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 MATERIAL] 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.

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underscored material = new
[bracketed material] = delete

1   B.   No municipality may deny authorization for a

2   new domestic water well permit to an applicant if the total

3   cost to the applicant of extending the municipal water

4   distribution line, meter and hook-up to the applicant's

5   property exceeds the cost of drilling a new domestic water

6   well.

7   C.   A municipality that fails to authorize the

8   drilling of a new domestic water well shall provide domestic

9   water service within ninety days to the property owner under

10   the municipal water provider's usual and customary charges and

11   rate schedules.

12   D.   A municipality shall file with the state

13   engineer its municipal ordinance restricting the drilling of

14   new domestic water wells.

15   E.   An applicant for a domestic water well located

16   within the exterior boundaries of a municipality with a new

17   domestic water well drilling ordinance shall obtain a permit

18   to drill the well from the municipality subsequent to the

19   state engineer's approval.

20   F.   A municipality with a domestic water well

21   drilling ordinance shall act upon a new domestic water well

22   permit application within thirty days of receipt of the

23   request.

24   G.   A municipality shall notify the state engineer

25   of all municipal permit denials for domestic well

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1 authorization.

2 　　　H.　An applicant may appeal the decision of the

3 municipality to the district court in the county of the

4 municipality.

5 　　　I.　Nothing in this section shall limit the

6 authority of the state engineer to administer water rights as

7 provided by law.

8 　　　J.　The state engineer shall not be liable for

9 actions taken in accordance with a municipal ordinance

10 authorizing restriction of domestic well drilling within the

11 exterior boundaries of a qualified municipality."

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

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

14 　　"72-12-1.　UNDERGROUND WATERS DECLARED TO BE PUBLIC--

15 APPLICATIONS FOR USE TO STATE ENGINEER--HEARINGS.--The water

16 of underground streams, channels, artesian basins, reservoirs

17 or lakes, having reasonably ascertainable boundaries, are

18 declared to be public waters and to belong to the public and

19 to be subject to appropriation for beneficial use.　By reason

20 of the varying amounts and time such water is used and the

21 relatively small amounts of water consumed in the watering of

22 livestock; in irrigation of not to exceed one acre of

23 noncommercial trees, lawn or garden; in household or other

24 domestic use; and in prospecting, mining or construction of

25 public works, highways and roads or drilling operations

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1   designed to discover or develop the natural resources of the

2   state, application for any such use shall be governed by the

3   following provisions:

4   A.   [any] a person, firm or corporation desiring to

5   use [any] public waters described in this section for watering

6   livestock; for irrigation of not to exceed one acre of

7   noncommercial trees, lawn or garden; or for household or other

8   domestic use shall make application to the state engineer on a

9   form to be prescribed by him. Upon the filing of each

10   application describing the use applied for, the state engineer

11   shall issue a permit to the applicant to so use the waters

12   applied for if applications for domestic water use within

13   municipalities conform to all applicable municipal ordinances

14   and an application is made for a municipal permit pursuant to

15   Chapter 3, Article 53 NMSA 1978; provided that as part of an

16   application for livestock watering use on state or federal

17   land, the applicant shall submit proof that he:

18   (1) is legally entitled to place his

19   livestock on the state or federal land where the water is to

20   be used; and

21   (2) has been granted access to the drilling

22   site and has permission to occupy the portion of the state or

23   federal land as is necessary to drill and operate the well;

24   and

25   B.   whenever [any] a person, firm or corporation

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1   or the state desires to use not to exceed three acre-feet of

2   public water described in this section for a definite period

3   of not to exceed one year in prospecting, mining or

4   construction of public works, highways and roads or drilling

5   operations designed to discover or develop the natural

6   mineral resources of the state, only the application

7   referred to in Section 72-12-3 NMSA 1978 shall be required.

8   Separate application shall be made for each proposed use,

9   whether in the same or in different basins. Upon the filing

10   of [such applications] an application, the state engineer

11   shall make an examination of the facts and, if he finds that

12   the proposed use will not permanently impair any existing

13   rights of others, he shall grant the application. If he

14   finds that the proposed use sought will permanently impair

15   such rights, then there shall be advertisement and hearing

16   as provided in the case of applications made under Section

17   72-12-3 NMSA 1978."

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