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FISCAL IMPACT REPORT

SPONSOR: Varela DATE TYPED: _____ HB 307

SHORT TITLE: Domestic Well Management SB _____

ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$350.0 (see Narrative)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Related to SB 484 on domestic well permits.

Related to HB 303 and SB 123 on requiring acequia or community ditch approval to transfer water out of the acequia or community ditch.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

New Mexico Environment Department (NMED)

Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

House Bill 307 amends Section 72-12-1 NMSA 1978 concerning underground waters stating they belong to the public and eliminates subsections A and B. and adds Sections 72-12.1.1 through 72-12.1.3 covering the permitting process.

Section 72-12.1.1 pertains to domestic well permits in critical management areas. Restrictions are included as to size of the acreage of gardens, with municipal boundaries and consideration on the impact of neighboring wells. It limits water use to one-fourth acre-foot per household in critical management area. It also provides for approval by acequia or community ditch associations if a water right is to be transferred out of the acequia or community ditch association.

Section 72.12.1.2 pertains to livestock well permits and requires that applicants have proof that they have permission to use the land for grazing prior to requesting a permit for livestock wells.

Section 72.12.1.3 pertains to temporary uses of up to three acre-feet of water not to exceed a period of one year. OSE must assess whether the water use will impact over users and, if it does, a public hear will be held before approval.

Significant Issues

In testimony to the House Appropriations and Finance Committee, the State Engineer stated he supports the bill because it amends Section 72-12-1 to allow for denial of a domestic well permit if it impairs rivers, streams or ground water in high water use areas. Currently, OSE does not have the authority to deny domestic well permits. The bill also allows transfer of existing well permits as long as they do not exceed 0.25 acre-feet of annual use. In addition the proposed transfer cannot create depletions to the system greater than would have occurred in the absence of the transaction. The transfer must also comply with applicable municipal, county or acequia requirements. The bill provides for livestock wells but does not specify an amount and does not give OSE the authority to deny a livestock well permit even if it impairs rivers, streams or groundwater.

EMNRD points out that no provision is made for restricting livestock watering wells in critical management areas or for plugging and abandoning temporary use wells. In addition, state parks may need to purchase water right to support development that might otherwise been supported using domestic well permits.

ADMINISTRATIVE IMPLICATIONS

OSE processes approximately 5,000 domestic well permits annually. Because they cannot be denied, only minimal review and evaluation is done. This bill would require a thorough evaluation of all domestic well permit applications including analysis of impacts and impairments to existing users and the rivers, streams and groundwater of the water basin. OSE estimates that 5 FTE and other expenses would be required to comply with the requirements of this bill.

TECHNICAL ISSUES

OSE recommends that the bill be amended to specify the maximum amount of water that can be authorized by livestock well permits be limited to 3 acre-feet as provided in the current statute.

OSE recommends striking Section 72-12-1.1E(4) as they are in House Bill 303 and the duplicate Senate Bill 123.

GAC/prr