

SENATE BILL REPORT

SB 5831

As Passed Senate, March 15, 2005

Title: An act relating to the minimum standards for construction and maintenance of wells.

Brief Description: Concerning well construction.

Sponsors: Senators Morton and Poulsen.

Brief History:

Committee Activity: Water, Energy & Environment: 2/16/05, 2/22/05 [DP-WM].
Passed Senate: 3/15/05, 37-8.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hewitt, Honeyford, Pridemore and Regala.

Staff: Sam Thompson (786-7413)

Background: The Department of Ecology (DOE) regulates water well design, construction, and maintenance. Regulation is partly funded by well construction fees. DOE may delegate some regulatory authority to local health districts or counties and transfer well construction fee revenue to those entities to fund delegated authority.

With certain exceptions, only DOE-licensed well operators may design, construct, or maintain a well. If a licensee fails to timely and properly renew their license at the end of the two-year term, the license expires. DOE may waive testing requirements when a person with an expired license applies for a new license. A 12-member technical advisory group advises DOE on continuing education requirements, construction standards, licensing and training requirements, fees, and other aspects of the well regulatory program.

It has been suggested that several aspects of the well regulatory program be revised.

Summary of Bill: The Department of Ecology (DOE) water well regulatory program is revised to include regulation of additional types of wells, raise well construction fees, modify DOE delegation of authority to local jurisdictions, and change elements of the well operator licensing program.

Well Regulation. Ground source heat pump borings and grounding wells are added to the list of wells subject to regulation and construction fees. An "abandoned well" subject to regulation includes wells that are usable but constitute risks to public health and welfare because of lack of maintenance. A "well owner" includes persons or business entities that have well rights afforded by easements, covenants, or other instruments.

Well Sealing and Decommissioning. DOE must annually review a memorandum of agreement delegating its well sealing and decommissioning authority to a local health district

or county. In consultation with the technical advisory group, DOE must adopt regulations outlining the review and reporting process, make a detailed summary of reviews available to well contractors and operators, and publish the reviews on the DOE website.

A licensee who decommissions a well must furnish a report to DOE within 30 days of doing so.

Fees. Well construction fees are revised July 1, 2005, as follows:

- For a water well up to a top casing diameter of 12 inches, the fee is raised from \$100 to \$200. Ground source heat pump borings, grounding wells, and dewatering wells are not subject to this fee.
- For a water well over a top casing diameter of 12 inches, the fee is raised from \$200 to \$300. Dewatering wells are not subject to this fee.
- For a ground source heat pump boring or a grounding well, the fee is \$40. If a project includes more than four such wells, the fifth and additional wells are each subject to a \$10 fee.
- For decommissioning of: (1) a water well, the fee is \$50; (2) a resource protection well, including a ground source heat pump boring or grounding well, the fee is \$20. There is no fee for decommissioning environmental investigation wells or geotechnical soil boring wells.

License Suspension and Expiration. A licensee's failure to properly file for renewal triggers a 30-day suspension period at the end of the effective term of the license; during this period, a licensee may not perform work requiring a license. If a licensee does not meet renewal requirements by the end of the suspension period, the license expires.

Continuing education obtained during the suspension period may be applied only to the next renewal period. In consultation with the technical advisory group, DOE must adopt regulations allowing for an extension of the suspension period for certain situations beyond a licensee's control, and must also allow for a retirement or inactive license.

Continuing Education. A person seeking a new license or a license renewal must complete continuing education programs (CEP) as required by DOE by regulation. DOE cannot approve a CEP unless it is offered by an approved provider, is open to all licensees and those seeking a license, and fees are reasonable.

In consultation with the technical advisory group, DOE will adopt criteria for approving CEP providers, evaluating CEP offerings, assigning credits, and reporting and verifying credit completion. DOE must support approved CEP providers by providing, upon request and at DOE discretion, technical assistance and presenters. DOE must maintain a current list of approved CEP offerings, ensure that the list is available to all licensees, and post the list on the agency's web site.

Complaints. Only persons materially harmed by or knowing of illegal activities of a well contractor, operator, or trainee may file a complaint with DOE. DOE has discretion to investigate the validity of a complaint, and may issue appropriate orders.

Technical Advisory Group. Members representing the Department of Health and local health departments must be persons who regularly work on drinking water well issues. The member

representing engineers must be knowledgeable about well design and construction, and the scientist member must be a licensed hydrogeologist.

Appropriation: None.

Fiscal Note: Requested on February 10, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill will improve the professional competency of licensees and enhance program administration, helping to assure that water resources and public health are protected. The revised fees will enable counties that have been delegated regulatory authority by the Department of Ecology to inspect a higher percentage of new wells and defray the cost of decommissioning old and abandoned wells, an important service.

Testimony Against: None.

Who Testified: PRO: Senator Morton, prime sponsor; William Neal, Washington State Groundwater Association; Joe Stohr and Richard Szymarek, Department of Ecology; Jerry Deeter, Kitsap County Health District; Art Starry, Thurston County Public Health & Social Services Department.