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Water committee sends 5 bill requests to 2017 Legislature

An interim legislative subcommittee looking at Nevada's water law held its final meeting Friday, approving five bill draft requests after listening to three hours of public comment, mostly from domestic well owners.

To start the meeting of the Subcommittee to Study Water, its chair, Sen. Pete Goicoechea, R-Eureka, addressed the packed room.

"I'm tickled to death to see the response because it shows you're interested," he said. "We can't balance this on the backs of the domestic well owners. We're looking for solutions."

The committee was considering ideas for more than a dozen bills, including one to allow the state engineer during a curtailment to make an exception for domestic well owners' indoor water use and another to limit new well owners in distressed basins to half an acre foot of water.

More than 50 people spoke, repeatedly voicing concerns the state would reduce the amount of water homeowners can pump from their wells.

"The water under my dirt is mine. It came with my property when I bought it," said Marti Perry, a Silver Springs resident and secretary of the Rural Nevada Domestic Wells Cooperative. "So, how is it you can take it by a regulatory taking?"

Many suggested the state wanted domestic well owners to pay the price for development.

"You're reducing our water rights so you can continue to write developers' permits," said Susan Nagel. "That's what got you into this mess, overdevelopment."

Another common refrain was to address each basin based on its need and not pass laws using a broad brush.

“Localized problems should not become state problems,” said one commenter. “Don’t make Pahrump and Vegas’ problems our problem.”

Pahrump is home to 22 percent of the state’s domestic wells and the basin is over appropriated.

Another problem area is Diamond Valley, a farming community and the state’s only designated critical management area, which is working now to come up with a groundwater management plan.

By current state law, domestic well owners can pump up to two acre feet annually. They don’t have a permitted water right, but the wells must be registered with the state engineer and they do have a priority date based on when they were drilled.

“Ninety percent of the domestic wells in the state are the most junior and if there is no exception we have to curtail both indoor and outdoor use,” said Jason King, state engineer.

By the law of prior appropriation, the state engineer must curtail by priority so junior water rights holders are cut off entirely starting with the most recently issued water rights while senior rights holders retain their full rights.

Last year the state engineer tried to curtail supplemental groundwater rights in Mason and Smith valleys by a 50 percent across the board cut rather than by priority. The order was challenged and a district judge issued an injunction.

The subcommittee approved two BDRs concerning domestic wells for the 2017 Legislature to examine.

One bill allows the state engineer to curtail domestic well water for outdoor use, with the exception for pets and livestock, while continuing to allow pumping for indoor use.

The other bill lets the state engineer limit new wells in severely over-appropriated basins and designated CMAs to half an acre foot annually.

A third BDR will expand an existing grant program to include cloud seeding.

A fourth BDR will require claimants of pre-statutory water rights to submit proof of those rights to the state engineer by Dec. 31, 2025 or the claims will be deemed abandoned.

All those BDRs were approved unanimously.

A fifth BDR was approved on a 3 to 2 vote, with Sen. Aaron Ford, D-Las Vegas, and Assemblywoman Maggie Carlton, D-Las Vegas, voting no.

That bill would allow for an array of options for groundwater management plans required in CMAs.

The subcommittee had a limit of five BDRs so three other measures were claimed by individual members who promised to bring the bills forward on their own.

Carlton took on a BDR to allow for de minimus rainwater collection for domestic use.

Goicoechea and Ford agreed to cosponsor a bill to clarify the state engineer is authorized to utilize adaptive management practices to mitigate potential conflicts.

And Assemblyman James Oscarson, R-Pahrump, took on a bill to authorize the state engineer to suspend the “use it or lose it” doctrine during drought in distressed basins in order not to punish conservation.

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of 3

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