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FISCAL IMPACT REPORT

SPONSOR Stell DATE TYPED 2/14/04 HB 204/aHJC/aHAFC

SHORT TITLE Water Well Drillers Licensing Act SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

Duplicates SB343

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	See Narrative		Recurring	New Fund

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals & Natural Resources (EMNRD)

State Engineer's Office (SEO)

Environment Department (ED)

SUMMARY

Synopsis HAFC Amendment

The House Appropriations and Finance Committee amendment removes the \$150 thousand appropriation to the SEO.

Synopsis of HJC Amendment

The House Judiciary Committee amendment removes the requirement for the supervisor of a driller trainee to be on-site in order to be exempted from the license requirement. The amendment also exempts a person who constructs a domestic well without use of a drilling rig upon his

own property from the licensing requirement. The rest of the amendment makes clarifying changes.

Synopsis of Original Bill

House Bill 204 appropriates \$150 thousand to the SEO from the General Fund to carry out the provisions of the Water Well Drillers Licensing Act.

HB204 requires any person drilling a water well to have a water well driller's license from the SEO. This bill requires that new licensees pass the National Ground Water Association Certification Examination or an equivalent examination as determined by the SEO and will require 8 hours of continuing education credits acceptable to the SEO for license renewals. It also requires the SEO to establish requirements for continued proficiency in water well drilling and establish a continuing education program for water well drillers.

This bill requires that the state engineer establish ethical standards of conduct for water well drillers.

The bill also requires filing with the SEO a surety bond in the amount of \$10 thousand to ensure compliance with the provision of the Water Well Drillers Licensing Act.

The bill supersedes an existing provision of the Water Code (Section 72-12-15) that prohibits drilling of water wells except by a person licensed by the SEO, but does not contain specific provision regarding the manner of licensing, as this bill does.

Significant Issues

ED states that this bill will have a significant impact on the quality of water wells constructed throughout New Mexico. The provisions of this bill ensure a higher degree of competency among well drillers in New Mexico, which will in turn produce higher quality water supply wells and monitoring wells. The provisions of this bill will noticeably increase the longevity of capital improvements made by public water systems.

The additional requirement for the disclosure of water quality in the area surrounding the well will assist with preventing the drilling of water supply wells in areas where the water is non-potable or in need of treatment. This bill provides one of many critical steps that must be taken to contend with prevailing drought and economic conditions that face our state now and in the future.

As groundwater pollution further depletes the state's water resources, monitoring of groundwater pollution is crucial. Currently groundwater monitoring wells are often installed in a substandard manner resulting in adverse environmental effects, such as spreading of contaminant plumes or pushing of contaminated waters into previously clean area. Ensuring that drillers of monitoring wells meet minimum standards and that the quality of the water from the wells is reported to the state will add a needed level of protection of New Mexico's precious water resources.

Given the current demand on groundwater as a drinking water source and the current drought situation, this bill has great potential to influence the provision and establishment of a competent pool of water well drillers within the state. This bill provides for consistent procedures, business

practices and ethical standards for drillers. The fund that the bill creates will ensure compliance and enforcement in an appropriate and consistent manner.

HB204 also establishes standards for water well drillers to disclose to the client and the SEO all known adverse conditions about the quantity and quality of ground water in the area of the prospective well. As the state agency that oversees New Mexico's water quality, the ED should also receive this information.

The definition of water well in this bill incorporates language approved by the EMNRD when a similar bill was proposed in the 2003 regular session. The bill on this subject introduced in the 2003 regular session included monitor wells and injection wells in the definition of water well. The language in this bill excludes monitor wells regulated by EMNRD from the definition of water wells and limits the category of injection wells included in the definition to those associated with aquifer storage or return flow credits. The provisions of this bill will not apply to injection wells that are regulated by EMNRD under the Underground Injection Control program which EMNRD administers under the federal Safe Drinking Water Act.

FISCAL IMPLICATIONS

The appropriation of \$150.0 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2005 shall revert to the General Fund.

HB204 also creates the Water Well Drillers Fund. The license and examination fees required by this bill will be deposited in this new fund. All money in this fund is appropriated to the SEO for the administration of this act. License application fees will be \$25. License or renewal fees will be established by the SEO and will not be more than \$400. As the SEO has not yet established the fees and since the number of applicants is not known, no revenue estimate is available. Balances in this fund shall remain and not revert to the General Fund

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

The SEO will require two additional FTEs for the administration of this bill.

TECHNICAL ISSUES

The SEO recommends that in Section 3. B., the word "on-site" should be deleted, since the SEO does not require that the licensee be on site all the time during the drilling of a water well – only that the driller is responsible for the drilling of the well. Many times a well driller has more than one well in progress at any one time.

DW/njw:yr