

152 (b) The report of the investigation shall:
 153 (i) become part of the file on the claim; and
 154 (ii) be admissible in any administrative or judicial proceeding on the validity of the
 155 claim.

156 (6) (a) Any person who may be damaged by a diversion and use of water as described
 157 in a claim submitted pursuant to this section may file an action in district court to determine the
 158 validity of the claim, whether or not the claim has been accepted for filing by the state
 159 engineer.

160 (b) Venue for the action shall be in the county in which the point of diversion listed in
 161 the claim is located, or in a county where the place of use, or some part of it, is located.

162 (c) The action shall be brought against the claimant to the use of water or the claimant's
 163 successor in interest.

164 (d) In any action brought to determine the validity of a claim to the use of water under
 165 this section, the claimant shall have the initial burden of proof as to the validity of the claimed
 166 right.

167 (e) Any person filing an action challenging the validity of a claim to the use of water
 168 under this section shall notify the state engineer of the pendency of the action in a manner
 169 prescribed by the state engineer. Upon receipt of the notice, the state engineer may take no
 170 action on any change or exchange applications founded on the claim that is the subject of the
 171 pending litigation, until the court adjudicates the matter.

172 (f) Upon the entering of any final order or decree in any judicial action to determine the
 173 validity of a claim under this section, the prevailing party shall file a certified copy of the order
 174 or decree with the state engineer, which shall become part of the state engineer's file on the
 175 claim.

176 (7) The state engineer may make rules consistent with this section specifying
 177 information required to be included in a claim and claim procedures.

178 Section 3. ~~H~~→ [Division] Department ←~~H~~ of Natural Resources study of issues
 178a related to the state's
 179 jurisdiction over water rights.

180 The ~~H~~→ [Division] Department ←~~H~~ of Natural Resources shall:

181 (1) conduct a study of the state's jurisdiction over water rights, including:

182 (a) conflicts between the state, state agencies, political subdivisions, or citizens of the

183 state and the federal government relating to water issues; and
184 (b) actions necessary for the state to take in order to maintain and defend its
185 jurisdiction over water rights;
186 (2) draft recommended legislation to address the studied issues; and
187 (3) report the study and recommended legislation to the Natural Resources,
188 Agriculture, and Environment Interim Committee before November 30, 2013.
189 Section 4. **Repeal date.**
190 Section 3, ~~H~~→ **[Division] Department** ←~~H~~ of Natural Resources study of issues
190a related to the state's
191 jurisdiction over water rights, is repealed on November 30, 2013.

Legislative Review Note
as of 2-28-13 6:14 AM

Office of Legislative Research and General Counsel