

HOUSE AGRICULTURAL AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 418

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

AN ACT

RELATING TO WATER; REQUIRING ADDITIONAL REQUIREMENTS FOR  
APPROVAL OF PERMITS FOR THE DIVERSION AND USE OF GROUND WATER  
FOR USE OUTSIDE THE AREA OF ORIGIN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 72, Article 12 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] APPLICATION FOR TRANSFER OF GROUND WATER  
OUT OF AREA OF ORIGIN.--

A. Any person intending to withdraw water from an  
underground water source and transport it for use outside the  
area of origin shall apply to the state engineer for a permit  
to transfer the water out of the area of origin, in addition to  
fulfilling all other permit application requirements of Chapter  
72, Article 12 NMSA 1978.

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1           B. Before approving an application submitted  
2 pursuant to the provisions of Subsection A of this section, the  
3 state engineer shall conduct the necessary studies to obtain  
4 the information required by Subsection C of this section at the  
5 applicant's expense.

6           C. In acting upon an application submitted pursuant  
7 to the provisions of Subsection A of this section, the state  
8 engineer shall, at minimum, consider the following factors:

9                   (1) whether the transfer is in compliance with  
10 regional water plans of the area of origin and of the area of  
11 proposed use;

12                   (2) whether the source of supply can reliably  
13 sustain the diversion's anticipated firm yield and whether the  
14 diversion will exceed the recharge rate of the ground water  
15 aquifer in the area of origin; provided that if there is not  
16 enough information to establish the aquifer's firm yield,  
17 recharge rate, volume of water or quality of that volume of  
18 water, the state engineer shall not approve the transfer permit  
19 until accurate information is acquired;

20                   (3) whether the board of county commissioners  
21 of the county out of which the water is proposed to be  
22 transferred adopts a resolution declaring that it is or is not  
23 in the public interest for the application to be granted;

24                   (4) the amount of potable water in the area of  
25 origin available for future appropriation; and

1 (5) the practicable availability of  
2 alternative sources of water for the proposed use that would  
3 not rely on transfer of water out of its area of origin.

4 D. This section shall not apply to an application  
5 for the transfer of less than five hundred acre-feet of water  
6 per year.

7 E. This section shall not apply to:

8 (1) an appropriation or diversion by a  
9 municipality to facilitate regional municipal water service if  
10 the municipality has historically transported water between the  
11 area of origin and the proposed receiving area identified in  
12 the application;

13 (2) an inter-basin diversion project that is  
14 authorized and approved and for which construction began or was  
15 completed on or before July 1, 2017; or

16 (3) temporary transfers of no longer than two  
17 years.

18 F. For the purposes of this section:

19 (1) "area of origin" means the physical  
20 location of a ground water aquifer, the boundaries of which are  
21 reasonably ascertainable and which may or may not coincide with  
22 the administrative boundaries of ground water basins  
23 established by the state engineer; and

24 (2) "transfer" means the transport of water  
25 for use in a location more than thirty-five miles from the area

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