

HOUSE BILL REPORT

ESHB 1806

As Passed House
March 16, 1993

Title: An act relating to wells.

Brief Description: Changing regulation and licensure of well contractors and operators.

Sponsors: By House Committee on Environmental Affairs (originally sponsored by Representatives Bray, Horn and Rust).

Brief History:

Reported by House Committee on:
Environmental Affairs, March 1, 1993, DPS;
Revenue, March 8, 1993, DPS(ENA-A REV);
Passed House, March 16, 1993, 78-19.

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Rust, Chair; Flemming, Vice Chair; Horn, Ranking Minority Member; Bray; Foreman; Hansen; Holm; L. Johnson; J. Kohl; Linville; and Roland.

Minority Report: Do not pass. Signed by 3 members: Representatives Van Luven, Assistant Ranking Minority Member; Edmondson; and Sheahan.

Staff: Harry Reinert (786-7110).

HOUSE COMMITTEE ON REVENUE

Majority Report: The substitute bill by Committee on Environmental Affairs be substituted therefor and the substitute bill as amended by Committee on Revenue do pass. Signed by 13 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Anderson; Brown; Leonard; Morris; Romero; Rust; Silver; Talcott; Thibaudeau; and Wang.

Minority Report: Do not pass. Signed by 2 members: Representatives Fuhrman and Van Luven.

Staff: Keitlyn Watson (786-7310).

Background: Washington laws currently regulate the construction of water wells, providing for construction standards and licensing of those who construct the wells. In the last several years, wells used for monitoring of pollution and testing of ground water have become an increasing part of the well construction industry. The existing statutes do not recognize the differences in construction standards or licensing of those who construct these types of wells.

Water well contractors and operators are required to obtain a license from the Department of Ecology. An applicant for a license must pass an examination, have two years experience or one year of experience and one year of schooling, and pay an application fee of \$25. Licenses are renewed yearly upon payment of a \$10 fee.

Water wells may only be constructed by a licensed water well contractor or operator. An individual may construct a well on his or her own property without a license.

At least 72 hours prior to beginning construction on a water well, the well contractor or operator must notify the department of the construction. Within 30 days after a well is completed, the well contractor or operator must submit a report on the well construction to the department. There is no fee required for constructing a well.

The department may issue orders requiring a well contractor, operator, or owner to repair a well that has been constructed improperly or is defective. The department may also issue orders directing compliance with well construction standards or other rules adopted by the department. A person may appeal a department order to the Pollution Control Hearings Board.

A person who violates the provisions of the water well statute or the department's rules may be subject to a civil penalty of up to \$100 a day. The penalty may be appealed to the Pollution Control Hearings Board.

All fees and penalties received by the department are deposited in the general fund.

Summary of Bill: The Water Well Construction Program administered by the Department of Ecology is expanded to include monitoring and other resource protection wells. The department shall issue two different types of licenses: one for a person who constructs water wells and one for a person who constructs resource protection wells. The department

shall also issue a training license for each type of operator's license. The department, in consultation with a technical advisory group, will establish the standards for licensing. The standards for obtaining a license shall include minimum education and experience requirements. Applicants for a new license may also be required to take an on-site examination.

The licensing fee for an operator's license shall be established by the department based on the costs of operating the licensing program. A license is valid for two years. In order to renew a license, the operator must complete approved education courses. The licensing fee and the education requirement will be established by the department in consultation with the technical advisory group.

The requirement that wells be constructed according to the department's construction standards is expanded to apply to all individuals, not just licensed contractors and operators. It is a violation of the law to construct a well if required fees have not been paid.

The department may adopt rules to require a well owner to avoid waste and contamination of the ground water, to establish a well tagging program, and to require a well owner to repair or decommission abandoned or damaged wells or wells that pose a risk to the public health.

The owner of property, or the owner's agent, on which a well will be constructed shall notify the department of the intent to construct a well within 72 hours prior to beginning construction. The notice must be accompanied by well construction fees. The fee for a water well less than 12 inches in diameter is \$100. The fee for a water well 12 inches or greater in diameter is \$200. The fee for each resource protection, observation, or monitoring well, or 200 feet of dewatering well system is \$40. The department may establish a procedure for payment of fees for resource protection wells after well construction has been completed and the number of wells actually constructed is known.

Fees shall be deposited in the reclamation account in the state treasury. The fees may only be used for the well construction and licensing program. The department may provide grants to local governments who have been delegated responsibility to enforce portions of the well construction program.

For wells on which construction is substantially completed on or after July 1, 1993, the department has three years to order a well contractor to repair a well that does not meet

the standards for well construction. For wells on which construction is substantially completed prior to July 1, 1993, the department has up to six years to order the well to be repaired.

The penalties that may be imposed by the department for violations are increased from the current \$100 a day maximum. Three classes of violations are established. Minor violations do not seriously threaten public health or the environment. They include failing to submit notification cards and well reports within the time required. The penalty for a minor violation is a fine of between \$100 and \$500. A person who has committed a minor violation must be given an opportunity to correct the violation before a penalty is imposed.

Serious violations pose a serious threat to public health or the environment. They include improper construction, intentional improper siting, drilling with an expired or suspended license, and construction without a permit. A serious violation is subject to a penalty of between \$500 and \$5,000. A major violation is construction of a well without a license or after a license has been revoked and is subject to a penalty of between \$5,000 and \$10,000. Penalties may be appealed to the Pollution Control Hearings Board. All receipts from penalties are to be spent only for restoration and enhancement of ground water resources.

The exemption from licensing for a person to construct a well on his or her own property is limited to wells for single-family residences. A person may construct only one well every two years under the exemption.

A technical advisory group is established to advise the department on well construction standards, licensing requirements and fees, and other aspects of the well construction and licensing program. The group is composed of representatives from well contractors, health departments, and professional engineers. The group shall meet at least twice each year.

Fiscal Note: Available. New fiscal note requested March 8, 1993.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Environmental Affairs): The number of wells constructed in this state has greatly increased in the last few years. There is an increasing problem with unlicensed drillers. The department needs additional funding to assist

local governments to take over some parts of the inspection program.

(Revenue): The bill has been worked thoroughly and is agreed to by all parties. The bill restores proposed 1993-95 budget cuts to the Well Construction and Licensing Program in the Department of Ecology, and includes an enhancement.

Testimony Against: (Environmental Affairs): (Original Bill): The fees are too high for resource protection and dewatering wells. There are a number of other problems with the bill that will create problems for the responsible well driller.

(Revenue): None.

Witnesses: (Environmental Affairs): Hedia Adelsman, Department of Ecology (pro); Greg Grunenfelder, Environmental Health Directors Association (pro); Bob Wubbena, consulting engineer (pro); Dave Clark and David Jennings, Department of Health (pro); Steve Miller, citizen (pro); Mike Matson, Mike Krautkramer, Tim Lutman, and Rick DeRemer, Washington Drilling and Groundwater Association (con, original bill); and John Anderson, Leona Anderson, William Anderson, Anderson Dewatering (concerns, original bill).

(Revenue): Representative Lane Bray, prime sponsor (pro); Mike Madsen and Tom Luttmann, Washington State Drilling and Groundwater Association (pro); and Hedia Adelsman and Dick Szymarek, Department of Ecology (pro).