin Water Authority and generally found to be acceptable by the Subcommittee members (but not specifically voted upon by the Subcommittee):

Page 3, lines 8 -10

(b) In areas where studies of water supplies ~~are being made~~ *have been determined to be necessary by the State Engineer pursuant to NRS 533.368 through 533.369* or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

Senator Mike McGinness, Chairman  
Subcommittee on Senate Bill 108

SNR.Subcom.sb108-1



**WORK SESSION**  
**SENATE COMMITTEE ON NATURAL**  
**RESOURCES**

**March 8, 1999**

**PREPARED BY**  
**RESEARCH DIVISION**  
**LEGISLATIVE COUNSEL BUREAU**  
Nonpartisan Staff of the Nevada State Legislature

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- Senate Bill 108** (Legislative Committee on Public Lands) **Subcommittee**

*Revises provision governing interbasin transfers of water.*

See Attachment A for Subcommittee Report.

- S.C.R. 15** (Legislative Committee to Review the TRPA) **NACT**

*Urges state agencies to use inmate and volunteer labor for projects in the Lake Tahoe Basin.*

No amendments were proposed for S.C.R. 15. Senator Lawrence Jacobsen asked for the opportunity to provide additional information concerning the use of inmate labor and honor camps.

WS3-8-99



## SUBCOMMITTEE REPORT

PREPARED BY  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU  
Nonpartisan Staff of the Nevada State Legislature

TO THE  
SENATE COMMITTEE  
ON NATURAL RESOURCES

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### SENATE BILL 108

*Summary — Revises provisions concerning interbasin transfers of water.*

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#### *Members Present*

Senator Mike McGinness, Chairman  
Senator Bob Coffin  
Senator Mark A. James

#### *Other Legislators Present*

None

#### *Subcommittee Meeting*

The Subcommittee met as part of a Committee Work Session on February 22, 1999. Testimony was received from:

R. Michael Turnipseed, State Engineer  
Julie Wilcox Slay, Representing the Southern Nevada Water Authority  
Tim Crowley, Representing the Nevada Mining Association  
Mike Baughman, Representing the Humboldt River Basin Water Authority  
Naomi Duerr, State Water Planner

Minutes of the Subcommittee meeting will be available (upon completion) as part of the minutes for the full Committee hearing and Work Session held on February 22, 1999.

***Subcommittee Recommendation***

The Subcommittee recommends that the full Committee consider and approve a motion to “Amend and Do Pass” Senate Bill 108 with the following amendment.

Eliminate the substantive amendments in S.B. 108 and replace them with the following provision:

Page 3; Lines 35-38

***In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this subsection, the state engineer must consider, without limitation, whether:***

- ***The applicant for the water transfer has justified the need to import the water and demonstrated, if applicable, that an effective conservation plan has been adopted for the region in need and is being effectively implemented;***
- ***The project is environmentally sound; and***
- ***The project is an appropriate long-term solution which will not unduly limit future development and growth in the area-of-origin.***

(These factors are derived primarily from the draft State Water Plan and the Interim Legislative “Study on the Use, Allocation and Management of Water.”)



Proposed Amendment to Senate Bill 108  
Proposed by Barrick Goldstrike Mines  
March 8, 1999

[New language in **bold**]

To be inserted in the appropriate subsection:

**“Except as otherwise provided in subsection \_\_\_\_\_,”**

New subsection \_\_\_\_\_:

**“Water that is discharged from mine dewatering activities that ultimately flows out of the basin of origin shall not be treated as an “interbasin transfer.”**

9

**MINUTES OF THE  
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventieth Session  
March 17, 1999**

The Senate Committee on Natural Resources was called to order by Chairman Dean A. Rhoads, at 1:42 p.m., on Wednesday, March 17, 1999, in Room 2144 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dean A. Rhoads, Chairman  
Senator Lawrence E. Jacobsen, Vice Chairman  
Senator Mike McGinness  
Senator Mark A. James  
Senator Raymond C. Shaffer  
Senator Bob Coffin  
Senator Maggie Carlton

**GUEST LEGISLATORS PRESENT:**

Senator Bernice Mathews, Washoe County Senatorial District No. 1  
Senator Alice Contandina (Dina) Titus, Clark County Senatorial District No. 7

**STAFF MEMBERS PRESENT:**

Fred Welden, Committee Policy Analyst  
Scott Corbett, Committee Secretary

**OTHERS PRESENT:**

Jack Greco, Chairman, Nevada Gasoline Retailers and Garage Owners Association  
Lou Gardella, Owner, Jiffy Smog  
James Sohns, President, Nevada Car Owner's Association  
Jolaine Johnson, Chief, Bureau of Air Quality, Division of Environmental Protection, Department of Conservation and Natural Resources  
Joseph L. Johnson, Lobbyist, Sierra Club  
Merrit K. (Ike) Yochum, Lobbyist

Senate Committee on Natural Resources  
March 17, 1999  
Page 2

John H. Detar, M.D., Concerned Citizen  
Janine Hansen, Lobbyist, Nevada Eagle Forum  
James Dan, Lobbyist, Libertarian Party of Nevada  
David Horton, Lobbyist, Committee to Restore the Constitution  
Mike Oliver, Concerned Citizen  
Allen Biaggi, Administrator, Division of Environmental Protection, Department of  
Conservation and Natural Resources  
Irene E. Porter, Lobbyist, Southern Nevada Home Builders Association  
Donna Ernst, Staff Environmentalist Scientist, SRK Consulting  
Carl R. Dahlen, Rural Program Manager, Commission on Economic Development  
Tibeau Piquet, State Chairman, People for the United States of America  
Liz Arnold, National Chairman, People for the United States of America  
Doug Busselman, Lobbyist, Nevada Farm Bureau  
Stephanie D. Licht, Lobbyist, Nevada Woolgrowers Association, and Elko  
County Commissioners  
C. Joseph Guild, Lobbyist, Nevada Cattlemen's Association  
Robert Crowell, Lobbyist, Center for Energy and Economic Development  
Daniel F. Geary, Lobbyist, National Environmental Trust  
Kelly T. Redmond, Deputy Director, Western Regional Climate Center, Desert  
Research Institute, University and Community College System of Nevada  
Jan Gilbert, Lobbyist, League of Women Voters of Nevada  
Marjorie Sill, Concerned Citizen

Chairman Rhoads opened the committee meeting with discussion on the subcommittee meeting of the Senate Committee on Natural Resources, February 22, 1999, and asked Senator McGinness, chairman of the subcommittee, to explain the results agreed upon on Senate Bill (S.B.) 108.

**SENATE BILL 108:** Revises provisions governing interbasin transfers of water.  
(BDR 48-922)

Senator McGinness referred to a handout (Exhibit C) which outlines all of the amendments that were agreed upon by the subcommittee for referral to the full committee for passage.

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 108.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SHAFFER WAS ABSENT FOR THE VOTE.)

\*\*\*\*\*

Chairman Rhoads opened the hearing on S.B. 331.

**SENATE BILL 331**: Exempts newer motor vehicles from provisions governing control of emissions from motor vehicles. (BDR 40-358)

Senator Bernice Mathews, Washoe County Senatorial District No. 1, testified that she is the sponsor of S.B. 331. Senator Mathews explained this bill came about because she received some complaints from her constituents that were having to pay for an annual emissions inspection for their new cars, which are 4 years old or newer. Senator Mathews referred to figures (Exhibit D), from the Department of Motor Vehicles and Public Safety (DMV&PS), outlining failure rates for vehicle emissions tests taken from Washoe County, Clark County and statewide. Chairman Rhoads asked if it is a federal requirement to have an emissions test on all cars. Senator Mathews did not know.

Jack Greco, Chairman, Nevada Gasoline Retailers and Garage Owners Association, spoke in opposition to S.B. 331 and referred to a handout (Exhibit E) explaining how a new car can be a gross polluter. Mr. Greco stated a vehicle emitting over twice the allowable emissions would be considered a gross polluter. Mr. Greco added even though only 0.8 percent of cars 4 years old and newer are gross polluters, they make up 10 percent of the total gross polluters in the state. Mr. Greco used an example of an emission control certificate (Exhibit F) from a 1992 vehicle to show how severe the emissions can get on a newer car with faulty emissions control equipment. Mr. Greco also pointed out that the car manufacturers, under federal law, must fix all pollution control problems under the factory warranty, and if S.B. 331 were passed most of these repairs would not be covered under the factory warranty due to time expiration.

Senator Mathews asked if the present laws allow for the exemption of an emissions inspection after the first registration of a new car purchase. Mr.



**WORK SESSION**  
**SENATE COMMITTEE ON NATURAL**  
**RESOURCES**

March 17, 1999

PREPARED BY  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU  
Nonpartisan Staff of the Nevada State Legislature

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**Senate Bill 108** (Legislative Committee on Public Lands) Subcommittee

*Revises provision governing interbasin transfers of water.*

Attached are: (1) the Subcommittee Report (including the major proposed amendment); (2) an amendment proposed by the Humboldt River Basin Water Authority which was generally found to be acceptable by the Subcommittee members; and (3) an amendment proposed by Barrick Goldstrike Mines and reviewed by Senator James at the request of the Chairman.

WS3-17-99

EXHIBIT C



## SUBCOMMITTEE REPORT

PREPARED BY  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU  
Nonpartisan Staff of the Nevada State Legislature

TO THE  
SENATE COMMITTEE  
ON NATURAL RESOURCES

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### SENATE BILL 108

*Summary — Revises provisions concerning interbasin transfers of water.*

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#### *Members Present*

Senator Mike McGinness, Chairman  
Senator Bob Coffin  
Senator Mark A. James

#### *Other Legislators Present*

None

#### *Subcommittee Meeting*

The Subcommittee met as part of a Committee Work Session on February 22, 1999. Testimony was received from:

R. Michael Turnipseed, State Engineer  
Julie Wilcox Slay, Representing the Southern Nevada Water Authority  
Tim Crowley, Representing the Nevada Mining Association  
Mike Baughman, Representing the Humboldt River Basin Water Authority  
Naomi Duerr, State Water Planner

Minutes of the Subcommittee meeting will be available (upon completion) as part of the minutes for the full Committee hearing and Work Session held on February 22, 1999.

***Subcommittee Recommendation***

The Subcommittee recommends that the full Committee consider and approve a motion to "Amend and Do Pass" Senate Bill 108 with the following amendment.

Eliminate the substantive amendments in S.B. 108 and replace them with the following provision:

Page 3; Lines 35-38

***In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this subsection, the state engineer must consider, without limitation, whether:***

- ***The applicant for the water transfer has justified the need to import the water and demonstrated, if applicable, that an effective conservation plan has been adopted for the region in need and is being effectively implemented;***
- ***The project is environmentally sound; and***
- ***The project is an appropriate long-term solution which will not unduly limit future development and growth in the area-of-origin.***

(These factors are derived primarily from the draft State Water Plan and the Interim Legislative "Study on the Use, Allocation and Management of Water.")

**ADDITIONAL AMENDMENT  
PROPOSED FOR  
SENATE BILL 108**

As Chairman of the Subcommittee on Senate Bill 108, I would ask that the full Committee also consider the following amendment proposed by the Humboldt River Basin Water Authority and generally found to be acceptable by the Subcommittee members (but not specifically voted upon by the Subcommittee):

Page 3, lines 8 -10

(b) In areas where studies of water supplies ~~are being made~~ *have been determined to be necessary by the State Engineer pursuant to NRS 533.368 through 533.369* or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

Senator Mike McGinness, Chairman  
Subcommittee on Senate Bill 108

SNR.Subcom.sb108-1

**AMENDMENT TO SENATE BILL 108  
PROPOSED BY BARRICK GOLDSTRIKE MINES**

To be inserted in S.B. 108 as a new subsection in NRS 533.370:

As used in this section, "interbasin transfer" means that the proposed point of diversion in the application is in a different basin than the proposed place of beneficial use in the application.

SNR.Subcom.sb108-2



**MINUTES OF THE  
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND  
MINING**

**Seventieth Session  
April 21, 1999**

The Committee on Natural Resources, Agriculture, and Mining was called to order at 2:00 p.m., on Wednesday, April 21, 1999. Chairman Marcia de Braga presided in Room 3161 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All Exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mrs. Marcia de Braga, Chairman  
Mrs. Gene Segerblom, Vice Chairman  
Mr. Douglas Bache  
Mr. John Carpenter  
Mr. Jerry Claborn  
Mr. Lynn Hettrick  
Mr. David Humke  
Mr. John Jay Lee  
Mr. John Marvel  
Mr. Harry Mortenson  
Mr. Roy Neighbors  
Ms. Genie Ohrenschall  
Ms. Bonnie Parnell

**GUEST LEGISLATORS PRESENT:**

Senator Dean Rhoads, Northern Nevada Senatorial District

**STAFF MEMBERS PRESENT:**

Linda Eissmann, Committee Policy Analyst  
Sharon Spencer, Committee Secretary

**OTHERS PRESENT:**

Amy Hill, Representing Barrick Goldstrick Mines  
Naomi Duerr, State Water Planner  
Steve Bradhurst, Representing Nye, Lincoln, and White Pine Counties  
Board of Commissioners  
Pete Goicoechea, Chairman, Eureka County Board of Commissioners  
John Balliette, Representing Eureka County Board of Commissioners  
Karen Peterson, Representing Eureka County Board of Commissioners  
Hugh Ricci, Deputy State Engineer, Nevada Division of Water Resources  
Doug Bierman, Representing Humboldt River Basin Water Authority  
Chris Weiss, Representing Southern Nevada Water Authority  
Joe Guild, Representing Newmont Gold Company  
Pamela Wilcox, Administrator, Nevada Division of State Lands

After roll was called, the Chairman opened the hearing on S.B. 108.

**Senate Bill 108: Revises provisions governing applications for use of water.**  
**(BDR 48-922)**

Senator Dean Rhoads of the Northern Nevada Senatorial District was the first to testify in support of the proposed legislation. He explained interbasin transfers of water had been addressed in Nevada for many years and was an issue of great importance to both urban and rural areas of the state. During the 1997 Legislative Session, S.B. 454 was introduced, but did not receive the attention it deserved because it was introduced late in the session. Therefore, it was recommended that the Committee on Public Lands investigate the subject in greater depth prior to the 1999 Legislative Session.

Senator Rhoads pointed out the measure outlined the criteria the state engineer must consider when reviewing an application for an interbasin transfer of ground water. The proposed legislation provided a statutory definition of interbasin transfer of ground water and clarified the responsibilities of the state engineer, which must be determined in order to consider if additional studies were needed prior to postponing action on an application. The criteria for determining the need for additional studies, which was developed from the 1993-1994 Interim Legislative study of the state water plan in consideration of the use, allocation, and management of water, was as follows:

- Whether the applicant had justified the need to import water to another basin.
- Whether the applicant had demonstrated that a conservation plan had been adopted and was being effectively carried out in the basin into which the water was being imported.
- Whether the proposed action was environmentally sound as it related to the basin from which the water was exported.
- Whether the proposed action was an appropriate use that did not unduly limit the future growth and development in the basin from which the water was being exported.
- Any other factors the state engineer determined to be relevant to the issue.

Senator Rhoads concluded his testimony by urging the committee to support S.B. 108. The senator's entire testimony was included in Exhibit C.

Amy Hill, representing Barrick Goldstrike Mines, was the next proponent of the proposed legislation to testify. She said the mining industry supported the measure. She pointed out the proposed legislation would not exempt the mining industry from review by the state engineers or from the criteria established by the interim committee for the review process.

The Chairman asked Ms. Hill if the mining industry had initially been exempted from the proposed legislation, to which Ms. Hill responded in the negative. She added interbasin water transfer permit requirements were the most strictly enforced for the mining industry. The mining industry wanted an exact definition of interbasin water transfer to be included in the measure, but had never requested or received an exemption from the permitting process.

Mr. Mortenson asked who comprised the legislative interim Committee on Public Lands. Ms. Hill explained it was a statutory committee and the committee members were Mr. Neighbors, Ms. Ohrenschall, Mr. Marvel, and others including members of the public.

Naomi Duerr, State Water Planner, spoke as a proponent of the proposed legislation. She said the measure was the result of a great deal of effort and consensus. The timing and development of the measure preceded the interim committee, she pointed out. The issue went back into the history of the state and was an integral part of the settlement of Nevada. It involved the withdrawing either of groundwater or surface water from one basin or county for beneficial use in another basin or county. Growing urban areas were looking for ways to purchase and transfer existing water rights and change them to municipal use water rights as a way of augmenting instream flows.

Ms. Duerr said water transfers had contributed to the economic development, growth, and prosperity of Nevada, but the cost of conducting a basin transfer was very great and could potentially impact the following (Exhibit D):

- The rights of existing water users could be permanently effected.
- Reduction of instream flows.
- Decreased flow to wetlands and lakes downstream at points of diversion.
- Decreased recharge to aquifers
- Social, economic, and fiscal concerns regarding potential losses of taxable income, social stability, or future economic development as related to population impacts on growing urban areas.

Ms. Duerr pointed out section (b) of the proposed amendment to the legislation submitted by Eureka County (page 2 of Exhibit E) was inaccurate and should be reworded. It stated *if the state engineer determines that a plan for conservation* was needed regarding interbasin water transfers. The statement was incorrect because Nevada Revised Statutes (NRS) 540 required the conservation plan be presented, and therefore, was not a requirement "to be determined by the state engineer."

Mr. Neighbors asked if she had requested the Senate amend the language of Eureka County's amendment. Ms. Duerr replied in the negative.

Mr. Hettrick asked why it was necessary to restate in the proposed amendment the requirement that conservation plans had to be submitted if that requirement already appeared in statute. Ms. Duerr responded that the state water plan was about to be adopted. After its adoption, no additional regulations could be included in the plan. It was important to address all concerns before the plan was approved.

Steve Bradhurst, representing Nye, Lincoln, and White Pine Counties Boards of Commissioners, was called upon by Chairman de Braga to testify on S.B. 108. He explained the state engineer had to consider certain issues when reviewing applications for water transfers. He had to be certain there was sufficient ground water available and if transferring water would adversely impact another party's water rights. The state engineer also had to determine if granting the transfer was in the public interest. Nye, Lincoln, and White Pine Counties were three rural counties who were involved in a water importation project since 1989. Their greatest concern was would there be enough water left in the basin from which the water came to ensure that basin would remain environmentally viable.

Mr. Bradhurst said there was need for a concise definition of what was required in order to ensure public interest would be protected regarding water rights laws, particularly as it applied to interbasin transfers. It was important to protect the future environment of basins in rural communities to ensure water would be available for future growth.

Mr. Marvel asked if Clark County had withdrawn its applications, to which Mr. Bradhurst responded in the negative, adding Clark County had 121 applications filed in the three rural counties he represented.

Pete Goicoechea, Chairman of the Eureka County Board of Commissioners, testified as a proponent of the proposed legislation. He said he was concerned the language of the proposed amendment would exempt the mining industry for the proposed criteria and strict guidelines of the language relating to interbasin water transfers. He said he was specifically concerned that the language stated the beneficial use of the water transferred occurred at the point of dewatering and the balance of the water would be considered wastewater. Over 2 million acre-feet of water would be discharged as wastewater at the three mines in northern Eureka County. He asked if all that water was actually wastewater. He said if it was wastewater, there was no logic in discharging it into Eureka County rivers. Eventually the water would leave the county entirely. Mr. Goicoechea presented the committee with a proposed amendment to the legislation along with his testimony and a map, which showed mine dewatering discharge locations in the Humboldt River Basin (Exhibit E).

John Balliette, representing Eureka County Board of Commissioners, was called upon to testify on the issue of mine dewatering. He said mine dewatering was not legally an interbasin water transfer, the end result was an interbasin water transfer. He used the Humboldt-Carson Sink as an example of such a transfer and added both areas were at record levels. He predicted negative environmental influences would occur in areas included in the transfer process as well as long-term negative impacts on surrounding areas.

Mr. Lee asked what Mr. Balliette's main concerns were. Mr. Balliette said he wanted the interest of the public protected. That would be accomplished by including language into S.B. 108, which would ensure all proposed beneficial water uses were thoroughly reviewed during the permitting process to ensure the proposals were environmentally sound.

Mr. Carpenter said the proposed amendment submitted by Eureka County would essentially shutdown the mining industry in Nevada. Mr. Goicoechea explained the language was not intended to shutdown mining in the state. The proposed

amendment was subject to all points of review as detailed in the established criteria, which would be followed by the state engineer. Mr. Carpenter said he would not support any proposed legislation or amendments that could potentially negatively impact the mining industry in Nevada. Mr. Goicoechea said mining was a legitimate proscribed beneficial use of water.

The Chairman asked if Mr. Goicoechea considered subsection 4 of his proposed amendment to be a contradiction of subsection 8. Mr. Goicoechea agreed the two subsections contradicted each other and that subsection 8 posed a major concern for the Eureka County Board of Commissioners. Chairman de Braga asked what changes to the proposed language he would suggest in order to ensure the concerns of all involved entities were addressed. He said exporting 2 million acre-feet of water could seriously impact rural communities and permanently hamper future growth in those areas. The possibility streams could dry up and 20 percent reduction in flows to the Humboldt River were scary possibilities. He suggested the state engineer along with Eureka County and all other involved entities thoroughly review the permitting process before passing the proposed legislation.

Mr. Mortenson asked if Eureka County would be satisfied if language was included in the proposed legislation that strictly forbade the state engineer from allowing wastewater from dewatering of mines to enter rivers, but instead had to be recharged into the ground at some distance from rivers. Mr. Goicoechea responded in the affirmative and added his county also advocated additional upstream storage as a possible resolution to the issue. Continued secondary applications of water was another alternative.

Karen Peterson, representing Eureka County, stated representatives of the mining industry had told her that discharge water from mine dewatering was transferred into another basin. Ms. Peterson stated that was the water about which Eureka County was concerned.

Hugh Ricci, Deputy State Engineer for Nevada Division of Water Resources (NDWR), was called upon to clarify issues concerning mine dewatering. The Chairman asked Mr. Ricci to comment on why the transportation of used, discharged water was not considered an interbasin transfer of water by NDWR. Mr. Ricci said existing law along with the proposed legislation in its original form, already defined an interbasin transfer of water; however, he agreed to study the list of criteria presented at the meeting and incorporate them into the permit process.

Mr. Mortenson said he had heard Mr. Ricci state there were only three alternatives to releasing discharged water. They were discharging water into the river, recharge it into the ground, or find another beneficial use for it. He asked if the water could be released onto a playa where part of it would evaporate, but a larger amount would seep into the ground and eventually replenish the basin. Mr. Ricci said Mr. Mortenson's suggestion was only viable if recharged water was introduced through an enhancement system, such as an infiltration basin. He said it was important to consider another factor, which was water could not be spread over land that was privately owned.

Mr. Marvel asked how much water Barrick Goldstrike Mines was discharging into the Humboldt River. Mr. Ricci said Barrick presently discharged no water into the Humboldt River because it reused all wastewater for irrigation of crops.

Chairman de Braga asked if Mr. Ricci would accept the proposed new language for subsection 4 as suggested by Eureka County. Mr. Ricci said his agency already did what was suggested in the proposed amendment because it reviewed all mining applications the same way all interbasin water transfers were considered and in which water would be beneficially used in another area. A protest and appeal procedure was already in place, which allowed applicants an opportunity to have their applications further reviewed. Applications would be reviewed to determine how much water was needed to carry out the use for which the process permitting was requested. Submission of conservation plans would not necessarily be appropriate for mining operations.

Mr. Hettrick said the main issue about which Eureka County was concerned was from where water was coming for its intended beneficial use and not where discharged water was going after it was used. He said the county's concern involved the beneficial use of water, which was the point of diversion such as a mine. Inadvertently, water was transferred to another basin before it disappeared. He asked Mr. Ricci to address the question regarding water law, which required the state engineer's office to review the inadvertent transfer of water to another basin after beneficial use. Mr. Ricci said beneficial use was studied from the front end of the situation, which meant how much water was the mine projecting it would have to pump. More water would be pumped than would be used. That determined the approximate amount of excess water that would need disposal in a legal manner. That water could be discharged to a stream source, from which it would then move on and eventually out of the area. The arrangement to allow the water to return to the surface water system was used only as a last resort. He said the inadvertent transfer of water from another basin after beneficial use was not prohibited.

Mr. Marvel agreed discharged water could be reused for irrigating crops. He said another beneficial use would be to use the water for wildlife. Such use of water would guarantee it would not be totally lost after mine dewatering.

Doug Bierman, representing Humboldt River Basin Water Authority (HRBWA), was the next to testify in support of the proposed legislation and the proposed amendment presented by Eureka County. He explained he had an additional amendment (Exhibit G), which further clarified subsection 4 of section 1 of the measure and strengthened S.B. 108 in regard to protecting the interests of HRBWA. It would ensure applications for mine dewatering, which in some cases may technically not be an application for interbasin transfer, yet could result in discharges into surface water systems, essentially resulting in an interbasin transfer of water. The state engineer would evaluate applications, which would not be approved unless applicants worked toward minimizing water discharges into surface systems. The desired results would be less water evaporation and lowered flood hazards.

Chairman de Braga expressed surprise at receiving Senate legislation in an Assembly committee that still required over seven proposed amendments. She asked Mr. Bierman if he was aware of a reason for that occurrence. Mr. Bierman said the Senate had not fully developed appropriate language to address all the concerns of involved entities, which surfaced only shortly before the deadline to release legislation from the house of origin.

Mr. Hettrick said he had a problem with the proposed amendment because it placed a condition on the permitting process requiring the state engineer to determine the technical feasibility of various methods for managing interbasin water transfers. Many proposed techniques for alternative beneficial uses for discharged water had already been deemed technically unfeasible as described in the proposed amendment of HRBWA. He said he could accept the proposed amendment of HRBWA if the last three items were deleted. In place of the eliminated language, Mr. Hettrick suggested stating *until every practical avenue for recharged secondary use or storage had been explored*. The entire procedure had to be followed by applicants anyway to guarantee everything had been done to avoid draining the basin from which the water was drawn. Once that requirement had been met, he pointed out, the resulting activity, such as mining, would be operating and the techniques employed would have to be practical.

Mr. Bierman said he was receptive to Mr. Hettrick's suggestions. He said the position of HRBWA was if most requirements were voluntarily followed, the state engineer and NDWR would be satisfied. The final effort would be to place all proposed language into law.

Mr. Carpenter said Mr. Hettrick's opinions satisfied most of his concerns; however, he still opposed the proposed amendments. He said dry years could happen anytime, which could adversely affect the environment subjected to interbasin water transfers. Water would be needed to irrigate crops and at that point, technically feasible methods would become unimportant.

Chris Weiss, representing Southern Nevada Water Authority, testified in support of the measure. He said the agency he represented supported the legislation as written.

Joe Guild, representing Newmont Gold Company, testified as a proponent of the proposed legislation. Newmont Gold Company was engaged in most of the state's recent mine dewatering projects. He did not support the proposed amendment of Eureka County in any form. Mr. Guild said he had not seen the proposed amendment offered by HRBWA, but judging from what he heard about it, he considered it completely unnecessary. Mr. Guild agreed with Mr. Hettrick that an amendment was not needed if it merely restated preexisting requirements and procedures currently being followed by the state engineer. NDWR followed mandated procedures required for issuing temporary mine dewatering permits; therefore, no additional language was needed. He said section 8 was included in the proposed legislation because it excluded mine dewatering from the definition of an interbasin transfer. The remaining criteria was followed by the state engineer when considering permits for both interbasin transfers and mine dewatering, which was a temporary permit for the use of water. Mr. Guild said mine dewatering was the most scrutinized of all beneficial use applications.

Mr. Goicoechea returned to the witness table to express his support for the mining industry. He said his county appreciated mining and what it contributed to the state and wanted his support of the industry on record.

Linda Eissmann, Legislative Counsel Bureau policy analyst, presented the committee with a handout that reviewed pertinent issues regarding the proposed legislation (Exhibit F).

Chairman de Braga suggested returning to the issue at a later date. She said additional time was needed by all concerned entities to allow them to formulate appropriate language for proposed amendments. She closed the hearing on S.B. 108 and opened the hearing on S.B. 344.

**Senate Bill 344: Revises provisions governing options of certain persons to purchase mineral interests owned by state in certain trust lands. (BDR 26-429)**

Pamela Wilcox, Administrator of Nevada Division of State Lands, testified in support of the proposed legislation. She explained the measure was an agency measure and a trailer to a measure passed in the 1997 Legislative Session. She said the measure was needed as a form of housekeeping to correct an error, which was not caught until the session was over. S.B. 344 would correct the statement *mineral interests can be purchased from the state at the fair market value of the royalty*. Ms. Wilcox said that was not correct because if an individual was purchasing a mineral interest from the state it had to be at the fair market value of the mineral interest. The proposed legislation would correct the faulty language by replacing the word *royalty* on line 10 with the word *mineral interests*.

Ms. Eissmann presented the committee with a handout (Exhibit H), which provided background information on the proposed legislation.

The Chairman asked if there were additional questions or comments and there were none. She called for a motion. Mr. Marvel asked if the motion should be do pass and Mr. Bache suggested the motion be do pass and place on consent calendar.

ASSEMBLYMAN MARVEL MOVED TO DO PASS AND PLACE ON  
CONSENT CALENDAR S.B. 344.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED.

**INTRODUCTORY STATEMENT FOR SENATE BILL 108**

**SENATOR DEAN RHOADS**

**Assembly Committee Natural Resources, Agriculture, and Mining**

**April 21, 1999**

**1:30 p.m.**

GOOD AFTERNOON. FOR THE RECORD, I AM DEAN RHOADS, STATE SENATOR, REPRESENTING THE NORTHERN NEVADA SENATORIAL DISTRICT. THANK YOU, MADAME CHAIR, FOR GIVING ME THIS OPPORTUNITY TO COME BEFORE YOU TODAY TO BRIEFLY REVIEW A MOST IMPORTANT BILL FOR NEVADA - SENATE BILL 108.

AS YOU KNOW, THE INTERBASIN TRANSFER OF WATER HAS BEEN ADDRESSED FOR MANY YEARS IN NEVADA AND IS ESPECIALLY IMPORTANT TO WATER USERS IN BOTH RURAL AND URBAN AREAS OF THIS STATE. THIS ISSUE WAS FORMALLY CONSIDERED BY THE LEGISLATURE DURING THE 1997 SESSION THROUGH SENATE BILL 454. HOWEVER, THE MEASURE WAS INTRODUCED LATE IN THE 1997 SESSION AND WAS UNABLE TO RECEIVE THE ATTENTION IT DESERVED. THEREFORE, IT WAS RECOMMENDED THAT THE LEGISLATIVE COMMITTEE ON PUBLIC LANDS INVESTIGATE THE SUBJECT IN GREATER DEPTH PRIOR TO THE 1999 LEGISLATIVE SESSION.

DURING THE 1997-1998 INTERIM, THE TOPIC OF INTERBASIN TRANSFER OF WATER WAS ADDRESSED AT MEETINGS IN CARSON CITY, LAS VEGAS, PAHRUMP, ELKO, AND RENO.

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EXHIBIT C  
Submitted to the Committee on Natural Resources,  
Agriculture, and Mining on 4/21/99 1316  
by Senator Rhoads

NUMEROUS STATE AND LOCAL GOVERNMENT OFFICIALS APPEARED BEFORE THE PUBLIC LANDS COMMITTEE TO OFFER SUGGESTIONS AND APPROACHES TO LEGISLATION ON THE ISSUE. AT ITS WORK SESSION IN RENO, THE COMMITTEE VOTED TO REQUEST THE LEGISLATION THAT IS BEFORE YOU TODAY — SENATE BILL 108.

SENATE BILL 108 OUTLINES THE CRITERIA THE STATE ENGINEER MUST CONSIDER WHEN REVIEWING AN APPLICATION FOR AN INTERBASIN TRANSFER OF GROUND WATER. THE BILL ALSO PROVIDES A STATUTORY DEFINITION OF “INTERBASIN TRANSFER OF GROUND WATER,” AND CLARIFIES THAT THE STATE ENGINEER MUST DETERMINE THAT ADDITIONAL STUDIES ARE ACTUALLY NECESSARY BEFORE POSTPONING ACTION ON AN APPLICATION.

AS EXPLAINED IN S.B. 108, THE CRITERIA WHICH THE STATE ENGINEER MUST CONSIDER IN REVIEWING AN INTERBASIN TRANSFER INCLUDE:

- 1) WHETHER THE APPLICANT HAS JUSTIFIED THE NEED TO IMPORT THE WATER TO ANOTHER BASIN;
- 2) WHETHER THE APPLICANT HAS DEMONSTRATED, IF APPLICABLE, THAT A CONSERVATION PLAN HAS BEEN ADOPTED AND IS BEING EFFECTIVELY CARRIED OUT IN THE BASIN INTO WHICH THE WATER IS BEING IMPORTED;

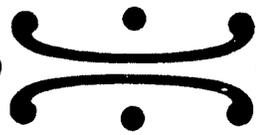
- 3) WHETHER THE PROPOSED ACTION IS ENVIRONMENTALLY SOUND AS IT RELATES TO THE BASIN FROM WHICH THE WATER IS EXPORTED;
- 4) WHETHER THE PROPOSED ACTION IS AN APPROPRIATE USE WHICH DOES NOT UNDULY LIMIT THE FUTURE GROWTH AND DEVELOPMENT IN THE BASIN FROM WHICH THE WATER IS BEING EXPORTED; AND
- 5) ANY OTHER FACTOR THAT THE STATE ENGINEER DETERMINES TO BE RELEVANT.

THIS CRITERIA WHICH THE STATE ENGINEER MUST CONSIDER IS DRAWN FROM THE 1993-1994 INTERIM LEGISLATIVE "STUDY OF THE USE, ALLOCATION MANAGEMENT OF WATER" AND FROM THE STATE WATER PLAN.

OVER THE PAST TWO MONTHS, SENATE BILL 108 HAS RECEIVED EXTENSIVE REVIEW BY THE SENATE COMMITTEE ON NATURAL RESOURCES AS WELL AS BY A SUBCOMMITTEE, WHICH ADDRESSED THE MEASURE IN FURTHER DETAIL. I AM PLEASED TO INFORM YOU, MADAME CHAIR AND MEMBERS OF THE COMMITTEE, THAT CONSENSUS ON THIS BILL WAS ACHIEVED IN THESE HEARINGS BY THE STATE ENGINEER, SOUTHERN NEVADA WATER AUTHORITY,

THE MINING INDUSTRY, HUMBOLDT RIVER BASIN WATER AUTHORITY, THE STATE WATER PLANNER, AND STEVE BRADHURST, REPRESENTING A NUMBER OF NEVADA'S RURAL COUNTIES.

I URGE YOUR SUPPORT OF THIS IMPORTANT BILL AND INVITE STEVE BRADHURST TO PROVIDE ADDITIONAL INFORMATION ON THE INTERBASIN TRANSFER OF WATER ISSUE.



# **Excerpt from the Draft Nevada State Water Plan**

## **Nevada Division of Water Planning**

**Naomi S. Duerr  
Administrator and  
State Water Planner  
(775) 687-3600 ext. 21**

## **Interbasin and Intercounty Transfers**

Water transfers involve withdrawing either groundwater or surface water from one basin or county for beneficial use in another. Water transfers have been around for a long time and are an integral part of the settlement of Nevada. There are over 20 interbasin transfers occurring in the state today. Growing urban areas are looking to appropriate available water rights and transfer them to the place of need or purchase existing water rights and change them to municipal use, frequently in a different basin or county. Water right transfers are also being viewed as an important way to augment instream flows.

State water allocation law does not contain special criteria for evaluating interbasin or intercounty transfers. As long as unappropriated water is available, existing water rights are not impacted, and the transfer does not threaten to prove detrimental to the public interest, the State Engineer may approve the transfer. However, other sections of state law contain special requirements for water transfers, including public noticing and the establishment of a water transfer tax and mitigation plans.

Water transfers have contributed to economic development, growth and prosperity in Nevada, but there are also costs associated with such transfers. A water transfer can enable a receiving area to meet current or projected water needs, or lead to economic development or expansion. An area-of-origin can benefit from a water transfer if the area has excess water resources not otherwise needed to meet future growth or resource conservation needs. Water transfer concerns center on whether a water transfer has the potential to impact the rights of existing water users, reduce instream flows, decrease flows to wetlands or lakes downstream of the point of diversion, or decrease recharge to aquifers. Social, economic and fiscal concerns center on potential losses of taxable income, social stability or the ability to economically develop in the future. Other concerns include the impacts that population growth may bring.

Interest in water marketing, and associated water transfers, is increasing as the demand and price for water rights increases. The 1994 Nevada Legislative Committee to Study the Use, Allocation and Management of Water recommended that the water plan include general criteria for the approval of interbasin water transfer applications. The 1995 Nevada State Legislature amended the water planning statute to require that the state water plan include provisions to protect water supplies in rural areas for future development and quality of life benefits.

### ***Issues***

1. Water transfers can impact third parties. It is sometimes difficult to determine who the affected parties are and to inform them about proposed water transfers.
2. Concerns have been expressed about water transfers and their potential impacts. Regional water planning enables local officials to be prepared when water transfers are proposed for their area, and to better capitalize on any benefits and mitigate any impacts water transfers may bring.
3. Water transfers may have relatively larger impacts on rural counties. Rural counties must carefully evaluate the potential social, fiscal and economic impacts of water right transfers.
4. Nevada has many threatened and endangered species and unique ecosystems, and has lost much

of its wetland environments. Protection of water quality and recreation opportunities depend in large part on water availability. Because the water needs for these beneficial uses of water have not been adequately quantified and few water rights have been obtained to support them in the past, a thorough evaluation of the potential environmental impacts must precede any large scale water transfer.

5. Water markets are developing in various ways in different parts of Nevada. There are few, if any, mechanisms to bring buyers into contact with sellers or to bring order and rationality to the process. Therefore, transaction costs are high and water rights may not be appropriately valued.

### ***Recommendations***

The following recommendations were significantly influenced by the recommendations made by various Nevada County Commissioners and the public at more than 25 different public meetings and workshops on the state water plan held in 1998. The recommendations were also influenced by the recommendations found in the 1994 *Study of the Use, Allocation and Management of Water* prepared by the Legislative Commission of the Legislative Council Bureau, State of Nevada, and in *Water Transfers in the West - Efficiency, Equity and the Environment*, 1992, prepared by the National Research Council. The recommendations below are designed to balance the positive and negative impacts interbasin and intercounty transfers may have.

1. All levels of government should recognize the potential net value of water transfers as a way to respond to changing demands for water, and encourage voluntary transfers, as long as the public interest is protected. Efforts should continue to make information available to the public concerning water transfer proposals and to provide affected interests with an opportunity to participate in any proceedings.
2. In applying the public interest test (under NRS 533.370(3)) to an interbasin or intercounty water right appropriation or change request, the State Engineer should continue to consider whether:
  - the applicant for the water transfer has justified the need to import the water and demonstrated that an effective conservation plan has been adopted for the region in need and is being effectively implemented;
  - the transfer plan conforms to or conflicts with the substance of any adopted water plans for either the area-of-origin or the area to receive the water;
  - the project is environmentally sound; and
  - the project is an appropriate long-term solution which will not unduly limit future development and growth in the area-of-origin.
3. When in the public interest, the State Engineer should continue to place conditions on water right permits to mitigate impacts of interbasin or intercounty water transfers.
4. The state should continue to provide, and accelerate where funding allows, water planning assistance to local governments to help them develop regional water plans and to identify their future water needs. Regional water planning will enable local governments to better plan for their economic development and protect their natural resources, and prepare them to respond to proposals to transfer water into, or out of, their areas.
5. The Division of Water Planning, with the assistance of others, should conduct additional research on the opportunities and costs associated with water banking and water marketing in Nevada, and develop additional recommendations to improve future water transfers.

**EUREKA COUNTY  
INTERBASIN TRANSFER CONCERNS  
SB 108**

\* The purpose of SB 108 is to protect rural counties from harmful water exportation. The mining industry proposed an amendment to the bill which essentially exempts mine dewatering from the definition of an "interbasin transfer". Eureka County's amendment proposes that the State Engineer consider the same factors for direct or indirect transfers of water outside a basin of origin as he would for interbasin transfers so that the policy of the bill to protect rural counties from harmful water exportation is preserved.

\* Total groundwater withdrawal for mining use and dewatering at six mines was 113,000 acre feet (AF) in 1996, of which 89,300 was for dewatering. (USGS Water-Resources Investigations Report 98-4209 1999). The 113,000 AF is equal to about 38 billion gallons, more than twice as much water as is used in a typical year in the Reno-Sparks area. (Reno Gazette Journal, Wednesday March 31, 1999 Article on USGS study).

\* The Draft BLM Cumulative Impact Analysis of Dewatering Operations for the Betze Project, South Operations Area Project Amendment and the Leeville Project (January 1999), all in Eureka County, states that the predicted maximum reduction in base flow for Lower Maggie Creek will be 100% from 2012 to 2375; 37% in 2022 in Marys Creek, 43% in 2023 for Susie Creek and 20% in 2020 for the Humboldt River (Dunphy Gage). (Draft BLM Cumulative Impact, Table 5-4, page 5-22). The Draft Analysis further states that mine-induced drawdown is predicted to potentially impact adjacent areas of Maggie Creek and lower Marys Creek and adjacent areas, including the Carlin Cold Springs and Carlin Hot Springs. It is reasonable to assume that portions of Susie Creek, located immediately upstream of the cumulative drawdown area could also be potentially impacted. (Draft BLM Cumulative Impact, page 5-24).

\* The Barrick model simulations predict that the combined mine-induced drawdown and water management activities result in a noticeable change in the water balance, particularly in the Boulder Flat and Maggie Creek hydrographic areas. (Draft BLM Cumulative Impact, page 5-26).

\* The BLM Draft Analysis modeled the impacts of mine discharges (excluding the Leeville Project) for the current time frame scenario to the Humboldt River for average flow years. The average flows in October increase approximately 413% (41 cfs to 209 cfs) at the Battle Mountain Gage and approximately 776% (31 cfs to 274 cfs) at the Comus gage as a result of mine discharges to the Humboldt River. (BLM Cumulative Impact, pages 5-33 to 5-34). The BLM Draft Analysis states that as a general estimate for the duration of mine discharges, approximately 45,000 AF per year of mine discharges may be able to reach the Humboldt Sink. (BLM Cumulative Impact, page 5-40).

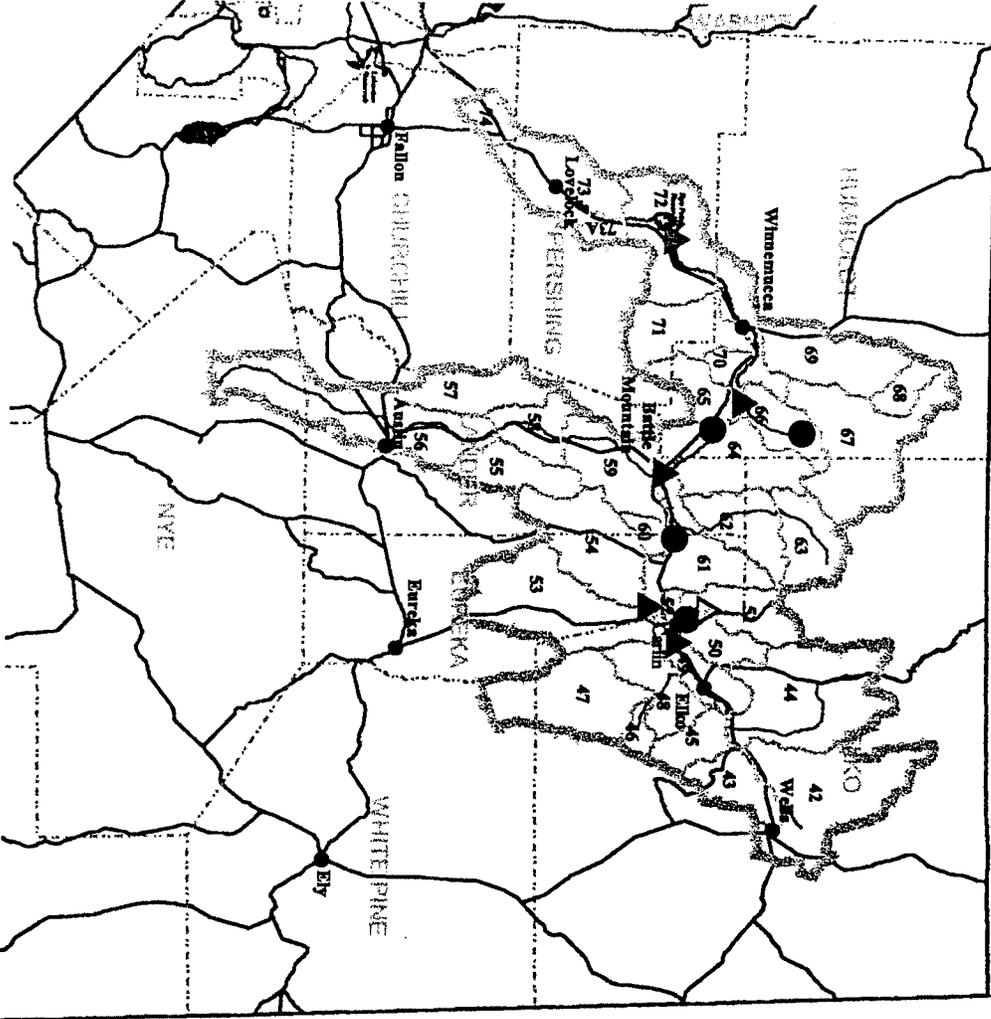
Proposed Amendment to SB 108  
Eureka County  
(4/21/99)  
(new language in italics)

Subsection 4 of Section 1 to be amended as follows:

4. In determining whether an application for an interbasin transfer of ground water *or an application for ground water which may result in a direct or indirect transfer of water from the basin of origin* must be rejected pursuant to this section, the state engineer shall consider:

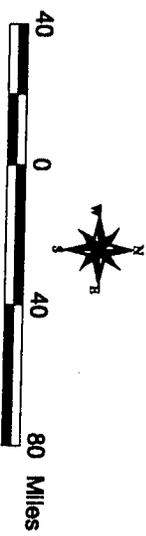
- (a) Whether the applicant has justified the need to import the water from another basin;
- (b) If the state engineer determines that a plan for conservation of water is available for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;
- (c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;
- (d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and
- (e) Any other factor the state engineer determines to be relevant.

**MINE DEWATERING DISCHARGE LOCATIONS**  
Humboldt River Basin



**KEY**

- U.S. Geological Survey Gaging Station
- ▲ 10321000 Humboldt River near Carlin, NV
- ▲ 10321950 Maggie Creek at Maggie Creek Canyon near Carlin, NV
- ▲ 10322500 Humboldt River at Pallsaede, NV
- ▲ 10325000 Humboldt River at Battle Mountain, NV
- ▲ 10327500 Humboldt River at Cornus, NV
- ▲ 10333000 Humboldt River near Inlay, NV
- Mine Discharge Point to Surface Water Source
- Barrick - Betze/Post (Humboldt River)
- Newmont Lone Tree (Humboldt River)
- Newmont Gold Quarry (Maggie Creek)
- Newmont Twin Creeks (Rabbit Creek)
- Humboldt River Basin
- Hydrographic Basin
- State Line
- County Line
- City
- Water Body
- Hydrology
- Road





**BILL SUMMARY**  
70th REGULAR SESSION  
OF THE NEVADA STATE LEGISLATURE

PREPARED BY  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU  
Nonpartisan Staff of the Nevada State Legislature

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**SENATE BILL 108**  
**(First Reprint)**

Senate Bill 108 outlines the criteria the State Engineer must consider in reviewing an application for an interbasin transfer of ground water. The bill also provides a statutory definition of "interbasin transfer of ground water," and it clarifies that the State Engineer must determine that additional studies are actually necessary before postponing action on an application.

The criteria which the State Engineer must consider in reviewing an interbasin transfer include:

- Whether the applicant has justified the need to import the water from another basin;
- Whether the applicant has demonstrated, if applicable, that a conservation plan has been adopted and is being effectively carried out in the basin into which the water is being imported;
- Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;
- Whether the proposed action is an appropriate use which does not unduly limit the future growth and development in the basin from which the water is being exported; and
- Any other factor that the State Engineer determines to be relevant.

**Background Information**

The criteria which the State Engineer must consider are drawn from the 1993-1994 Interim Legislative "Study of the Use, Allocation and Management of Water" and from the State Water Plan.

**Testimony of Doug Bierman  
Humboldt River Basin Water Authority  
in Support of SB 108 (with amendments)  
4/21/99  
Talking Points**

1. The Humboldt River Basin Water Authority supports SB 108, and believes the bill should be enhanced with the attached proposed amendments.
2. The Authority was organized in 1993 through interlocal agreement by the county commissions of Elko, Eureka, Lander, Humboldt, and Pershing.
3. There have been large-scale proposals to export water from the Humboldt River Basin in the past. (In the late 1980's, EcoVision sought state approval to export approx. 340,000 ac. ft. to the Stillwater area to free up water in the Reno-Sparks area.)
4. In more recent years, mine dewatering has resulted in several hundred thousand acre feet of groundwater water being discharged into the Humboldt River with much of this water leaving the Humboldt Basin and flowing into the Carson Sink where it evaporates. (See attached Tables)
5. Perhaps the largest interbasin transfer of groundwater in Nevada has been occurring as a result of mine dewatering in the Humboldt River Basin. (See Attached Tables)
6. SB 108 is needed to ensure that speculative water export projects do not prevent local economic development.
7. SB 108 does not simply concern Nye, Lincoln and White Pine counties. While these counties have been successful in reaching agreement with the Southern Nevada Water Authority, the five-counties in the Humboldt River Basin have not been successful in getting the mining industry to cooperate in evaluations of alternatives for managing mine dewatered water.
8. SB 108 can be strengthened by the attached amendment proposed by the Humboldt River Basin Water Authority.
9. The amendment will ensure that applications for mine dewatering, which in some cases may technically not be an application for interbasin transfer yet may result in discharges into surface water systems which cause a defacto interbasin transfer, are evaluated by the State Engineer and not approved unless the applicant has sought to minimize the discharge of water into a surface system which ultimately results in a flood hazard or waste through evaporation.

For Additional Information:  
Doug Bierman (775)882-2632  
Mike L. Baughman (775)883-2051

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EXHIBIT 67  
Submitted to the Committee on Natural Resources, 1327  
Agriculture, and Mining on 4/21/99  
by Doug Bierman, HRBWA

**All National Pollutant Discharge Elimination System (NPDES) Permitted  
Mining Projects with Discharges into Surface Streams in the Humboldt River Basin  
Permitted, Monthly Average and Monthly Maximum Discharges (Million Gal. Per Day)**

Month	Average Monthly Discharge	Average Monthly Streamflow in Humboldt River at Argenta	Average Monthly Streamflow in Humboldt River at Lovelock
Permit	245.0	-	-
7/97	55.2	212.1	81.1
8/97	48.0	24.3	7.0
9/97	82.3	8.1	5.3
10/97	133.6	18.5	3.9
11/97	147.2	37.5	4.6
12/97	155.5	60.1	8.8
1/98	163.2	101.2	11.2
2/98	128.1	194.8	34.8
3/98	121.7	302.3	40.6
4/98	IR	466.7	63.9
5/98	87.9	541.4	152.5
6/98	80.5	678.1	150.4

IR - Incomplete record, Lone Tree data missing.

1 million gallons per day (mgpd) = 1,120 acre feet per year

Note: Annual average flow of the Humboldt River is 296,000 ac. ft.. Approx. 690,000 ac. ft. of decreed and permitted water rights exist in the Humboldt Basin

**Proposed Amendment To SB 108  
Humboldt River Basin Water Authority  
April 21, 1999**

Add a new subsection to follow Subsection 4 of Section 1 of the bill as follows:

*In determining whether an application for mine dewatering, which may result in a direct or indirect transfer of water from the basin of origin, must be rejected pursuant to this subsection, the state engineer must consider, without limitation, whether:*

- *The applicant for the water has demonstrated that complete infiltration or reinjection of the water into the source basin is not technically feasible;*
- *The applicant for the water has demonstrated that complete substitute or new secondary use within the source basin is not technically feasible;*
- *The applicant for the water has demonstrated that storage, of the amount of water to be directly or indirectly transferred from the basin of origin, at other locations and in a manner which makes the water available for beneficial use, is not technically feasible.*

For Additional Information:  
Mike L. Baughman (775)883-2051  
Doug Bierman (775)882-2632

**MINUTES OF THE  
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND  
MINING**

**Seventieth Session  
May 5, 1999**

The Committee on Natural Resources, Agriculture, and Mining was called to order at 1:15 p.m., on Wednesday, May 5, 1999. Chairman Marcia de Braga presided in Room 3161 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All Exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mrs. Marcia de Braga, Chairman  
Mrs. Gene Segerblom, Vice Chairman  
Mr. Douglas Bache  
Mr. John Carpenter  
Mr. Jerry Claborn  
Mr. Lynn Hettrick  
Mr. David Humke  
Mr. John Jay Lee  
Mr. John Marvel  
Mr. Harry Mortenson  
Mr. Roy Neighbors  
Ms. Genie Ohrenschall  
Ms. Bonnie Parnell

**STAFF MEMBERS PRESENT:**

Linda Eissmann, Committee Policy Analyst  
Sharon Spencer, Committee Secretary

**OTHERS PRESENT:**

Pamela Wilcox, Administrator, Division of State Lands  
Daryl Capurro, Private Citizen  
Gerry Lent, Representing Nevada Hunters Association  
Rodney Smith, Vice Chairman, Clark County Wildlife Advisory Board

Rodney Smith, Vice Chairman of Clark County Wildlife Advisory Board, was the next proponent of the proposed legislation to testify. He explained the measure was important for sportsmen throughout the State of Nevada. Furthermore, the inclusion of the language prohibiting certain acts relating to dogs used in exhibitions and other events was important to individuals who owned and showed dogs as well as to sportsmen and animal activists because it provided for the protection of the health and safety of dogs. Dogs had been mistreated, let loose, and poisoned at shows and other dog related events. The proposed legislation was intended to eliminate those activities and penalize those who were found guilty of perpetrating it. Many of the perpetrators were misguided animal activists who considered a dog better off dead than in a kennel or on display. Mr. Smith said he represented dog owners, dog lovers, dog handlers, kennel clubs, and sportsmen who all loved their dogs and considered all extremist activist behavior unacceptable and prosecutable.

The Chairman explained the hearing on S.B. 211 would be temporarily suspended and placed into a subcommittee hearing, which would immediately follow the meeting in order to allow the lengthy list of witnesses to testify. Chairman de Braga explained it was necessary to move the discussion of S.B. 108 forward on the agenda because numerous amendments were proposed and time was needed to consider all of them. The Chairman said she would prefer to pass the measure out of committee in its present form, expressing the committee's concerns regarding the mining exemption, conservation concerns, and several other related matters, with a request to the Interim Committee on Public Lands to resolve remaining issues. She opened the hearing on S.B. 108.

**Senate Bill 108: Revises provisions governing applications for use of water.**  
**(BDR 48-922)**

Mike Baughman, representing the Humboldt River Basin Water Authority (HRBWA), was the first to testify in support of the proposed legislation. He explained proposed amendments offered with his testimony from a previous hearing were withdrawn because they were controversial. He provided the committee with a revised amendment, which clarified the definition of the phrase *interbasin transfer of ground water* and which imposed no new requirements upon applicants for mine dewatering or water transfer from a basin (Exhibit D).

Mr. Baughman said his previous testimony might have given the impression the five counties that comprised HRBWA opposed mining activities; however, that was not the case. HRBWA and representatives from those five counties supported the mining industry and understood its importance to Nevada,

particularly in the rural areas of the state. He provided the committee with a letter of endorsement for S.B. 108 from the Board of Eureka County Commissioners (Exhibit E). In the letter, the commissioners expressed their concern regarding the exemption of applicants whose points of diversion and beneficial use were in the same basin. Although mine dewatering was not legally considered an interbasin transfer of water, the end result would be the same.

Mr. Baughman expressed the concern of HRBWA that by not considering mine dewatering and that mine dewatering was exempt from the proposed legislation the state engineer might be precluded by law from considering criteria regarding interbasin transfer of ground water. New language for those criteria was suggested in Exhibit F.

Mr. Baughman said HRBWA would welcome the opportunity to address all concerns with the Interim Committee on Public Lands. He explained HRBWA was particularly concerned about the issue of upstream storage of water passing through the system and out into the Humboldt and Carson Sinks where it was evaporating, which was a terrible waste of valuable water. The remainder of Mr. Baughman's testimony was included in Exhibit G.

Mr. Marvel said he took umbrage at the letter from the Board of Eureka County Commissioners, which stated it was disappointed that legislators and mining lobbyists scoffed at the figures it presented as projected losses in base flows as a result of interbasin water transfers. He added he was seriously concerned about the condition of the Humboldt River. The committee in its previous hearing on the proposed legislation was not scoffing at the information the board presented in its testimony. Legislators were trying to determine the facts regarding the issue.

Chairman de Braga added she was concerned about the amendment proposed by HRBWA because if the measure passed with that amendment, there would be a risk water could be put to another beneficial use other than for what had been permitted, which could result in lawsuits. Also, she pointed out, the issue of mine dewatering was complex, and a hasty decision could prove detrimental resulting in a serious negative impact on the mining industry or Eureka County. She suggested revisiting the issue in the Interim Committee on Public Lands.

Mr. Carpenter pointed out the value of the Chairman's opinion and agreed the Interim Committee on Public Lands was a permanent committee equipped to handle complex issues in detail such as interbasin water transfers and mine

dewatering. He added the state engineer had historically considered those issues and would continue to do so in the future.

The Chairman explained she always approached the issue of interbasin transfers with a great deal of caution because the basin in which the water originated needed to be protected. S.B. 108 was a good piece of legislation and the proposed amendments were significant and required more study.

Paul Miller, Chairman, Humboldt River Basin Water Authority, responded to the Chairman's expression of concern and agreed his concerns were the same as hers. He added HRBWA was also concerned that dewatering was not regulated. He said he was additionally concerned that water from mine dewatering entering the Humboldt River would be considered water from interbasin transfer for beneficial use for purposes other than what had been permitted. If that were to happen, HRBWA would be in violation of its permits.

Linda Eissmann, Legislative Counsel Bureau policy analyst, presented the committee with a breakdown of the proposed legislation, which also provided background information on the measure (Exhibit H).

The Chairman asked if there were additional questions or comments and there were none. She called for a motion.

ASSEMBLYMAN CARPENTER MOVED TO DO PASS S.B. 108  
WITHOUT AMENDMENTS.

ASSEMBLYMAN BACHE SECONDED THE MOTION.

THE MOTION CARRIED.

Ms. Parnell suggested the motion to pass S.B. 108 without amendments include a letter from the committee to refer the measure to the Interim Standing Committee on Public Lands. Mr. Carpenter agreed with Ms. Parnell and put the suggestion into the record. The Chairman called for a vote on the suggestion.

ASSEMBLYMAN CARPENTER MOVED THAT THE ASSEMBLY  
COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND  
MINING SEND A LETTER OF INTENT TO THE STANDING INTERIM  
COMMITTEE ON PUBLIC LANDS REQUESTING IT CONDUCT A  
STUDY AND HOLD HEARINGS ON MINE DEWATERING TO  
DEVELOP A PROPOSAL FOR THE YEAR 2001 LEGISLATIVE  
SESSION.

Samuel McMullen, representing Barrick Goldstrick Mining Corporation, asked to put on record the definition of interbasin water transfer to be included in the letter of intent pertaining to S.B. 108 to the Interim Standing Committee on Public Lands. He pointed out the issue in question was the definition of an interbasin water transfer. He said it was important to recognize all water issues relative to mining was not in question. The Chairman acknowledged his point and requested Mr. Carpenter to restate the motion regarding the letter of intent.

ASSEMBLYMAN CARPENTER MOVED THAT THE ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND MINING SEND A LETTER OF INTENT TO THE INTERIM STANDING COMMITTEE ON PUBLIC LANDS REQUESTING IT CONDUCT A STUDY AND HOLD HEARINGS ON INTERBASIN WATER TRANSFERS FROM MINE DEWATERING TO DEVELOP A PROPOSAL FOR THE YEAR 2001 LEGISLATIVE SESSION.

ASSEMBLYMAN BACHE SECONDED THE MOTION.

THE MOTION CARRIED.

Mr. Neighbors said he appreciated the cooperative efforts of all concerned entities, the committee members, and the Interim Committee on Public Lands for working on the extremely important issue of interbasin water transfers from mine dewatering.

Chairman de Braga reopened the hearing on S.B. 211. Cecil Fredi, representing Hunter's Alert, testified as a proponent on the proposed legislation. He stated the measure originally had 5 different parts comprising it and, due to the shortened session, three of those five parts had been omitted. Chairman de Braga explained several amendments to the measure had been proposed and she wanted all amendments to be reviewed for comment. She asked if all witnesses testifying on the proposed legislation had obtained copies of the proposed amendments. An additional amendment had been presented to her, which would remove from statute the requirement that the offices of NDOW had to be maintained in the city of Reno, Nevada. She asked for comments on the proposed amendment along with the proposed legislation.

**Amendment to SB 108 Proposed By  
Eureka County and Humboldt River Basin Water Authority  
May 5, 1999**  
(deleted material bracketed, new material italicized)

Section 1, subsection 8 (on Page 3, lines 14 through 16) to be revised as follows:

8. As used in this section, "interbasin transfer of ground water" means a transfer of ground water for which the proposed point of diversion is in a different basin than the [proposed] place of *any* beneficial use.

Justification for the Proposed Amendment

1. The proposed amendment will ensure that applications to appropriate water that result in water being discharged and subsequently removed from the basin containing the point of diversion, are considered in the same fashion as other applications which intend to transfer water from a basin containing the point of diversion.
2. The proposed amendment ensures that the State Engineer has needed flexibility in determining whether an application is an "interbasin transfer of water".
3. Rather than impose new requirements upon applicants for mine dewatering, as were suggested by amendments offered to SB 108 on April 21 by the Humboldt River Basin Water Authority, this amendment adds no new requirements for applicants.
4. In the case of mine dewatering, the applicants are typically required by federal land management and state environmental permitting agencies to produce significant quantities of information which would be available to the state engineer for review as he applies the criteria in subsection 4 of SB 108.
5. Under the definition of "interbasin transfer of ground water" proposed by this amendment, a proposed use of water would not be considered an interbasin transfer unless the applicant was going to discharge water in a manner which would result in water being removed from the basin containing the point of diversion.

For Additional Information Contact:  
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Karen Peterson (775) 882-0202

FAX  
(702) 237-6015

TELEPHONE  
(702) 237-5262  
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BOARD OF  
EUREKA COUNTY COMMISSIONERS

P.O. BOX 677  
EUREKA, NEVADA 89316  
April 29, 1999

Marcia deBraga, Chair  
Assembly Committee on Agriculture,  
Natural Resources & Mining  
Legislative Building  
401 S. Carson St.  
Carson City, NV 89710

Dear Chair deBraga,

I would like to follow up on Eureka County's recent testimony on SB 108. First, I want to apologize for not dealing with our amendment to SB 108 in the Senate. Eureka County was supportive of SB 108 through the Senate hearings. Unfortunately, the amendment adding section 8 was brought to the second work session. Because of the rush to move the bill to the Assembly, we were unable to respond with our concerns and amendment before the bill was passed.

Our primary concern with SB 108 is Section 8 - the exemption for applicants whose points of diversion and beneficial use are in the same basin. Although mine dewatering may not "legally" be an interbasin transfer, the end result is an interbasin transfer. Eureka County's stand is any time an applicant moves water from one basin to another, the provisions in Section 4 of SB 108 should be considered.

At the last hearing, Eureka County pointed out some projected losses in base flows. These projections were out of a draft document prepared by a mining company's consultant. We were disappointed when Legislators and a mining lobbyist scoffed at these figures. The concern is if mining is exempted as an interbasin transfer, does that also exempt them from mitigating the impacts of dewatering? While we would agree the figures predicted in the mines' models may not be exact, there will be long term impacts. A permanent reduction in base flows of the Humboldt River is one such impact.

Other than Section 8, Eureka County is very supportive of SB 108. Furthermore, we are not opposed to mine dewatering or inter basin transfers. However, we believe dewatering and interbasin transfers have the potential to significantly impact the area of origin. All we are asking is that all applications that result in water leaving a basin should be evaluated and permitted with the same criteria.

Chair deBraga  
April 29, 1999  
Page 2

Eureka County representatives have met with representatives of the mining industry who have, so far, been unwilling to work on Section 8. We remain willing to meet with any and all to discuss our concerns and hopefully come up with an agreement that is acceptable to all. In lieu of adopting the amendment submitted by Eureka County, we would certainly be happy to see Section 8 of SB 108 deleted. However, we are aware of concerns about not having a definition of interbasin transfer in statute. As an alternative, Eureka County suggests the following amendment to Section 8: As used in this section "interbasin transfer of groundwater" means a transfer of ground water for which the proposed point of diversion is in a different basin than the [proposed] place of any beneficial use.

Thank you for the opportunity to comment and please call if we can supply you with additional information.

Sincerely



Pete Goicoechea  
Chairman

PG/lh

cc All Assembly Committee on Natural Resources and Mining Members  
Senator Dean Rhoads  
Steve Bradhurst  
Nye County Commission  
Lander County Commission  
Esmeralda County Commission  
White Pine County Commission  
Elko County Commission  
Humboldt County Commission  
Pershing County Commission  
Lincoln County Commission

**Proposed Amendment To SB 108  
Humboldt River Basin Water Authority  
April 21, 1999**

Add a new subsection to follow Subsection 4 of Section 1 of the bill as follows:

*In determining whether an application for mine dewatering, which may result in a direct or indirect transfer of water from the basin of origin, must be rejected pursuant to this subsection, the state engineer must consider, without limitation, whether:*

- *The applicant for the water has demonstrated that complete infiltration or reinjection of the water into the source basin is not technically feasible;*
- *The applicant for the water has demonstrated that complete substitute or new secondary use within the source basin is not technically feasible;*
- *The applicant for the water has demonstrated that storage, of the amount of water to be directly or indirectly transferred from the basin of origin, at other locations and in a manner which makes the water available for beneficial use, is not technically feasible.*

For Additional Information:

Mike L. Baughman (775)883-2051

Doug Bierman (775)882-2632

**Testimony of Doug Bierman  
Humboldt River Basin Water Authority  
in Support of SB 108 (with amendments)  
4/21/99  
Talking Points**

1. The Humboldt River Basin Water Authority supports SB 108, and believes the bill should be enhanced with the attached proposed amendments.
2. The Authority was organized in 1993 through interlocal agreement by the county commissions of Elko, Eureka, Lander, Humboldt, and Pershing.
3. There have been large-scale proposals to export water from the Humboldt River Basin in the past. (In the late 1980's, EcoVision sought state approval to export approx. 340,000 ac. ft. to the Stillwater area to free up water in the Reno-Sparks area.)
4. In more recent years, mine dewatering has resulted in several hundred thousand acre feet of groundwater water being discharged into the Humboldt River with much of this water leaving the Humboldt Basin and flowing into the Carson Sink where it evaporates. (See attached Tables)
5. Perhaps the largest interbasin transfer of groundwater in Nevada has been occurring as a result of mine dewatering in the Humboldt River Basin. (See Attached Tables)
6. SB 108 is needed to ensure that speculative water export projects do not prevent local economic development.
7. SB 108 does not simply concern Nye, Lincoln and White Pine counties. While these counties have been successful in reaching agreement with the Southern Nevada Water Authority, the five-counties in the Humboldt River Basin have not been successful in getting the mining industry to cooperate in evaluations of alternatives for managing mine dewatered water.
8. SB 108 can be strengthened by the attached amendment proposed by the Humboldt River Basin Water Authority.
9. The amendment will ensure that applications for mine dewatering, which in some cases may technically not be an application for interbasin transfer yet may result in discharges into surface water systems which cause a defacto interbasin transfer, are evaluated by the State Engineer and not approved unless the applicant has sought to minimize the discharge of water into a surface system which ultimately results in a flood hazard or waste through evaporation.

For Additional Information:

Doug Bierman (775)882-2632

Mike L. Baughman (775)883-2051

**All National Pollutant Discharge Elimination System (NPDES) Permitted Mining Projects with Discharges into Surface Streams in the Humboldt River Basin Permitted, Monthly Average and Monthly Maximum Discharges (Million Gal. Per Day)**

Month	Average Monthly Discharge	Average Monthly Streamflow in Humboldt River at Argenta	Average Monthly Streamflow in Humboldt River at Lovelock
Permit	245.0	-	-
7/97	55.2	212.1	81.1
8/97	48.0	24.3	7.0
9/97	82.3	8.1	5.3
10/97	133.6	18.5	3.9
11/97	147.2	37.5	4.6
12/97	155.5	60.1	8.8
1/98	163.2	101.2	11.2
2/98	128.1	194.8	34.8
3/98	121.7	302.3	40.6
4/98	IR	466.7	63.9
5/98	87.9	541.4	152.5
6/98	80.5	678.1	150.4

IR - Incomplete record, Lone Tree data missing.

1 million gallons per day (mgpd) = 1,120 acre feet per year

Note: Annual average flow of the Humboldt River is 296,000 ac. ft.. Approx. 690,000 ac. ft. of decreed and permitted water rights exist in the Humboldt Basin

**Newmont Gold Quarry  
Permitted, Monthly Average and Monthly Maximum Discharges  
(Million Gallons Per Day)**

<b>Month</b>	<b>Average Monthly Discharge</b>	<b>Maximum Discharge</b>
Permit	72.0	90.0
7/97	12.6	27.5
8/97	10.9	83.2
9/97	10.7	83.2
10/97	19.8	31.9
11/97	19.7	73.8
12/97	22.4	73.8
1/98	28.8	41.9
2/98	27.3	43.5
3/98	27.5	44.7
4/98	22.2	38.1
5/98	18.0	25.7
6/98	18.0	30.7

**Barrick Goldstrike**  
**Permitted, Monthly Average and Monthly Maximum Discharges**  
**(Million Gallons Per Day)**

Month	Average Monthly Discharge	Maximum Discharge
Permit	100.8	110.0
7/97	0.0	0.0
8/97	0.0	0.0
9/97	34.4	43.2
10/97	70.7	90.1
11/97	87.1	87.1
12/97	90.8	98.6
1/98	91.6	99.8
2/98	51.6	91.9
3/98	45.2	93.6
4/98	52.0	98.6
5/98	24.9	52.3
6/98	18.5	55.2

**Lone Tree Mine**  
**Permitted, Monthly Average and Monthly Maximum Discharges**  
**(Million Gallons Per Day)**

Month	Average Monthly Discharge	Maximum Discharge
Permit	65.0	135.0
7/97	40.0	NR
8/97	35.0	NR
9/97	34.0	NR
10/97	41.0	NR
11/97	39.0	NR
12/97	40.8	NR
1/98	38.8	NR
2/98	42.3	NR
3/98	42.3	NR
4/98	NR	NR
5/98	41.0	NR
6/98	40.6	NR

NR - Not Reported

**Twin Creeks**  
**Permitted, Monthly Average and Monthly Maximum Discharges**  
**(Million Gallons Per Day)**

<b>Month</b>	<b>Average Monthly Discharge</b>	<b>Maximum Discharge</b>
Permit	7.2	14.0
7/97	2.6	
8/97	2.1	
9/97	3.1	
10/97	2.1	5.8
11/97	1.4	6.1
12/97	1.5	6.1
1/98	4.0	6.0
2/98	6.9	9.0
3/98	6.7	8.2
4/98	4.9	8.2
5/98	4.0	6.5
6/98	3.4	6.4

## Testimony on SB 108

**Mr. Paul Miller, Chairman, Humboldt River Basin Water Authority**  
**Mr. Mike L. Baughman, Exec. Director, Humboldt River Basin Water Authority**

1. By requesting the amendment which has become Subsection 8 of SB 108, Barrick Gold sought to exempt mine dewatering from the definition of "interbasin transfer of ground water". (see Exhibit 1, Alternative B)
2. Discharges of mine dewatered water into the Humboldt River are removing large quantities of ground water from the basins where the water is being pumped.
3. The five-county Humboldt River Basin Water Authority is very supportive of the mining industry. The counties have not sought to harm the industry. The counties do not believe that inclusion of mine dewatering in SB 108 will have any adverse impact upon the mining industry..
4. The Humboldt River Basin Water Authority has met with mining industry representatives who have offered no convincing arguments for excluding mine dewatering from SB 108.
5. The mining industry has suggested that inclusion of mine dewatering in SB108 is inappropriate given low gold prices. The Committee is encouraged to consider the fact that Barrick Gold recently announced it's most profitable quarter ever, earning \$87 million dollars in three months. Placer Dome just reported earning \$25 million dollars in the first quarter of 1999, an increase over 1998. (see Exhibits 2 and 3)
6. The mining industry has suggested that inclusion of mine dewatering in SB 108 will require additional work which the industry can not afford. Mining companies already develop extensive information about the environmental consequences of their operations as a requirement to secure permits from the federal government and the Nevada Division of Environmental Protection. Including mine dewatering in SB 108 will increase the liklihood that such information is also made available to the State Engineer for his consideration.
7. The Authority is concerned that the mining industry may want to avoid heightened public awareness about mine dewatering. We can not sweep the issue of mine dewatering under the rug. The Authority is convinced that exempting mine dewatering from SB 108 will only add reason to the concern of those who might oppose dewatering or mining altogether. The Humboldt River Basin Water Authority is convinced that the implications of mine dewatering must be dealt with in a pro-active and positive manner.
8. SB 108 was a very good bill until Barrick Gold sought to exempt mine dewatering from the bill. SB 108 is still a good bill, it simply does not address one of the most significant sources of interbasin transfers of water. If the Committee is not willing to include the amendment offered by Eureka County and the Humboldt River Basin Authority, Committee members are still encouraged to vote for the bill.

ALTERNATE A

To be inserted in the proposed 533.370 as a new Subsection 9:

As used in this section, "interbasin transfer" means that the proposed point of diversion in the application is in a different basin than the proposed place of beneficial use in the application.

~~ALTERNATE B~~

To be inserted in the proposed subsection 4(c) at the beginning of the Subsection:

"Except as otherwise provided in Subsection 9,"

To be inserted as a new "Subsection-9":

Water that is discharged from mine dewatering activities that ultimately flows out of the basin of origin shall not be treated as an "interbasin transfer."

Exhibit 2

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FRIDAY, APRIL 23, 1989

22 Pages

## Barrick posts best profit for quarter, \$87 million

Barrick Gold Corp. yesterday reported the strongest quarterly performance in its history, including a 16 percent increase in net income to \$87 million, or 23 cents per share.

The record earnings and cash flow reflect a 31 percent increase in production to more than one million ounces, a 25 percent decline in cash costs to \$116 per ounce and the benefits from hedging, the company reported.

"We achieved strong, profitable growth despite the gold price because we have the best assets in the industry, producing gold at the lowest cash costs. Through our Premium Gold Sales Program, we sell our gold for three times the cash cost of production," said Randall Oliphant, president and chief executive officer.

Gold traded at an average of \$287 an ounce in the first quarter, but Barrick was protected by the sales program. Spot gold closed today at \$283.60, off 30 cents, on the New York Mercantile Exchange.

In the first quarter, Barrick's hedging program generated \$9 million in additional revenue, and Barrick realized an average price of \$385 an ounce, compared with an average spot price of \$297, a premium of \$88 for each ounce of gold sold, the company reported.

Barrick had 12.5 million ounces in the sales program at the end of the first quarter, and the company's production through 2001 is sold forward at an average minimum price of \$385 per ounce.

The stock market responded to Barrick's latest report. Barrick's stocks were selling at \$19.50 a share shortly before markets closed today, up 25 cents.

Barrick's net income for the first quarter of 1989 was up from \$75 million, or 20 cents per share, in the year earlier period.

Revenues were \$392 million in the quarter ending March 31, 1989, compared with \$395 million last year.

Operating cash flow for the quarter increased 56 percent to \$210 million, or 56 cents per share, compared with \$135 million, or 36 cents per share, for the first quarter 1988. Barrick also reported.

Gold production rose to 1,010,913 ounces in the first quarter, compared with 789,282 ounces in the year earlier period, Barrick stated, including 526,302 ounces at the Goldstrike Property north of Carlin, up from 584,023 in the first quarter of last year.

The Beize-Post open pit at Goldstrike produced 285,507 of those ounces in the quarter at a cash cost of \$184 an ounce, compared with 283,319 ounces in the first quarter of 1988 at a cash cost of \$188 per ounce.

At the Meikle underground mine, 237,795 ounces were produced in the first quarter 1989 at a cash cost of \$63 an ounce, compared with 290,704 ounces in the first quarter last year, at a cash cost of \$72 an ounce.

The new Pierina Mine in Peru con-

tributed 315,660 ounces, reflecting a smooth production start up and high initial ore grades, the company reported. Pierina's cash costs were only \$39 an ounce in the first quarter.

Average cash operating costs of \$116 per ounce in the first quarter compared with \$154 per ounce for the year earlier period.

"Barrick benefited from excellent

results at all its mines — we continue to produce more gold at lower costs and greater profit," said John Carrington, vice chairman and chief operating officer.

"The Pierina Mine further reinforces the operating strengths of this company to successfully build and operate mines in new geographic areas," he said.

Barrick also reported it is on track to meet its 1989 operating targets. Cash operating costs are expected to average \$125 per ounce for the year, while production should increase to 3.6 million ounces, compared with 3.2 million ounces in 1988.

The company also said Barrick's development team is focused on the company's newest gold property, Bulyan-

hulu in Tanzania, acquired through the acquisition of Sutton Resources Ltd. in March. Barrick said in a news release it expects to double the reserve base of this high quality asset by year-end. It is also planning to bring the mine into production in late 2000.

Oliphant said Barrick's acquisition of Sutton's "high quality assets further enhances Barrick's new era of growth."

# Placer Dome posts \$25 million profit

By Adella Harding

Placer Dome Inc. yesterday reported higher gold production and lower costs resulted in improved earnings in the first quarter of this year — \$25 million, or 10 cents per common share.

That compares with \$21 million, or 8 cents per share, in the first quarter of last year.

The corporation produced 683,996 ounces of gold for its account in the first quarter, 7 percent more than the 637,867 ounces produced in the first quarter of last year, at an average cash production cost of \$154 per ounce, compared with \$184 per ounce a year earlier.

Total production costs averaged \$224 per ounce of gold, compared with \$259 an ounce in the first quarter of 1998, Placer Dome also reported.

Cash flow from operations was down \$3 million, however, to \$100 million in the first quarter of this year, compared with \$103 million in the first quarter of 1998.

The corporation also reported its price hedging program enabled Placer Dome to realize prices on first quarter sales of \$68 an ounce more than the average London market price of \$287 an ounce of gold.

"Our operating results show that the major performance improvements recorded in 1998 are continuing into 1999," said John Willson, president and chief executive officer.

"We are successfully managing in the low gold price environment by empowering our mines to control costs and increase profitability. We expect to be profitable in 1999 even if gold prices do not increase from current levels."

Once again, the Cortez Mine (Pipeline) in Crescent Valley had the lowest cash costs for the company, \$53 an ounce in the first quarter. Cash costs at Pipeline averaged \$58 last year but \$95 in the first quarter of 1998.

Pipeline contributed a record 189,511 ounces to Placer Dome at a total cost of \$123 per ounce, the company reported. Placer Dome is 60 percent owner and operator. Kennecott

Minerals owns 40 percent of the Cortez Joint Venture. Placer Dome attributed the performance at Cortez to much higher ore grades, averaging 0.3 ounces per ton, compared to 0.096 ounces a year earlier.

"An open pit grade as high as that is really a pot of gold," Manager of Corporate Communications Hugh Leggett said today. "It's more like the grade in an underground mine."

Eight of Placer Dome's 12 gold mines recorded lower costs than those of a year earlier, including Granny Smith in Australia, with cash costs of \$91 an ounce in spite of slightly lower production, and the Kidston Mine in Australia, which increased production 34 percent and lowered costs by 21 percent.

Costs were up at Bald Mountain Mine in White Pine County, however. The mine produced 16,096 ounces in the first quarter of this year, down from 17,926, at a cash cost of \$263, up from \$248 an ounce, because of less material going to the heap leach pads. The total cost per ounce was \$440, up from \$377.

Placer Dome reported, however, that production is expected to be up 9 percent at Bald Mountain with the addition of the Mooney Basin heap leach operations, but costs are expected to be up about 8 percent this year over last.

The Porgera Mine in Papua New Guinea also recorded higher costs in the first quarter than a year earlier as a result of lower ore grades and a production shortfall due to mining delays, Placer Dome reported.

In anticipation of asset acquisitions completed or pending, Placer Dome said it expects gold production this year to be 3.2 million ounces at an average cash production cost of about \$170 per ounce and a total cost of \$240 per ounce.

Getchell Gold Corp. shareholders are to vote May 27 on a proposed merger with Placer Dome, and Placer Dome completed another acquisition April 1, gaining 50 percent interest in the Placer Dome-Western Areas Joint Venture by paying \$235 million to Western Areas Ltd. of South Africa.

Elko Daily  
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PERSHING COUNTY  
WATER CONSERVATION DISTRICT  
OF NEVADA

PHONE 702-273-2293  
FAX# 702-273-2424

POST OFFICE BOX 218  
LOVELOCK, NEVADA 89419

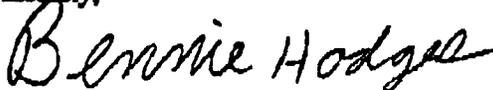
May 4, 1999

To Whom It May Concern:

Pershing County Water Conservation District supports proposed S.B. 108, especially the concept that any mine water discharged to the Humboldt River is a beneficial use.

Any water discharged would be adjudicated by the Bartlett Decree and intervening orders of the 6th District Court. Thus creating a situation where any place of use would be considered a beneficial use.

Sincerely,



Bennie B. Hodges  
Secretary/Manager



**BILL SUMMARY**  
70th REGULAR SESSION  
OF THE NEVADA STATE LEGISLATURE

**PREPARED BY**  
**RESEARCH DIVISION**  
**LEGISLATIVE COUNSEL BUREAU**  
Nonpartisan Staff of the Nevada State Legislature

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**SENATE BILL 108**  
**(First Reprint)**

Senate Bill 108 outlines the criteria the State Engineer must consider in reviewing an application for an interbasin transfer of ground water. The bill also provides a statutory definition of "interbasin transfer of ground water," and it clarifies that the State Engineer must determine that additional studies are actually necessary before postponing action on an application.

The criteria which the State Engineer must consider in reviewing an interbasin transfer include:

- Whether the applicant has justified the need to import the water from another basin;
- Whether the applicant has demonstrated, if applicable, that a conservation plan has been adopted and is being effectively carried out in the basin into which the water is being imported;
- Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;
- Whether the proposed action is an appropriate use which does not unduly limit the future growth and development in the basin from which the water is being exported; and
- Any other factor that the State Engineer determines to be relevant.

**Background Information**

The criteria which the State Engineer must consider are drawn from the 1993-1994 Interim Legislative "Study of the Use, Allocation and Management of Water" and from the State Water Plan.

## **BILLS**

SENATE BILL NO. 108—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF LEGISLATIVE COMMITTEE ON PUBLIC LANDS)

FEBRUARY 4, 1999

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing interbasin transfers of water. (BDR 48-922)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.



EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to water; revising the circumstances under which the state engineer may reject an application for an interbasin transfer of ground water; requiring the state engineer to subordinate such an application to certain applications to appropriate ground water; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 533.360 is hereby amended to read as follows:
- 2     533.360 1. Except as otherwise provided in subsection 4, NRS
- 3     533.345 and subsection ~~3~~ 4 of NRS 533.370, ~~when~~ *if* an application is
- 4     filed in compliance with this chapter , the state engineer shall, within 30
- 5     days, publish or cause to be published once a week for 4 consecutive weeks
- 6     in a newspaper of general circulation and printed and published in the
- 7     county where the water is sought to be appropriated, a notice of the
- 8     application, which sets forth:
- 9         (a) That the application has been filed.
- 10        (b) The date of the filing.
- 11        (c) The name and address of the applicant.
- 12        (d) The name of the source from which the appropriation is to be made.
- 13        (e) The location of the place of diversion, described by legal subdivision
- 14     or metes and bounds and by a physical description of that place of
- 15     diversion.



1 (f) The purpose for which the water is to be appropriated.  
2 The publisher shall add thereto the date of the first publication and the date  
3 of the last publication.

4 2. Except as otherwise provided in subsection 4, proof of publication  
5 must be filed within 30 days after the final day of publication. The state  
6 engineer shall pay for the publication from the application fee. If the  
7 application is canceled for any reason before publication, the state engineer  
8 shall return to the applicant that portion of the application fee collected for  
9 publication.

10 3. If the application is for a proposed well:

11 (a) In a county whose population is less than 400,000;

12 (b) For municipal, quasi-municipal or industrial use; and

13 (c) Whose reasonably expected rate of diversion is one-half cubic foot  
14 per second or more,

15 the applicant shall mail a copy of the notice of application to each owner of  
16 real property containing a domestic well that is within 2,500 feet of the  
17 proposed well. ~~{, to his}~~ **The notice must be mailed to the address of the**  
18 **owner** as shown in the latest records of the county assessor. If there are not  
19 more than six ~~{such}~~ **of those** wells, notices must be sent to each owner by  
20 certified mail, return receipt requested. If there are more than six ~~{such}~~ **of**  
21 **those** wells, at least six notices must be sent to owners by certified mail,  
22 return receipt requested. The return receipts from ~~{these}~~ **the** notices must  
23 be filed with the state engineer before he may consider the application.

24 4. The provisions of this section do not apply to an environmental  
25 permit.

26 **Sec. 2.** NRS 533.370 is hereby amended to read as follows:

27 533.370 1. Except as otherwise provided in **this section and** NRS  
28 533.345, 533.371, 533.372 and 533.503 , ~~{and this section,}~~ the state  
29 engineer shall approve an application submitted in proper form which  
30 contemplates the application of water to beneficial use if:

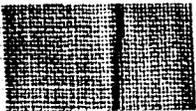
31 (a) The application is accompanied by the prescribed fees;

32 (b) The proposed use or change, if within an irrigation district, does not  
33 adversely affect the cost of water for other holders of water rights in the  
34 district or lessen the ~~{district's}~~ **efficiency of the district** in its delivery or  
35 use of water; and

36 (c) The applicant provides proof satisfactory to the state engineer of:

37 (1) His intention in good faith to construct any work necessary to  
38 apply the water to the intended beneficial use with reasonable diligence;  
39 and

40 (2) His financial ability and reasonable expectation actually to  
41 construct the work and apply the water to the intended beneficial use with  
42 reasonable diligence.



1 2. Except as otherwise provided in subsection ~~{5,}~~ 6, the state engineer  
2 shall ~~{either}~~ approve or reject each application within 1 year after the final  
3 date for a filing protest. However:

4 (a) Action ~~{can}~~ may be postponed by the state engineer upon written  
5 authorization to do so by the applicant or, ~~{in case of a protested}~~  
6 ~~application, by both}~~ *if an application is protested, by the protestant and*  
7 *the applicant; and*

8 (b) In areas where studies of water supplies are being made or where  
9 court actions are pending, the state engineer may withhold action until it is  
10 determined there is unappropriated water or the court action becomes final.

11 3. Except as otherwise provided in *this* subsection ~~{5, where there}~~ *and*  
12 *subsection 6, if action on an application for an interbasin transfer of*  
13 *ground water is postponed or withheld pursuant to subsection 2, and the*  
14 *application is not approved or rejected within 5 years after the final date*  
15 *for filing a protest to the application, the application must be*  
16 *subordinated to each application to appropriate ground water from the*  
17 *basin of origin that is filed after the application. The provisions of this*  
18 *subsection do not apply to an application for an interbasin transfer of*  
19 *ground water for which action is withheld pursuant to paragraph (b) of*  
20 *subsection 2 because of a pending court action.*

21 4. Except as otherwise provided in subsection 6, if an application  
22 specified in subsection 1 is submitted to the state engineer and:

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

25 (b) *The* proposed use or change *set forth in the application* conflicts  
26 with existing rights ~~{}~~ or threatens to prove detrimental to the public  
27 interest ~~{}~~ ; or

28 (c) *The application is for an interbasin transfer of ground water and*  
29 *approval of the application would be inconsistent with the protection of*  
30 *the identified requirements for ground water for present and future*  
31 *development in the basin of origin,*

32 the state engineer shall reject the application and refuse to issue the  
33 requested permit. ~~{Where}~~ *If* a previous application for a similar use of  
34 water within the same basin has been rejected on ~~{these}~~ *those* grounds, the  
35 new application may be denied without publication. *In determining*  
36 *whether an application must be rejected pursuant to paragraph (c), the*  
37 *state engineer shall consider the economy, environment and quality of*  
38 *life in the basin of origin.*

39 ~~{4.}~~ 5. If a hearing is held regarding an application, the decision of the  
40 state engineer must be in writing and include findings of fact, conclusions  
41 of law and a statement of the underlying facts supporting the findings of  
42 fact. The written decision may take the form of a transcription of an oral  
43 ruling. The rejection or approval of an application must be endorsed on a

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1 copy of the original application, and a record made of the endorsement in  
2 the records of the state engineer. The copy of the application so endorsed  
3 must be returned to the applicant. Except as otherwise provided in  
4 subsection ~~{6,}~~ 7, if the application is approved, the applicant may, on  
5 receipt thereof, proceed with the construction of the necessary works and  
6 take ~~{all}~~ *any* steps required to apply the water to beneficial use and to  
7 perfect the proposed appropriation. If the application is rejected , the  
8 applicant may take no steps toward the prosecution of the proposed work or  
9 the diversion and use of the public water ~~{so}~~ *as* long as the rejection  
10 continues in force.

11 ~~{5-}~~ 6. The provisions of subsections 1 ~~{, 2 and 3}~~ *to 4, inclusive*, do  
12 not apply to an application for an environmental permit.

13 ~~{6-}~~ 7. The provisions of subsection ~~{4}~~ 5 do not authorize the recipient  
14 of an approved application to use any state land administered by the  
15 division of state lands of the state department of conservation and natural  
16 resources without the appropriate authorization for ~~{such-a}~~ *that* use from  
17 the state land registrar.

18 8. *As used in this section, "basin of origin" means a basin from*  
19 *which ground water is proposed to be transferred to another basin.*

20 Sec. 3. NRS 538.171 is hereby amended to read as follows:

21 538.171 1. The commission shall receive, protect and safeguard and  
22 hold in trust for the State of Nevada all water and water rights, and all other  
23 rights, interests or benefits in and to the waters described in NRS 538.041  
24 to 538.251, inclusive, and to the power generated thereon, held by or which  
25 may accrue to the State of Nevada ~~{under and by virtue of}~~ *pursuant to* any  
26 Act of the Congress of the United States or any agreements, compacts or  
27 treaties to which the State of Nevada may become a party, or otherwise.

28 2. Except as otherwise provided in this subsection, applications for the  
29 original appropriation of ~~{such}~~ *those* waters, or to change the place of  
30 diversion, manner of use or place of use of water covered by the original  
31 appropriation, must be made to the commission in accordance with the  
32 regulations of the commission. In considering ~~{such-an}~~ *the* application, the  
33 commission shall use the criteria set forth in ~~{subsection 3}~~ *paragraphs (a)*  
34 *and (b) of subsection 4* of NRS 533.370. The commission's action on the  
35 application constitutes the recommendation of the State of Nevada to the  
36 United States for the purposes of any federal action on the matter required  
37 by law. The provisions of this subsection do not apply to supplemental  
38 water.

39 3. The commission shall furnish to the state engineer a copy of all  
40 agreements entered into by the commission concerning the original  
41 appropriation and use of ~~{such-waters. It}~~ *those waters. The commission*  
42 shall also furnish to the state engineer any other information it possesses  
43 relating to the use of water from the Colorado River which the state



1 engineer deems necessary to allow him to act on applications for permits  
2 for the subsequent appropriation of ~~{these}~~ *those* waters after they fall  
3 within the ~~{state engineer's jurisdiction.}~~ *jurisdiction of the state engineer.*  
4 4. Notwithstanding any provision of chapter 533 of NRS, any original  
5 appropriation and use of the waters described in subsection 1 by the  
6 commission or by any entity to whom or with whom the commission has  
7 contracted the water is not subject to regulation by the state engineer.

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(REPRINTED WITH ADOPTED AMENDMENTS)  
FIRST REPRINT

S.B. 108

SENATE BILL NO. 108—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF LEGISLATIVE COMMITTEE ON PUBLIC LANDS)

FEBRUARY 4, 1999

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing applications for use of water. (BDR 48-922)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.



EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to water; revising the circumstances under which the state engineer may postpone action on an application to use water or reject an application for an interbasin transfer of ground water; and providing other matters properly relating thereto.

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

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



\* S B 1 0 8 R I \*

1 2. Except as otherwise provided in subsection ~~{5,}~~ 6, the state engineer  
2 shall ~~{either}~~ approve or reject each application within 1 year after the final  
3 date for filing *a* protest. However:

4 (a) Action ~~{can}~~ *may* be postponed by the state engineer upon written  
5 authorization to do so by the applicant or, ~~{in case of a protested~~  
6 ~~application, by both}~~ *if an application is protested, by* the protestant and  
7 the applicant; and

8 (b) In areas where studies of water supplies ~~{are being made}~~ *have been*  
9 *determined to be necessary by the state engineer pursuant to NRS*  
10 *533.368* or where court actions are pending, the state engineer may  
11 withhold action until it is determined there is unappropriated water or the  
12 court action becomes final.

13 3. Except as otherwise provided in subsection ~~{5,}~~ 6, where there is no  
14 unappropriated water in the proposed source of supply, or where its  
15 proposed use or change conflicts with existing rights, or threatens to prove  
16 detrimental to the public interest, the state engineer shall reject the  
17 application and refuse to issue the requested permit. ~~{Where}~~ *If* a previous  
18 application for a similar use of water within the same basin has been  
19 rejected on ~~{these}~~ *those* grounds, the new application may be denied  
20 without publication.

21 4. *In determining whether an application for an interbasin transfer*  
22 *of ground water must be rejected pursuant to this section, the state*  
23 *engineer shall consider:*

24 (a) *Whether the applicant has justified the need to import the water*  
25 *from another basin;*

26 (b) *If the state engineer determines that a plan for conservation of*  
27 *water is advisable for the basin into which the water is to be imported,*  
28 *whether the applicant has demonstrated that such a plan has been*  
29 *adopted and is being effectively carried out;*

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

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

35 (e) *Any other factor the state engineer determines to be relevant.*

36 5. If a hearing is held regarding an application, the decision of the state  
37 engineer must be in writing and include findings of fact, conclusions of law  
38 and a statement of the underlying facts supporting the findings of fact. The  
39 written decision may take the form of a transcription of an oral ruling. The  
40 rejection or approval of an application must be endorsed on a copy of the  
41 original application, and a record made of the endorsement in the records  
42 of the state engineer. The copy of the application so endorsed must be  
43 returned to the applicant. Except as otherwise provided in subsection ~~{6,}~~ 7,



1 if the application is approved, the applicant may, on receipt thereof,  
2 proceed with the construction of the necessary works and take all steps  
3 required to apply the water to beneficial use and to perfect the proposed  
4 appropriation. If the application is rejected the applicant may take no steps  
5 toward the prosecution of the proposed work or the diversion and use of the  
6 public water ~~{so long as}~~ *while* the rejection continues in force.

7 ~~{5-}~~ 6. The provisions of subsections 1 ~~{, 2 and 3}~~ to 4, *inclusive*, do  
8 not apply to an application for an environmental permit.

9 ~~{6-}~~ 7. The provisions of subsection ~~{4}~~ 5 do not authorize the  
10 recipient of an approved application to use any state land administered by  
11 the division of state lands of the state department of conservation and  
12 natural resources without the appropriate authorization for ~~{such a}~~ *that* use  
13 from the state land registrar.

14 8. *As used in this section, "interbasin transfer of ground water"*  
15 *means a transfer of ground water for which the proposed point of*  
16 *diversion is in a different basin than the proposed place of beneficial use.*

③



(b) The hearing must be held within 60 days after the request is received.

5. The periods of suspension or revocation imposed pursuant to this section must run concurrently. No license, permit or privilege may be suspended or revoked pursuant to this section for more than 3 years.

6. If the division suspends or revokes a license, permit or privilege pursuant to this section, the period of suspension or revocation begins 30 days after notification pursuant to subsection 3 or a determination is made by the commission pursuant to subsection 4. After a person's license, permit or privilege is suspended or revoked pursuant to this section, all demerit points accumulated by that person must be canceled.

**Sec. 4.** This act becomes effective upon passage and approval.

Senate Bill No. 108—Committee on Natural Resources

CHAPTER 236

AN ACT relating to water; revising the circumstances under which the state engineer may postpone action on an application to use water or reject an application for an interbasin transfer of ground water; and providing other matters properly relating thereto.

[Approved May 24, 1999]

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

**Section 1.** NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in *this section and* NRS 533.345, 533.371, 533.372 and 533.503, ~~and this section,~~ the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the ~~district's~~ efficiency *of the district* in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the state engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection ~~5,~~ 6, the state engineer shall ~~either~~ approve or reject each application within 1 year after the final date for filing a protest. However:

(a) Action ~~can~~ *may* be postponed by the state engineer upon written authorization to do so by the applicant or, ~~in case of a protested application, by both~~ *if an application is protested, by* the protestant and the applicant; and

(b) In areas where studies of water supplies ~~{are being made}~~ *have been determined to be necessary by the state engineer pursuant to NRS 533.368* or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~{5,}~~ 6, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, or threatens to prove detrimental to the public interest, the state engineer shall reject the application and refuse to issue the requested permit. ~~{Where}~~ *If* a previous application for a similar use of water within the same basin has been rejected on ~~{these}~~ *those* grounds, the new application may be denied without publication.

4. *In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this section, the state engineer shall consider:*

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

(b) *If the state engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;*

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

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

(e) *Any other factor the state engineer determines to be relevant.*

5. If a hearing is held regarding an application, the decision of the state engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record made of the endorsement in the records of the state engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~{6,}~~ 7, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to 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 ~~{so long as}~~ *while* the rejection continues in force.

~~{5,}~~ 6. The provisions of subsections 1 ~~{, 2 and 3}~~ *to 4, inclusive*, do not apply to an application for an environmental permit.

~~{6,}~~ 7. The provisions of subsection ~~{4}~~ 5 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 ~~{such a}~~ *that* use from the state land registrar.

8. *As used in this section, "interbasin transfer of ground water" means a transfer of ground water for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.*

Senate Bill No. 118—Committee on Judiciary

CHAPTER 237

AN ACT relating to judgments of conviction; requiring the use of the judgment of conviction as the warrant or authority for the execution of a sentence; and providing other matters properly relating thereto.

[Approved May 24, 1999]

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

**Section 1.** NRS 176.315 is hereby amended to read as follows:

176.315 A judgment of imprisonment to be served in a county jail must be executed by delivering the defendant into the custody of the sheriff or other officer in charge of the county jail. A copy of the judgment ~~{,}~~ *of conviction*, duly certified by the judge or justice, is a sufficient warrant for the doing of every act necessary or proper in the due execution thereof. The officer shall, upon discharging the defendant, return such copy to the justice, with an account of his doings endorsed thereon, and must at the same time pay over to the justice all money which he may have received from the defendant in payment of the fine.

**Sec. 2.** NRS 176.325 is hereby amended to read as follows:

176.325 ~~{,}~~ When a judgment of imprisonment to be served in the state prison has been pronounced, triplicate certified copies of the ~~{entry thereof in the minutes,}~~ *judgment of conviction*, attested by the clerk under the seal of the court, must forthwith be furnished to the officers whose duty it is to execute the judgment, as provided by NRS 176.335, and no other warrant or authority is necessary to justify or require the execution thereof, except when a judgment of death is rendered.

~~{2. The judgment of imprisonment must include:~~

- ~~—(a) The plea;~~
- ~~—(b) The verdict or finding;~~
- ~~—(c) The adjudication and sentence, including the date of the sentence, the minimum term and maximum term of imprisonment or the definite term of imprisonment, if one is provided by statute, the amount and terms of any fine, restitution or administrative assessment, a reference to the statute under which the defendant is sentenced and, if necessary to determine eligibility for parole, the applicable provision of the statute; and~~
- ~~—(d) The exact amount of credit granted for time spent in confinement before conviction, if any.~~

**Sec. 3.** NRS 176.335 is hereby amended to read as follows:

176.335 1. If ~~{the}~~ *a* judgment is for imprisonment in the state prison, the sheriff of the county shall, on receipt of the triplicate certified copies ~~{thereof,}~~ *of the judgment of conviction*, immediately notify the director of

**FLOOR ACTIONS**

**AMENDMENTS ON SECOND READING**

**FLOOR VOTES AND STATEMENTS**

**OTHER ACTIONS**

Amendment No. 59.

Amend section 1, page 1, line 12, before “*speed*” by inserting: “*sign designating the school zone indicates that the*”.

Amend section 1, page 2, line 8, before “*speed*” by inserting: “*sign designating the school zone indicates that the*”.

Amend section 1, page 2, by deleting lines 16 through 19 and inserting: “*which it respectively designates. Each sign marking the beginning of such a zone must include a designation of the hours when the speed limit is in effect.*”

5. *The superintendent of each school district or his designee shall determine the hours when the speed limit is in effect in each school zone and school crossing zone in the school district in consultation with the principal of the school and the agency that is responsible for enforcing the speed limit in the zone. The hours during which the pupils of a school are*”.

Amend sec. 1, page 2, line 21, by deleting “*principal*” and inserting: “*superintendent or his designee*”.

Amend the bill as a whole by deleting sec. 2 and adding a new section designated sec. 2, following section 1, to read as follows:

“Sec. 2. Notwithstanding the provisions of subsections 4 and 5 of NRS 484.366, as amended by this act, a sign which is in existence on October 1, 1999, to mark the beginning of a school zone or school crossing zone need not be replaced to comply with the provisions of NRS 484.366, as amended by this act, until the sign would have otherwise been replaced in the normal course of maintaining the sign.”

Amend the title of the bill by deleting the third through fifth lines and inserting: “*requiring the superintendent of each school district to designate the hours during which the speed limit in each school zone or school crossing zone in the school district is in effect; requiring the superintendent to notify the governing body of a local government or the*”.

Senator O'Donnell moved the adoption of the amendment.

Remarks by Senator O'Donnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 108.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 309.

Amend the bill as a whole by deleting sections 1 through 3 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in *this section* and NRS 533.345, 533.371, 533.372 and 533.503, ~~[and this section,]~~ the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the ~~district's~~ efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the state engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection ~~[5.]~~ 6, the state engineer shall ~~either~~ approve or reject each application within 1 year after the final date for filing a protest. However:

(a) Action ~~can~~ may be postponed by the state engineer upon written authorization to do so by the applicant or, ~~in case of a protested application, by both~~ if an application is protested, by the protestant and the applicant; and

(b) In areas where studies of water supplies ~~[are being made]~~ have been determined to be necessary by the state engineer pursuant to NRS 533.368 or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~[5.]~~ 6, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, or threatens to prove detrimental to the public interest, the state engineer shall reject the application and refuse to issue the requested permit. ~~[Where]~~ If a previous application for a similar use of water within the same basin has been rejected on ~~[these]~~ those grounds, the new application may be denied without publication.

4. In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this section, the state engineer shall consider:

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

(b) If the state engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

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

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

(e) Any other factor the state engineer determines to be relevant.

5. If a hearing is held regarding an application, the decision of the state engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The

written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record made of the endorsement in the records of the state engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~{6.}~~ 7, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to 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 ~~{so long as}~~ while the rejection continues in force.

~~{5.}~~ 6. The provisions of subsections 1 ~~{, 2 and 3}~~ to 4, inclusive, do not apply to an application for an environmental permit.

~~{6.}~~ 7. The provisions of subsection ~~{4}~~ 5 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 ~~{such a}~~ that use from the state land registrar.

8. *As used in this section, "interbasin transfer of ground water" means a transfer of ground water for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.*"

Amend the title of the bill by deleting the second through fourth lines and inserting: "postpone action on an application to use water or reject an application for an interbasin transfer of ground water; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Revises provisions governing applications for use of water. (BDR 48-922)".

Senator James moved the adoption of the amendment.

Remarks by Senator James.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 159.

Bill read second time and ordered to third reading.

Senate Bill No. 177.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 69.

Amend section 1, page 1, line 4, by deleting "1993," and inserting "~~{1993,}~~ 1999,".

Amend section 1, page 2, by deleting lines 14 through 17 and inserting: "*any amendments to the ~~{uniform codes}~~*

~~3.—The}~~ codes and standards.

3. *If approved in writing by the division, a local enforcement agency may*

4-2-99

Senate Bill No. 80.

Bill read third time.

Remarks by Senators O'Donnell and Neal.

Roll call on Senate Bill No. 80:

YEAS—21.

NAYS—None.

Senate Bill No. 80 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 108.

Bill read third time.

Remarks by Senators Neal, James and McGinness.

Roll call on Senate Bill No. 108:

YEAS—21.

NAYS—None.

Senate Bill No. 108 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 159.

Bill read third time.

Roll call on Senate Bill No. 159:

YEAS—21.

NAYS—None.

Senate Bill No. 159 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 177.

Bill read third time.

Roll call on Senate Bill No. 177:

YEAS—21.

NAYS—None.

Senate Bill No. 177 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 191.

Bill read third time.

Roll call on Senate Bill No. 191:

YEAS—21.

NAYS—None.

Senate Bill No. 191 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 227.

Bill read third time.

Senate Bill No. 73 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 81.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Senate Bill No. 81:

YEAS—41.

NAYS—None.

EXCUSED—Evans.

Senate Bill No. 81 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 105.

Bill read third time.

Remarks by Assemblymen Bache, Goldwater and de Braga.

Roll call on Senate Bill No. 105:

YEAS—36.

NAYS—Angle, Gibbons, Goldwater, Gustavson, Price—5.

EXCUSED—Evans.

Senate Bill No. 105 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 106.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Senate Bill No. 106:

YEAS—41.

NAYS—None.

EXCUSED—Evans.

Senate Bill No. 106 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 108.

Bill read third time.

Remarks by Assemblyman Neighbors.

Roll call on Senate Bill No. 108:

YEAS—41.

NAYS—None.

EXCUSED—Evans.

Senate Bill No. 108 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.