FISCAL IMPACT REPORT

SPONSOR: SPAC   DATE TYPED: 02/08/02   HB

SHORT TITLE: Underground Water Permits   SB   478/SPACS

ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
		$0.1	(Significant See Narrative)	Recurring	General Fund

SOURCES OF INFORMATION

LFC Files
New Mexico Acequia Association
New Mexico Environment Department (NMED)
New Mexico Finance Authority
New Mexico Livestock Board
Office of the State Engineer (OSE)
State Investment Council

SUMMARY

Synopsis of Bill

Senate Bill 478/SPACS amends Section 72-12-1 NMSA 1978 that establishes conditions for permits for the use of underground waters. The most significant change is that it amends conditions under which OSE may deny a permit for water wells. In areas where the State Engineer has declared a critical management area under Section 72-2-8 NMSA 1978, the State Engineer may deny a permit for a domestic well if it will impair an existing water right or affects the state's obligations to an interstate compact. In addition, it allows a person to transfer an existing water right to household or domestic use without complying with public notice provisions if the amount is less than three-acre feet, complies with applicable municipal and county ordinances and serves no more than four household and the State Engineer finds that there will be no new net depletions of water and approves the transfer.

Significant Issues

SEO estimates there are approximately 130,000 permitted domestic wells in the state, and they receive requests for 5,000 additional wells each year. Currently, SEO must issue permits even if there is no unappropriated water available or it there would be impacts on neighboring wells. During testimony before the interim Legislative Water and Natural Resource Committee, SEO estimated that domestic wells caused annual depletions of 2,700 acre-feet of water from the Rio Grande and up to 1,800 acre-feet of water from the Pecos River.

OSE states the proposed statute change allows the State Engineer, in areas he has declared as critical management areas, the discretion to evaluate the impacts of a new domestic well if there is no water available for appropriation and where the aquifer is hydrologically connected to the surface flow of an interstate stream. He may deny the permit or limit the amount based upon the assessment.

NMED asks whether wells for livestock are to be covered by the statute.

There is concern of some property holders that this bill would limit their ability to build a home because of the inability to get a domestic well permit. In many areas of the state, domestic wells are the only source of water.

ADMINISTRATIVE IMPLICATIONS

The bill could have a significant impact on OSE. Hydrologic evaluations will have to done on domestic well permit application in critical management areas. These evaluations will delay processing of permit applications. However, it will provide OSE the ability to regulate domestic wells enabling them to better manage the underground waters in the state.

TECHNICAL ISSUES

OSE recommends adding "and 72-12-3" on page 3, line 18, after Section 72-5-4.

RELATIONSHIP

This bill is related to HB 271, SJM-7 and SJM-27.

POSSIBLE QUESTIONS

1. How will OSE cope with the increased workload resulting from the statutory change ?

2.   What percentage of domestic well permits will be affected by these changes ?

3. Are livestock wells covered by this proposed statute ?

GAC/njw:prr