

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/13/2025

Check all that apply:

Bill Number: HB356

Original Correction
Amendment Substitute

Sponsor: Rep. Cathrynn N. Brown

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Protests for Replacement Wells

Analysis: J. Spenser Lotz

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Section 1: This bill relates to water wells and would amend NMSA 1978, Section 72-12-22 to provide that replacement wells within one hundred feet of the original well are not subject to protest. If the applicant for a replacement well is aggrieved by state engineer action, they may file an “aggrieval” and request for hearing.

FISCAL IMPLICATIONS

N/A.

SIGNIFICANT ISSUES

The bill appears to conflict with NMSA 1978, Section 72-12-3(D), which provides that with regards to applications for use of underground water, “[a]ny person, firm or corporation or other entity objecting that the granting of the application will impair the objector’s water right shall have standing to file objections or protests.” Section 72-12-22, which the bills amends, expressly states that applications under that section follow the provisions set out in Section 72-12-3.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

N/A.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A.

TECHNICAL ISSUES

“Aggrieval” is not a word. Recommend replacing it with “objection” or “appeal” on page 2, line 18.

Further, recommend changing the full sentence to clarify that the applicant is filing the objection. Consider:

“If the applicant is aggrieved by the state engineer action on the application, the applicant may file an appeal and request for hearing.

OTHER SUBSTANTIVE ISSUES

Additionally, it may be possible that the phrase “and only the same” on page 2, line 1, is being deleted in an attempt to streamline the section. However, the function of “and only the same” in that sentence is to clarify that a replacement well may only connect to the same source of water as the original. In some cases, it may be possible for a well to connect to multiple sources—the effect of “and only the same” is to clarify that such multiple source connections are prohibited. Provided this is only a deletion for clarity and not a substantive change, recommend leaving the phrase for clarity.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.