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## FISCAL IMPACT REPORT

SPONSOR: HAGC DATE TYPED: 3/16/03 HB CS/976/aHJC  
 SHORT TITLE: Domestic, Livestock and Temporary Well Permits SB \_\_\_\_\_  
 ANALYST: Chabot

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 307, SB 484 and SB 565

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AG)

Office of the State Engineer (OSE)

### SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Agriculture and Water Resources Committee Substitute for House Bill 976 makes editorial changes to the bill to make Section 72-12-1.1 read better by deleting the subsections and putting all the material in one paragraph.

Synopsis of Original Bill

The House Agriculture and Water Resources Committee Substitute for House Bill 976 amends Section 72-12-1 NMSA by changing the title to UNDERGROUND WATERS DECLARED TO BE PUBLIC—APPLICATIONS FOR [USE TO STATE ENGINEER HEARING] LIVESTOCK WATERING, DOMESTIC AND TEMPORARY USES OF WATER. The bill requires that applications be processed as required by Sections 72-12-1.1 through 72-12-1.3.

A new section, 72-12-1.1 UNDERGROUND WATERS—DOMESTICE USE—PERMIT provides for irrigation of one acre or less for noncommercial purposes or household or other domes-

tic use. The State Engineer shall issue a permit for these uses but may condition the amount of water permitted as established by regulations adopted by his office. Permits within municipalities shall comply with applicable ordinances.

A new section, 72-12-1.2 UNDERGROUND PUBLIC WATERS—LIVESTOCK WELL PERMITS, establishes procedures for requesting a livestock well permit that requires the State Engineer to issue the permit except for two conditions. If the application is on state or federal land, the applicant must submit proof of entitlement to place livestock on the state or federal land and has been given access to the drilling site.

A new section, 72-12-1.3 UNDERGROUND PUBLIC WATERS—TEMPORARY USES, is taken from the deleted material from 72-12-1 and provides for temporary use of no more than three acre-feet of water for a period of up to one year. Uses are for prospecting, mining or construction of public works, highways and roads or drilling operations designed to discover or develop natural resources.

### Significant Issues

AG states that allowing the State Engineer to limit the amount of water available under a permit is needed to protect the public water supply and to meet compact delivery obligations.

OSE summarizes the bill as conditioning the well permits to address limitation of use. The State Engineer will be “more involved” in processing domestic well permits because, currently, applications must be approved with consideration of impacts. The agency states that the bill is “vague with respect to the quantity of water” domestic and livestock wells may pump.

### **RELATIONSHIP**

OSE provides the following analysis of the bills introduced on permitting of wells:

“HB 307 and SB 484 also pertain to Section 72-12-1. Both allow the state engineer to designate areas in which domestic use may be limited.

SB 484 restricts well diversions to one acre-foot per year in underground water basins or one-half an acre-foot per year in areas with limited supply. No similar limitations are imposed in Substitute HB 976; however, the bill allows the state engineer to condition the amount diverted for domestic wells. The state engineer will be allowed to set limitations under HB 976 based on site-specific considerations.

Households typically divert less than 0.50 acre-feet per year (average is about 0.35 acre feet per year). As such, SB 484 will require the state engineer to issue permits for amounts greater than typically required. Likewise, in some areas with very limited water supplies, the combined use of domestic wells may be impairing water rights. This may especially be the case in areas with poor aquifers in the vicinity springs or acequias. Groundwater withdrawals are often at the expense of greater surface water depletions. Limiting domestic well use to less than 0.50 acre-feet per year is a condition that may be required for relatively small areas to prevent impairment. Substitute HB 976 allows the state engineer to determine allowable well diversions taking into consideration available water supply.

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SB 484 contains extensive notification requirements. Substitute HB 976 does not.

SB 484 requires every new well to be metered. Substitute HB 976 does not.  
The process outlined in HB 307 may be more extensive compared to Substitute HB 976.

Both HB 307 and SB 484 will have fiscal and administrative impacts. Substitute HB 976 will have relatively minor impact compared to these bills.”

GAC/njw:sb:yr