

AN ACT
RELATING TO WATER; PROVIDING FOR MUNICIPAL AUTHORITY TO
LIMIT NEW DOMESTIC WATER WELL DRILLING; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 3, Article 53 NMSA 1978 is enacted to read:

"NEW DOMESTIC WATER WELLS-- MUNICIPAL AUTHORITY. --

A. A municipality may, by ordinance, restrict the drilling of new domestic water wells, except for property zoned agricultural, if the property line of the applicant is within three hundred feet of the municipal water distribution lines and the property is located within the exterior boundaries of the municipality.

B. No municipality may deny authorization for a new domestic water well permit to an applicant if the total cost to the applicant of extending the municipal water distribution line, meter and hook-up to the applicant's residence exceeds the cost of drilling a new domestic water well.

C. A municipality that fails to authorize the drilling of a new domestic water well shall provide domestic water service within ninety days to the property owner under the municipal water provider's usual and customary charges and rate schedules.

D. A municipality shall file with the state engineer its municipal ordinance restricting the drilling of new domestic water wells.

E. An applicant for a domestic water well located within the exterior boundaries of a municipality with a new domestic water well drilling ordinance shall obtain a permit to drill the well from the municipality subsequent to the state engineer's approval.

F. A municipality with a domestic water well drilling ordinance shall act upon a new domestic water well permit application within thirty days of receipt of the request.

G. A municipality shall notify the state engineer of all municipal permit denials for domestic well authorization.

H. An applicant may appeal the decision of the municipality to the district court in the county of the municipality.

I. Nothing in this section shall limit the authority of the state engineer to administer water rights as provided by law.

J. The state engineer shall not be liable for actions taken in accordance with a municipal ordinance authorizing restriction of domestic well drilling within the exterior boundaries of a qualified municipality. "

Section 2. Section 72-12-1 NMSA 1978 (being Laws 1931,

Chapter 131, Section 1, as amended) is amended to read:

"72-12-1. UNDERGROUND WATERS DECLARED TO BE PUBLIC-- APPLICATIONS FOR USE TO STATE ENGINEER--HEARINGS.--The water of underground streams, channels, artesian basins, reservoirs or lakes, having reasonably ascertainable boundaries, are declared to be public waters and to belong to the public and to be subject to appropriation for beneficial use. By reason of the varying amounts and time such water is used and the relatively small amounts of water consumed in the watering of livestock; in irrigation of not to exceed one acre of noncommercial trees, lawn or garden; in household or other domestic use; and in prospecting, mining or construction of public works, highways and roads or drilling operations designed to discover or develop the natural resources of the state, application for any such use shall be governed by the following provisions:

A. a person, firm or corporation desiring to use public waters described in this section for watering livestock; for irrigation of not to exceed one acre of noncommercial trees, lawn or garden; or for household or other domestic use shall make application to the state engineer on a form to be prescribed by him. Upon the filing of each application describing the use applied for, the state engineer shall issue a permit to the applicant to so use the waters applied for; provided that permits for domestic water use within municipalities shall be

conditioned to require the permittee to comply with all applicable municipal ordinances enacted pursuant to Chapter 3, Article 53 NMSA 1978; and provided that as part of an application for livestock watering use on state or federal land, the applicant shall submit proof that he:

(1) is legally entitled to place his livestock on the state or federal land where the water is to be used; and

(2) has been granted access to the drilling site and has permission to occupy the portion of the state or federal land as is necessary to drill and operate the well; and

B. whenever a person, firm or corporation or the state desires to use not to exceed three acre-feet of public water described in this section for a definite period of not to exceed one year in prospecting, mining or construction of public works, highways and roads or drilling operations designed to discover or develop the natural mineral resources of the state, only the application referred to in Section 72-12-3 NMSA 1978 shall be required. Separate application shall be made for each proposed use, whether in the same or in different basins. Upon the filing of an application, the state engineer shall make an examination of the facts and, if he finds that the proposed use will not permanently impair any existing rights of others, he shall grant the application. If he finds that the proposed use

sought will permanently impair such rights, then there shall
be advertisement and hearing as provided in the case of
applications made under Section 72-12-3 NMSA 1978. "