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HOUSE BILL 2452

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State of Washington

52nd Legislature

1992 Regular Session

By Representatives Bray, Horn, Valle, Rust, Prentice, Fraser and Haugen

Read first time 01/17/92. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to water well construction and well driller  
2 licensing; amending RCW 18.104.020, 18.104.030, 18.104.040, 18.104.050,  
3 18.104.070, 18.104.100, 43.21B.110, 18.104.150, 89.16.055, 18.104.155,  
4 and 18.104.180; adding new sections to chapter 18.104 RCW; creating new  
5 sections; prescribing penalties; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that the public  
8 health and safety are threatened by inadequately regulated well  
9 construction and well and geotechnical boring decommissioning. The  
10 purpose of this act is to achieve compliance with the well drilling  
11 code, and to ensure that all well drillers are licensed, wells are  
12 properly constructed, and the ground water resources are protected by  
13 enhancing the authority of the department of ecology to administer the  
14 well construction program.

1       **Sec. 2.** RCW 18.104.020 and 1983 1st ex.s. c 27 s 14 are each  
2 amended to read as follows:

3       The definitions set forth in this section apply throughout this  
4 chapter, unless a different meaning is plainly required by the context.

5       (1) "Abandoned well" means a well that is unused, unmaintained,  
6 and, in the opinion of the department, is in such disrepair as to be  
7 unusable.

8       (2) "Constructing a well" or "construct a well" means and includes  
9 boring, digging, drilling, or excavating and installing casing,  
10 sheeting, lining, (~~or~~) instrumentation, well screens, (~~whether in~~  
11 the installation of a new well or in)) or drilling a geotechnical soil  
12 boring. "Constructing a well" or "construct a well" also means the  
13 alteration of an existing well.

14       (~~(2)~~) (3) "Consultant" means any person, firm, partnership,  
15 copartnership, corporation, association, or other entity engaged in the  
16 business of planning and implementing the design, supervision, and  
17 control of resource protection well, geotechnical soil boring, or water  
18 well projects.

19       (4) "Decommission" means to fill or plug a well so that it will not  
20 produce water, serve as a channel for movement of water or pollution,  
21 or allow the entry of pollutants into the well or aquifers.

22       (5) "Department" means the department of ecology.

23       (~~(3)~~) (6) "Dewatering well" means a cased or lined excavation or  
24 boring that is intended to withdraw or divert ground water for the  
25 purpose of facilitating construction, stabilizing a landslide, or  
26 protecting an aquifer.

27       (7) "Director" means the director of the department of ecology.

28       (~~(4)~~) (8) "Geotechnical soil boring" means an uncased well  
29 drilled for purpose of obtaining soil samples to ascertain structural  
30 properties of the subsurface. Such wells include auger borings, rotary

1 borings, cone penetrometer probes and vane shear probes or any other  
2 uncased ground penetration for geotechnical information.

3 (9) "Ground water" means and includes ground waters as defined in  
4 RCW 90.44.035(~~(, as now or hereafter amended)~~).

5 (~~(5)~~) (10) "Instrumentation well" means a well in which pneumatic  
6 or electric geotechnical or hydrological instrumentation is permanently  
7 or periodically installed to measure or monitor subsurface strength and  
8 movement. Such wells include borehole extensometers, slope indicators,  
9 pneumatic or electric pore pressure transducers, and load cells.

10 (11) "Monitoring well" means a well designed to obtain a  
11 representative ground water sample or designed to measure the water  
12 level elevation in either clean or contaminated water or soil.

13 (12) "Observation well" means a well designed to measure the depth  
14 to the water level elevation in either clean or contaminated water or  
15 soil.

16 (13) "Operator" means any person(~~(, other than a person exempted by~~  
17 RCW 18.104.180, who is employed by a water well contractor for the  
18 control and supervision of the)) licensed under this chapter who  
19 controls, supervises, or oversees construction of a ((water)) well ((or  
20 for the operation of water)) or who operates well construction  
21 equipment.

22 (~~(6)~~) (14) "Owner" or "well owner" means the person, firm,  
23 partnership, copartnership, corporation association, or other entity  
24 who owns the property on which the well is constructed.

25 (15) "Pollution" and "contamination" have the meanings provided in  
26 RCW 90.48.020.

27 (16) "Resource protection well" means a cased boring used to  
28 determine the existence or migration of pollutants within an  
29 underground formation. Resource protection wells include monitoring

1 wells, observation wells, piezometers, spill response wells, vapor  
2 extraction wells, and instrumentation wells.

3 (17) "Resource protection well contractor" means any person, firm,  
4 partnership, copartnership, corporation, association, or other entity,  
5 licensed and bonded under chapter 18.27 RCW, engaged in the business of  
6 constructing resource protection wells or geotechnical soil borings.

7 (18) "Water well" means and includes any excavation that is  
8 drilled, cored, bored, washed, driven, dug, jetted, or otherwise  
9 constructed when the intended use of the well is for the location,  
10 diversion, artificial recharge, observation, monitoring, dewatering, or  
11 withdrawal of clean ground water. (~~"Water well" does not mean an~~  
12 excavation made for the purpose of obtaining or prospecting for oil,  
13 natural gas, minerals, or products of mining, or quarrying, or for  
14 inserting media to repressure oil or natural gas bearing formations, or  
15 for storing petroleum, natural gas, or other products.

16 ~~(7))~~ (19) "Water well contractor" means any person, firm,  
17 partnership, copartnership, corporation, association, or other entity,  
18 licensed and bonded under chapter 18.27 RCW, engaged in the business of  
19 constructing water wells.

20 (20) "Well" means and includes water wells, resource protection  
21 wells, instrumentation wells, dewatering wells, and geotechnical soil  
22 borings. "Well" does not mean an excavation made for the purpose of  
23 obtaining or prospecting for oil, natural gas, geothermal resources,  
24 minerals, or products of mining, or quarrying, or for inserting media  
25 to repressure oil or natural gas bearing formations, or for storing  
26 petroleum, natural gas, or other products.

27 **Sec. 3.** RCW 18.104.030 and 1971 ex.s. c 212 s 3 are each amended  
28 to read as follows:

29 It is unlawful:

1 (1) For any ~~((water well contractor))~~ person to supervise,  
2 construct, alter, or decommission a ((water)) well ((for compensation))  
3 without complying with the ((licensing)) provisions of this chapter;

4 (2) For any ~~((water well contractor))~~ operator or consultant to  
5 construct, alter, or decommission a ((water)) well ((for compensation))  
6 without complying with the rules ((and regulations)) for ((water)) well  
7 construction adopted pursuant to this chapter;

8 (3) For any ~~((water)) well ((construction operator to supervise the~~  
9 ~~construction of a water well without having an operators license as~~  
10 ~~provided in this chapter))~~ drilling rig to be operated without a  
11 licensed operator at the site;

12 (4) For an operator, water well contractor, or consultant to  
13 commence construction of a well until the notice of intent has been  
14 filed in accordance with RCW 18.104.048;

15 (5) For a prospective water well owner to have a water well drilled  
16 without first obtaining a water right permit, if a permit is required;

17 (6) For a person to tamper with or remove a well identification tag  
18 except during well alteration. The operator or consultant shall  
19 replace the identification tag if it is removed during well alteration.  
20 If nothing remains to which a replacement tag can be affixed, the  
21 operator on consultant shall inform the department of these  
22 circumstances.

23 **Sec. 4.** RCW 18.104.040 and 1991 c 3 s 249 are each amended to read  
24 as follows:

25 The department shall have the power:

26 (1) To issue, deny, suspend or revoke licenses pursuant to the  
27 provisions of this chapter;

28 (2) To enter upon lands for the purpose of:

1        (a) Inspecting, taking measurements from, or tagging any water  
2 well, drilled or being drilled, at all reasonable times; or

3        (b) Inspecting, taking measurements from, or tagging any resource  
4 protection well or geotechnical boring, drilled or being drilled, at  
5 all reasonable times;

6        (3) To call upon or receive professional or technical advice from  
7 ~~((any))~~ the department of health, the technical advisory group created  
8 in section 17 of this act, or other public agency or ((any)) person;

9        (4) To make such rules governing licensing ~~((hereunder))~~ and  
10 ~~((water))~~ well construction as may be appropriate to carry out the  
11 purposes of this chapter. ~~((Without limiting the generality of the~~  
12 ~~foregoing,))~~ The department may, in cooperation with the department of  
13 health and the technical advisory group, make rules regarding:

14        (a) Standards for the construction and maintenance of water wells  
15 and their casings;

16        (b) Methods of capping, sealing ((artesian)), and decommissioning  
17 wells ((and water wells to be abandoned or which may contaminate  
18 other)) to prevent contamination of ground water resources and to  
19 protect public health and safety;

20        ~~(c) Methods of artificial recharge of ground water bodies and of~~  
21 ~~construction of wells which insure separation of individual water~~  
22 ~~bearing formations;~~

23        ~~(d) The manner of conducting and the content of examinations~~  
24 ~~required to be taken by applicants for license hereunder;~~

25        ~~(e) Requirements for consultants to file notices of intent, well~~  
26 ~~reports, and well fees for well projects planned, designed,~~  
27 ~~implemented, supervised, or controlled by the consultant;~~

28        ~~(f) Reporting requirements of ((water)) well contractors and~~  
29 ~~consultants;~~

1        ~~((f))~~ (g) Limitations on ~~((water))~~ well construction in areas  
2 identified by the department as requiring intensive control of  
3 withdrawals in the interests of sound management of the ground water  
4 resource;

5        (5) To require the well operator in the construction of a well and  
6 the property owner in the maintenance of a well to guard against waste  
7 and contamination of the ground water resources;

8        (6) To require a well contractor, within one year of completion, to  
9 alter or, if necessary, decommission a well if there is reasonable  
10 evidence the well was defective at construction or was not constructed  
11 in accordance with the standards in effect at the time the well was  
12 constructed;

13        (7) To require a well operator or consultant to place a well  
14 identification tag on each new well the well operator or consultant  
15 constructs and on each existing well on which the well operator or  
16 consultant performs work;

17        (8) To order an active well to be repaired or sealed and to order  
18 an inactive well to be securely capped or decommissioned. After  
19 construction of a well is completed, proper maintenance of a well shall  
20 be the responsibility of the well owner;

21        (9) To require a well owner to decommission any well that is (a)  
22 abandoned, (b) unusable, (c) not intended for future use, (d) in such  
23 disrepair that its continued use is impractical, (e) is an  
24 environmental, safety, or public health hazard, or (f) for which the  
25 water right has been relinquished as provided in chapter 90.14 RCW;

26        (10) To place or require the owner to place a well identification  
27 tag on existing wells.

28        **Sec. 5.** RCW 18.104.050 and 1971 ex.s. c 212 s 5 are each amended  
29 to read as follows:

1       (1) In order to enable the state to protect the ((welfare,))  
2 health((,)) and safety of its citizens, ((any water)) a well  
3 ((contractor)) operator or consultant shall furnish a ((water)) well  
4 report to the director within thirty days after the completion of the  
5 construction or alteration by ((him of any water)) the operator of or  
6 consultant on a well. The director, by ((regulation)) rule, shall  
7 prescribe the form of the report and the information to be contained  
8 therein.

9       (2) A well drilling fee shall be remitted to the department along  
10 with the well report required in subsection (1) of this section as  
11 follows:

12       (a) The fee for a new water well with a minimum top casing diameter  
13 of less than twelve inches is one hundred dollars and twenty-five  
14 dollars for each additional monitoring or observation well at the same  
15 site.

16       (b) The fee for a new water well with a minimum top casing diameter  
17 of twelve inches or greater is two hundred dollars and twenty-five  
18 dollars for each additional monitoring or observation well at the same  
19 site.

20       (c) The fee for a new resource protection, observation, and  
21 monitoring well or a geotechnical soil boring is one hundred dollars  
22 for the first well or boring and twenty-five dollars for each  
23 additional well or boring at the same site.

24       (d) The fee for construction and decommissioning of a dewatering  
25 well is one hundred dollars for the first well and twenty-five dollars  
26 for each additional well at the same site.

27       **Sec. 6.** RCW 18.104.070 and 1987 c 394 s 2 are each amended to read  
28 as follows:

1       (~~Except as provided in RCW 18.104.180,~~) (1) No person may  
2 contract to engage in the construction, alteration, or decommissioning  
3 of a water well (~~and no person may~~) or geotechnical soil boring or  
4 act as an operator for that purpose without first obtaining a water  
5 well construction operator's license (~~by applying to the department~~).

6       (2) A person shall be qualified to receive a water well  
7 construction operators license if (~~he~~) the person:

8       (~~(1)~~) (a) Has made application (~~therefor~~) to the department and  
9 has paid to the department an application fee of (~~twenty-five~~) two  
10 hundred dollars; and

11       (~~(2)~~) (b)(i) Has at least two years of water well drilling field  
12 experience with a licensed well driller or equivalent experience from  
13 another state; (ii) has one year of water well drilling field  
14 experience and an equivalent of at least one school year of qualifying  
15 educational training that satisfies the criteria established by  
16 department rule; or (iii) has acquired three thousand hours of water  
17 well drilling field experience while operating with a water well  
18 construction operator's training license as established in subsection  
19 (3) of this section; and

20       (~~(3)~~) (c) Has passed a written examination as provided for in RCW  
21 18.104.080(~~(:— PROVIDED, That should any applicant establish his~~  
22 illiteracy to the satisfaction of the department, such applicant shall  
23 be entitled to an oral examination in lieu of the written examination  
24 authorized herein)). This requirement shall not apply to a person who  
25 has passed the written examination to obtain a water well operator's  
26 training license; and

27       (d) Has passed an on-site examination by the department if the  
28 person's qualifying field experience under (b)(i) of this subsection is  
29 from another state. The department may waive the on-site examination.

1       (3) The department may issue a water well construction operator's  
2 training license if the person:

3       (a) Has made application to the department and has paid to the  
4 department an application fee of one hundred dollars, which shall count  
5 towards the application fee for a water well construction operator's  
6 license upon satisfaction of the additional criteria specified in  
7 subsection (2)(b) of this section; and

8       (b) Has acquired at least one thousand hours of water well drilling  
9 field experience under the direct supervision of a licensed well  
10 driller; and

11       (c) Has passed a written examination as provided for in RCW  
12 18.104.080; and

13       (d) Has passed an on-site examination by the department; and

14       (e) Presents a statement signed by the contractor under penalty of  
15 perjury as provided in RCW 9A.72.085 verifying that the applicant has  
16 at least one thousand hours of water well drilling experience and  
17 assuming liability for any and all drilling activities of the person  
18 seeking the training license.

19       (4) A person with a water well construction operator's training  
20 license may operate a drilling rig without the direct supervision of a  
21 licensed operator if a licensed operator is available by radio,  
22 telephone, or other means of communication.

23       NEW SECTION. Sec. 7. A new section is added to chapter 18.104 RCW  
24 to read as follows:

25       (1) No person may contract to engage in the construction,  
26 alteration, or decommissioning of a resource protection well or  
27 geotechnical soil boring without first obtaining a resource protection  
28 well construction operator's license.

1 (2) A person shall be qualified to receive a resource protection  
2 well construction operator's license if the person:

3 (a) Has made application to the department and has paid to the  
4 department an application fee of two hundred dollars; and

5 (b)(i) Has at least two years of resource protection well drilling  
6 field experience with a licensed well driller; (ii) has one year of  
7 resource protection well drilling field experience and an equivalent of  
8 at least one school year of qualifying educational training that  
9 satisfies the criteria established by department rule; or (iii) has  
10 three thousand hours of resource protection well drilling field  
11 experience while operating with a resource protection well construction  
12 operator's training license as established in subsection (3) of this  
13 section; and

14 (c) Has passed a written examination as provided for in RCW  
15 18.104.080. This requirement shall not apply to a person who passed  
16 the written examination to obtain a resource protection well  
17 construction operator's training license; and

18 (d) Has passed an on-site examination by the department if the  
19 person's qualifying field experience under (b)(i) of this section is  
20 from another state. The department may waive the on-site examination.

21 (3) The department may issue a resource protection well  
22 construction operator's training license if the person:

23 (a) Submits an application and pays an application fee of one  
24 hundred dollars, which shall count towards the application fee for a  
25 resource protection well construction operator's license;

26 (b) Has at least one thousand hours of resource protection well  
27 drilling field experience under the direct supervision of a licensed  
28 well driller;

29 (c) Passes the written examination provided for in RCW 18.104.080;

30 (d) Passes an on-site examination by the department; and

1 (e) Presents a statement, signed by the contractor under penalty of  
2 perjury as provided in RCW 9A.72.085 verifying that the applicant has  
3 at least one thousand hours of resource protection well drilling  
4 experience and assuming liability for any and all drilling activities  
5 of the person seeking the training license.

6 (4) A person with a resource protection well construction  
7 operator's training license may operate a drilling rig without direct  
8 supervision of a licensed operator if a licensed operator is accessible  
9 by radio, telephone, or other means of communication.

10 (5) A person with a license issued pursuant to this chapter before  
11 the effective date of this section may obtain a resource protection  
12 well construction operator's license by paying the application fee  
13 provided in subsection (2)(a) of this section and submitting evidence  
14 required by the department to demonstrate that the person has the  
15 required experience to construct resource protection wells.

16 **Sec. 8.** RCW 18.104.100 and 1971 ex.s. c 212 s 10 are each amended  
17 to read as follows:

18 (1) The term ~~((for the effectiveness))~~ of any license issued  
19 pursuant to this chapter shall be ~~((one))~~ two years~~((, commencing on~~  
20 ~~the date the license is issued))~~. ~~((Every))~~ A license shall be renewed  
21 ~~((annually))~~ upon payment of a renewal fee of ~~((ten))~~ one hundred  
22 dollars and completion of eight hours of continuing education focusing  
23 on legal requirements and well drilling technology. If a licensee  
24 fails to submit an application for renewal, ~~((together with))~~ the  
25 renewal fee, ~~((before the end of the effective term of his license, his~~  
26 ~~license shall be suspended for thirty days on notice by the director.~~  
27 ~~If his renewal fee is paid prior to the end of said suspension period,~~  
28 ~~the suspension shall automatically terminate. If during the period of~~  
29 ~~suspension renewal is not completed, his license shall be revoked:~~

1 ~~PROVIDED, That the director shall give the licensee ten days notice~~  
2 ~~prior to the revocation of any license for failure to renew)) and proof~~  
3 ~~of completion of the required eight hours of continuing education, the~~  
4 ~~license shall expire at the end of its effective term.~~

5 ~~(2) A person whose license ((is revoked under this section and who~~  
6 ~~thereafter desires to engage in the supervision of construction of~~  
7 ~~water wells)) has expired must ((make application)) apply for a new~~  
8 ~~license ((and pay twenty five dollars)) as provided in RCW 18.104.070~~  
9 ~~and section 7 of this act. The department may waive the requirement for~~  
10 ~~a written examination and on-site testing for a person whose license~~  
11 ~~has expired.~~

12 ~~(3) The department may refuse to renew a license if the licensee~~  
13 ~~has not complied with a regulatory order issued by the department or~~  
14 ~~has not paid a civil penalty levied in accordance with this chapter,~~  
15 ~~unless the order or penalty is under appeal.~~

16 ~~(4) The department may issue a conditional license to enable a~~  
17 ~~former licensee to comply with an order to correct problems with a~~  
18 ~~water well.~~

19 NEW SECTION. Sec. 9. A new section is added to chapter 18.104 RCW  
20 to read as follows:

21 (1) The department may, when requested by the governing body of a  
22 county, city, town, or health district, delegate to the governing body  
23 the authority to administer portions of the water well construction  
24 program.

25 (2) The department shall develop a model ordinance for use by local  
26 governing bodies that seek delegation of the water well construction  
27 program.

28 (3) A local governing body that seeks delegation or that has been  
29 delegated authority under this section shall adopt the state model

1 ordinance for water well construction standards. A local governing  
2 body may adopt construction standards that are more stringent than the  
3 state's construction standards or that are more appropriate for the  
4 area. Local standards shall be approved by the director of the  
5 department before adoption.

6 (4) The department shall determine whether a local government that  
7 seeks delegation has:

8 (a) The resources, expertise, and capability to administer the  
9 program as described in a written proposal submitted to the department;  
10 and

11 (b) Indicated the intention to administer the program in accordance  
12 with the provisions of this chapter, the model ordinance, the education  
13 and training requirements for inspectors established by rule adopted by  
14 the department, and the minimum standards for construction and  
15 maintenance of water wells established by rule adopted by the  
16 department; and

17 (c) Submitted, along with the proposal to administer the program,  
18 any ordinance or proposed ordinance governing water well construction  
19 within the jurisdiction of the local governmental body seeking  
20 delegation.

21 (5) Upon submission of a proposal to administer the water well  
22 construction program by a local governing body, the department shall  
23 notify drilling contractors and operators of the proposal. The  
24 department shall provide a copy of the proposal and the ordinance or  
25 proposed ordinance to any person who requests a copy of the proposal  
26 and any current local ordinance or proposed ordinance regulating water  
27 well construction. The department shall accept written comments on the  
28 proposal or ordinance for sixty days.

29 (6) The specific authorities delegated to a local governing body by  
30 the department must be clearly stated in a memorandum of agreement

1 between the department and the local governing body. The memorandum of  
2 agreement shall provide for an initial review of the delegation within  
3 one year and for periodic review thereafter.

4 (7) The department shall approve an ordinance implementing the  
5 memorandum of agreement before the adoption of the ordinance. After  
6 adoption of the ordinance, the delegation of authority under this  
7 section shall take effect on the effective date of the memorandum of  
8 agreement.

9 (8) The local governing body shall exercise any authority delegated  
10 under this section, and shall be administered in accordance with the  
11 provisions of this chapter, other applicable laws, the memorandum of  
12 agreement, and applicable ordinances. If the department determines,  
13 after a public hearing, that a local governing body is not  
14 administering the program in accordance with this chapter, it shall  
15 notify the local governing body of the deficiencies. If corrective  
16 action is not taken within a reasonable time, not to exceed sixty days,  
17 the department by order shall withdraw the delegation of authority.

18 (9) The department shall promptly furnish the local governing body  
19 with a delegation of authority with a copy of each water well report  
20 and notification of start cards received in the area covered by a  
21 delegated program.

22 (10) The department and local governing bodies that are delegated  
23 authority over portions of the water well construction program shall  
24 coordinate to reduce duplication of effort, and shall share all  
25 appropriate information including technical reports, violations, well  
26 reports, and any needed or proposed changes in water well construction  
27 and maintenance standards.

28 (11) Any person aggrieved by a ruling under a delegated program may  
29 obtain review of the program before the pollution control hearings

1 board in the same manner as review is obtained of rulings of the  
2 department under RCW 18.104.130.

3 (12) The department shall not delegate the authority to license  
4 water well contractors, renew licenses, receive state notices of intent  
5 and well reports, or collect state fees provided for in this chapter.

6 **Sec. 10.** RCW 43.21B.110 and 1989 c 175 s 102 are each amended to  
7 read as follows:

8 (1) The hearings board shall only have jurisdiction to hear and  
9 decide appeals from the following decisions of the department, the  
10 director, and the air pollution control boards or authorities as  
11 established pursuant to chapter 70.94 RCW, local governing bodies  
12 delegated authority to administer portions of the water well  
13 construction program pursuant to section 9 of this act, or local health  
14 departments:

15 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,  
16 70.105.080, 70.107.050, 90.03.600, 90.48.144, and 90.48.350.

17 (b) Orders issued pursuant to section 9 of this act, RCW  
18 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 90.14.130, and  
19 90.48.120.

20 (c) The issuance, modification, or termination of any permit,  
21 certificate, or license by the department or any air authority in the  
22 exercise of its jurisdiction, including the issuance or termination of  
23 a waste disposal permit, the denial of an application for a waste  
24 disposal permit, or the modification of the conditions or the terms of  
25 a waste disposal permit.

26 (d) Decisions of local health departments regarding the grant or  
27 denial of solid waste permits pursuant to chapter 70.95 RCW.

1 (e) Any other decision by the department or an air authority which  
2 pursuant to law must be decided as an adjudicative proceeding under  
3 chapter 34.05 RCW.

4 (f) Decisions of local governing bodies delegated authority to  
5 administer portions of the water well construction program as provided  
6 for in section 9 of this act.

7 (2) The following hearings shall not be conducted by the hearings  
8 board:

9 (a) Hearings required by law to be conducted by the shorelines  
10 hearings board pursuant to chapter 90.58 RCW.

11 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
12 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

13 (c) Proceedings by the department relating to general adjudications  
14 of water rights pursuant to chapter 90.03 or 90.44 RCW.

15 (d) Hearings conducted by the department to adopt, modify, or  
16 repeal rules.

17 (3) Review of rules (~~and regulations~~) adopted by the hearings  
18 board shall be subject to review in accordance with the provisions of  
19 the Administrative Procedure Act, chapter 34.05 RCW.

20 NEW SECTION. Sec. 11. The department shall initiate a pilot  
21 project for identifying and tagging existing wells. If possible, the  
22 pilot project shall be located within an existing designated ground  
23 water management area or ground water subarea established under chapter  
24 90.44 RCW. The purpose of the pilot project is to evaluate the cost of  
25 a state-wide well identification effort. The department shall prepare  
26 a report of its evaluation of the pilot project and the estimated level  
27 of effort and cost to locate, identify, and tag all wells in the state.

1       **Sec. 12.** RCW 18.104.150 and 1971 ex.s. c 212 s 15 are each amended  
2 to read as follows:

3       ~~((All receipts realized in the administration of this chapter shall  
4 be paid into the general fund.))~~

5       (1) All well drilling and license fees paid under provisions of  
6 this chapter shall be credited by the state treasurer to the  
7 reclamation revolving account established by chapter 89.16 RCW.  
8 Subject to legislative appropriation, the funds collected under this  
9 chapter shall be allocated and expended by the director for the  
10 administration of the well construction, well operators licensing and  
11 education programs.

12       (2) The department may contract with local governing bodies  
13 delegated portions of the water well construction program to provide  
14 funds from the reclamation revolving account to assist in supporting  
15 water well inspectors hired by the local governing body. Funds provided  
16 to a local governing body from the reclamation revolving account shall  
17 not exceed the revenues generated from water well drilling fees for the  
18 portion of the program delegated and from the area in which authority  
19 is delegated to the local governing body.

20       **Sec. 13.** RCW 89.16.055 and 1981 c 216 s 1 are each amended to read  
21 as follows:

22       In addition to the powers provided in RCW 89.16.050, the department  
23 of ecology is authorized and empowered to:

24       (1) Conduct surveys, studies, investigations, and water right  
25 examinations for proposed reclamation projects or the rehabilitation of  
26 existing reclamation projects that may be funded fully or partially  
27 from the receipts of the sale of bonds issued by the state of  
28 Washington.

1 (2) Support the preparation for and administration of proceedings,  
2 provided in RCW 90.03.110 or 90.44.220, or both, pertaining to river  
3 systems or other water bodies that are associated with existing or  
4 proposed reclamation projects.

5 (3) Conduct a regulatory program for well construction as provided  
6 in chapter 18.104 RCW.

7 Funds of the account established by RCW 89.16.020 may, as  
8 appropriated by the legislature, be used in relation to the powers  
9 provided in this section, notwithstanding any other provisions of  
10 chapter 89.16 RCW that may be to the contrary.

11 **Sec. 14.** RCW 18.104.155 and 1987 c 394 s 1 are each amended to  
12 read as follows:

13 (1) The department of ecology may ~~((levy))~~ assess a civil penalty  
14 ~~((of up to one hundred dollars per day))~~ for a violation of the  
15 provisions of this chapter or rules or orders of the department adopted  
16 or issued pursuant to it. ~~((Procedures of RCW 90.48.144 shall be~~  
17 applicable to all phases of levying of such a penalty as well as review  
18 and appeal of them))

19 (2) There shall be three categories of violations: General,  
20 significant, and major.

21 (a) A general violation is a violation that does not seriously  
22 threaten public health, safety, and the environment. General  
23 violations include, but are not limited to:

24 (i) Failure to submit completed start cards and well reports within  
25 the required time;

26 (ii) Failure to submit variance requests before construction;

27 (iii) Failure to submit well drilling fees;

28 (iv) Failure to place a well identification tag on a new well; and

29 (v) Minor or repairable construction problems.

1 (b) A significant violation is a violation that poses a critical or  
2 serious threat to public health, safety, and the environment.  
3 Significant violations include, but are not limited to:

4 (i) Improper well construction;

5 (ii) Improper location or siting of a well;

6 (iii) Construction of a water well without a permit, when required;

7 (iv) Violation of decommissioning requirements; or

8 (v) Repeated general violations.

9 (c) A major violation is the construction of a well by a person  
10 without a license or after that person's license has been revoked.

11 (3)(a) The penalty for a general violation shall be not less than  
12 one hundred dollars and not more than five hundred dollars. Before the  
13 imposition of a penalty for a general violation, the department may  
14 issue an order of noncompliance to provide opportunity for mitigation  
15 or compliance.

16 (b) The penalty for a significant violation or a major violation  
17 shall be not less than five hundred dollars and not more than ten  
18 thousand dollars.

19 (4) In determining the appropriate penalty under subsection (3) of  
20 this section the department shall consider whether the person:

21 (a) Has demonstrated a general disregard for public health and  
22 safety through the number and magnitude of the violations;

23 (b) Has demonstrated a disregard for the well construction laws or  
24 rules in repeated or continuous violations; or

25 (c) Knew or reasonably should have known of circumstances that  
26 resulted in the violation.

27 (5) Penalties provided for in this section shall be imposed  
28 pursuant to RCW 43.21B.300.

29 (6) For ((each notice regarding)) informational purposes, a copy of  
30 the notice of violation(, resulting from the improper construction of

1 a well, that is sent to a water well contractor or water well  
2 construction operator, the department shall send a copy of the notice  
3 for information purposes only to the owner of the land on which the  
4 improperly constructed well is located)) shall be sent by the  
5 department to the landlord of record.

6 NEW SECTION. Sec. 15. A new section is added to chapter 18.104  
7 RCW to read as follows:

8 All fines and penalties collected under this chapter shall be  
9 deposited in a special restoration account to ensure adequate moneys  
10 for the restoration of water resources damaged by violations of this  
11 chapter.

12 **Sec. 16.** RCW 18.104.180 and 1971 ex.s. c 212 s 18 are each amended  
13 to read as follows:

14 ((No license hereunder shall be required of:

15 (1) Any individual who personally drills a well on land which is  
16 owned or leased by him or in which he has a beneficial interest as a  
17 contract purchaser and is used by the individual for farm or  
18 noncommercial domestic use only.

19 (2) Any)) An individual who performs labor or services for a  
20 ((water)) well contractor in connection with the drilling of a well at  
21 the direction and under the supervision and control of a licensed  
22 operator who is present at the drilling site is not required to be  
23 licensed under this chapter.

24 NEW SECTION. Sec. 17. A new section is added to chapter 18.104  
25 RCW to read as follows:

26 (1) For the purpose of carrying out the provisions of this chapter,  
27 the director shall appoint a technical advisory group, chaired by the

1 department, with membership consisting of an individual knowledgeable  
2 in the science of the design and installation of water wells and  
3 resource protection wells, a resource protection well driller, a water  
4 well driller, a local health official, and a representative from the  
5 department of health.

6 (2) The technical advisory group shall assist the department in the  
7 development and revision of rules; the preparation and revision of  
8 licensing examinations; the development of training criteria for  
9 inspectors and drillers; and the review of proposed changes to the  
10 minimum standards for construction and maintenance of water wells by  
11 local governments for the purpose of achieving continuity with  
12 technology and state rules.

13 (3) The group shall meet at least once every two years to review  
14 rules and suggest any necessary changes.

15 (4) Each member of the group will be compensated in accordance with  
16 RCW 43.03.240 and will be reimbursed for travel expenses while engaged  
17 in the business of the group as prescribed in RCW 43.03.050 and  
18 43.03.060.

19 NEW SECTION. **Sec. 18.** This act shall take effect July 1, 1992.

20 NEW SECTION. **Sec. 19.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.