

If the change in use is from an acequia or community ditch, the governing board must give written approval of the transfer. A permit will not be granted if the owner of the land or household owns or controls water rights at the location sufficient to provide one-half acre-foot per year.

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 for prospecting, mining or construction or public works, highways and roads or drilling operations. OSE must assess whether the water use will impact over users and, if it does, a public hearing will be held before approval.

Significant Issues

OSE states that this bill will allow denial or reduction in diversion of domestic well applications that has not been allowed in existing statute.

OSE reports that unless the meaning of the last two sentences of the proposed Section 72-12-1.1.C is to eliminate protests of the declaration of a critical management area, the provisions of Section 72-2-8 or 72-7-1 allows individuals, entities or political subdivision to go to administrative hearing and appeal to district court.

The bill provides for expedited transfers of water rights if they are less than 0.25 acre-foot per household and do not create depletions greater than would have occurred in the absence of the transaction.

EMNRD is concerned about groundwater wells at its state parks and whether they will be covered by the proposed statute.

FISCAL IMPLICATIONS

Senate Bill 565 does not have an appropriation but OSE would incur costs to implement provisions of this bill. The agency estimated in the related bills that \$150.0 would be needed.

ADMINISTRATIVE IMPLICATIONS

OSE would be required to be more active in the administration of domestic well permits. Currently, OSE cannot deny a domestic well permit so only cursory reviews are done. Under provisions of this bill, OSE will have to actively manage the program. The agency estimates that 2 FTE will be required. OSE would have to develop implementing rules and regulations on domestic wells.

OSE contends “the hydrological, critical management, water right transfer and acequia evaluation of domestic well applications within critical management areas will slow down the process of an overextended water right application processing system.”

TECHNICAL ISSUES

OSE recommends on page 4, line 20 striking “A critical management” and striking lines 21 through 24.

OSE recommends on page 6, striking lines 1 through 4.

OSE recommends that livestock wells be limited to 3 acre-feet.

GAC/njw