

1 HOUSE BILL 418

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Gail Armstrong

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10 AN ACT

11 RELATING TO WATER; REQUIRING ADDITIONAL REQUIREMENTS FOR
12 APPROVAL OF PERMITS FOR THE DIVERSION AND USE OF GROUND WATER
13 FROM THE BASIN OF ORIGIN FOR USE OUTSIDE THE BASIN OF ORIGIN.

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

16 SECTION 1. A new section of Chapter 72, Article 12 NMSA
17 1978 is enacted to read:

18 "[NEW MATERIAL] APPLICATION FOR INTER-BASIN TRANSFER OF
19 GROUND WATER.--

20 A. Any person intending to withdraw water from an
21 underground water source and transport it for use outside the
22 basin of origin shall apply to the state engineer for a permit
23 to do so in addition to fulfilling all other permit application
24 requirements of Chapter 72, Article 12 NMSA 1978.

25 B. Before approving an application submitted

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1 pursuant to the provisions of Subsection A of this section, the
2 state engineer shall conduct a comprehensive review of the
3 information required by Subsection C of this section at the
4 applicant's expense.

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

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

11 (2) whether the source of supply can reliably
12 sustain the diversion's anticipated firm yield and whether the
13 diversion will exceed the recharge rate of the ground water
14 aquifer in the area of origin;

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

19 (4) the amount of water in the basin of origin
20 available for future appropriation; and

21 (5) the practicable availability of
22 alternative sources of water for the proposed use that would
23 not rely on transfer of water out of its basin of origin.

24 D. This section shall not apply to an application
25 for the inter-basin transfer of less than one thousand

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1 acre-feet of water per year.

2 E. This section shall not apply to:

3 (1) an appropriation or diversion by a
4 municipality to facilitate regional municipal water service if
5 the municipality has historically transported water between the
6 basin of origin and the proposed receiving basin identified in
7 the application; or

8 (2) an inter-basin diversion project that is
9 authorized and approved and for which construction began or was
10 completed on or before July 1, 2017."