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FISCAL IMPACT REPORT

SPONSOR:	Eisenstadt	DATE TYPED:	02/14/00	HB	
SHORT TITLE:	Limit New Domestic Water Well Drilling			SB	99/aSCONC/aSJC/aSFl#1
				ANALYST:	Pickering

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
			Indeterminate	Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

New Mexico Department of Agriculture (NMDA)

Office of the State Engineer / Interstate Stream Commission (OSE/ISC)

SUMMARY

Synopsis of SFL#1 Amendment

The senate floor amendment deletes the word "new" in reference to domestic water well permits for drilling within a municipality.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment adds language to bypass the restrictions on drilling new domestic wells for agricultural zoned properties.

Synopsis of SCONC Amendment

The Senate Conservation Committee amended SB99 by deleting language that authorized the state engineer to approve or deny new domestic water well permits. Also, domestic well applicants can now appeal decisions of a state municipality, rather than the state engineer.

Synopsis of Bill

This bill will allow municipalities authority by ordinance to limit domestic well drilling. This bill will require individuals to apply to a municipality for a permit to drill a new domestic well where there is an ordinance. If the owner's property line is within three hundred feet of the municipality's water distribution lines, the municipality may deny authorization for a new domestic well permit. If the cost of extending the municipal water distribution lines to the applicant's property exceeds the cost of drilling the domestic well, the municipality may not deny the authorization. The bill contains language protecting the property owner such that the municipality must provide domestic water service within ninety days if the municipality has denied the

domestic well drilling permit. The property owner must apply to the municipality for a domestic well permit before applying to the office of the state engineer. The municipality must also file its ordinance restricting the drilling of new domestic wells with the state engineer.

Significant Issues

Currently, all domestic well applicants receive State Engineer approvals. This bill is modeled after an ordinance adopted by the City of Santa Fe last year. Whether it is prudent to expand that approach to limit the wells that could be acted upon by the State Engineer statewide remains untested. A more comprehensive approach to regulatory domestic well pumping is necessary to assure the state's continued ability to meet compact deliveries.

FISCAL IMPLICATIONS

SB99 does not contain an appropriation: OSE states it may incur additional costs estimated at \$113.5 annually to coordinate implementation with municipalities.

ADMINISTRATIVE IMPLICATIONS

OSE anticipates additional coordination between the agency's water rights division staff and statewide municipalities to ensure all domestic well permits within municipalities have received municipal approvals. It states the municipal coordination could delay the processing of domestic well applications by the water rights division.

TECHNICAL ISSUES

OSE states it is unclear how to calculate whether a property line is within 300 feet of water distribution lines as detailed in Section 1(A). There are questions as to whether a landowner could calculate the distance from the furthest property line.

SUBSTANTIVE ISSUES

OSE cited Section 1(B) as being an exception to Section 1(A) since the bill does not designate which entity will determine if costs are reasonable and accurate for extending municipal water distribution lines to an applicant's property.

ALTERNATIVES

OSE recommends a comprehensive statewide approach to address the possible effects stemming from domestic wells in highly populated areas which impact surface water flows. OSE contends that SB99 deals with only a portion of this problem. Subsequently, the agency proposes the introduction of a memorial to direct the Interim Water and Natural Resources Committee to study and report on this issue with recommendations to be made during the next 60 day session.

CONSEQUENCES OF NOT ENACTING THIS BILL

OSE/ISC reports municipalities will not be able to restrict domestic well drilling . In certain basins of development, this could negatively impact New Mexico's interstate compact obligations.

RWP/gm:sb