

HOUSE BILL REPORT

HB 1939

As Reported by House Committee On:
Economic Development, Agriculture & Trade
Appropriations

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

Brief Description: Concerning well construction.

Sponsors: Representatives Linville, Newhouse, Hinkle and Pettigrew.

Brief History:

Committee Activity:

Economic Development, Agriculture & Trade: 2/23/05, 2/28/05 [DP];
Appropriations: 3/5/05 [DP].

Brief Summary of Bill

- Includes ground source heat pump borings and grounding wells in the Water Well Construction Act provisions.
- Revises fees related to well construction and decommissioning.
- Adds or modifies delegation of authority, complaint, and reporting provisions.
- Provides a suspension period at the end of a license term if renewal materials are not submitted on time.
- Modifies the technical advisory group composition provisions.
- Specifies requirements for the Department of Ecology's continuing education rules for licensed well contractors and operators.

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE & TRADE

Majority Report: Do pass. Signed by 14 members: Representatives Linville, Chair; Pettigrew, Vice Chair; Skinner, Assistant Ranking Minority Member; Blake, Chase, Clibborn, Grant, Kenney, McCoy, Morrell, Newhouse, Quall, P. Sullivan and Wallace.

Minority Report: Do not pass. Signed by 9 members: Representatives Kristiansen, Ranking Minority Member; Buri, Condotta, Dunn, Haler, Holmquist, Kilmer, Kretz and Strow.

Staff: Caroleen Dineen (786-7156).

Background:

The Water Well Construction Act (WWCA) governs the design, construction, alteration, and decommissioning of water wells and resource protection wells in this state. The Department of Ecology (DOE) regulates well design, construction, and maintenance.

Licensing Requirements. Generally, water well operators and resource protection well operators must be licensed. Several licensure exemptions are specified in statute, including persons: constructing a well on their own land; performing labor or services for a well contractor supervised by a licensed operator; and licensed as an architect, engineer, or land surveyor. The WWCA specifies requirements for obtaining and maintaining well operator licenses. These include field experience and written and on-site examinations.

Continuing Education Requirements. Once licensed, well operator licensees must complete continuing education requirements specified in the DOE's implementing rules.

License Renewals. Well operator licenses are subject to renewal every two years. A licensee must submit a renewal application, renewal fee, and proof of completion of continuing education requirements. If proof of completion of the continuing education requirements is not submitted with a license renewal application, the license expires at the end of its effective term. A licensee whose license has expired must apply to the DOE for a new license. The DOE may waive the written and on-site examination requirements for a person whose license has expired.

Fees. Fees are established in statute for wells constructed and decommissioned in this state. The fee for one new water well is either \$100 or \$200, depending on the diameter of the well's top casing. The fee for a new resource protection well is \$40. Fees also are specified for environmental investigation wells and for construction and decommissioning of a dewatering well system.

Reports. A well contractor must furnish a well report to the DOE Director within 30 days after completing well construction or alteration. The DOE Director must specify the form of the report and the required information by rule.

Well Sealing and Decommissioning. Upon request by a local health district or a county, the DOE may delegate authority to administer and enforce the well tagging, sealing, and decommissioning components of the water well construction program. The delegation must be accomplished through a memorandum of agreement that specifies the authorities delegated to the local governing body. The memorandum of agreement must provide for an initial review of the delegation within one year and for periodic review after the first year.

Complaints. Any person with an economic or noneconomic interest may make a written complaint against a well contractor or operator for violations of the WWCA or the DOE's implementing rules. The DOE must respond by issuing an order it deems appropriate.

Technical Advisory Group. The DOE is required by statute to have a 12-member technical advisory group to advise the agency on rule development, construction and maintenance standards, licensing examinations, and training criteria for inspectors, well contractors, and well operators. The technical advisory group includes:

- two members representing the DOE;
- six members representing water well or resource protection well contractors;
- one member representing local health departments,
- one member representing the Washington State Department of Health (DOH);
- one member representing licensed professional engineers; and
- one member who is a scientist knowledgeable in well design and construction.

Summary of Bill:

Well definitions are added to or modified in the WWCA. A "grounding well" is defined as a ground electrode installed in the earth by the use of drilling equipment to prevent buildup or voltages that may result in undue hazards to persons or equipment (includes anode and cathode protection wells). A "ground source heat pump boring" is defined as a vertical boring constructed for the purpose of installing a closed loop heat exchange system for a ground source heat pump. The definitions of water well and resource protection well are modified to include both ground source heat pump borings and grounding wells.

Other WWCA definitions are modified. The "abandoned well" definition is modified to apply to wells that are either unusable or are risks to public health and welfare. The "owner" or "well owner" definition is amended to include persons or entities with the right to the well based on an easement, covenant, or other enforceable legal instrument for purposes of benefit from the well. In addition, the "well contractor" definition is revised to reference licensing and bonding under the state contractor registration statutes.

Continuing Education Requirements. A person seeking a new license or license renewal must complete continuing education programs as required by DOE rule. The DOE rules must establish a method for approving continuing education providers and criteria to evaluate proposed programs, to assign credits, and to report and verify completion. The DOE may not approve any continuing education program unless: (1) the program is offered by an approved provider; (2) the program is open to all persons licensed or pursuing a license; and (3) the fees charged are reasonable for all persons wanting to attend the program.

The DOE must provide a current list of continuing education programs by approved providers to licensees upon request and post this list on the DOE's website. The DOE also must provide technical assistance and presenters to approved providers upon request.

License Renewals. Revisions to the license renewal process are specified. A license will be suspended at the end of its effective term if a licensee fails to submit the renewal application, renewal fee, and proof of completion of required continuing education. During the suspension period, the licensees may not perform the work authorized by the license. The licensee has 30

days to submit all required renewal materials. Continuing education obtained during the suspension period may apply only to the next renewal period. The license expires if the licensee fails to submit all the renewal materials by the end of the 30-day suspension.

In consultation with the technical advisory group, the DOE must adopt rules allowing for an extension of the 30-day suspension period for circumstances beyond a licensee's control. The DOE rules also must allow for a retirement or inactive license.

Fees. The fee for one water well is increased to \$200 or \$300, depending on the diameter of the well's top casing. Ground source heat pump borings and grounding wells fees are \$40 for up to four units per project and \$10 for each additional unit - these are exempt from the \$200 water well and the \$40 resource protection well fees.

Fees for decommissioning wells are specified. A \$50 fee is imposed for decommissioning a water well. A \$20 fee is imposed for decommissioning a resource protection well, ground source heat pump boring, or grounding well. No fee is required to decommission an environmental investigation well or a geotechnical soil boring.

Reports. Any person authorized in the WWCA to construct or decommission a well must furnish a well report within 30 days after construction or decommissioning of a well.

Well Sealing and Decommissioning. The memorandum of agreement delegating authority for well tagging, sealing, and decommissioning portions of the water well construction program must be renewed at least annually. The DOE, in consultation with its technical advisory group, must adopt rules outlining the annual review and reporting process. The DOE must make a detailed summary of a review available to well contractors and operators upon request and must publish reviews on its web site.

Complaints. Any person who can demonstrate material harm by the actions or inactions of a well contractor, operator, or trainee, or a person who has knowledge of illegal activities by a well contractor, operator, or trainee may submit a written complaint to the DOE. The DOE may investigate and establish the complaint's validity. If evidence establishes a violation of the WWCA or the DOE's implementing rules, the DOE may respond by issuing an order appropriate to the violation.

Technical Advisory Group. Members representing the DOH and local health departments must regularly work on issues related to drinking water wells. The professional engineer representative must be knowledgeable about the design and construction of wells, and the scientist position is changed to a licensed hydrogeologist. In addition to other duties, the technical advisory group must assist the DOE to establish continuing education providers and develop evaluation procedures for all continuing education offerings.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The DOE and the Washington State Ground Water Association have worked for a couple of years on this legislation and support this bill. The current fees were established in 1993, and resources are needed to ensure better compliance. The fee increases in this bill will allow the DOE to increase the number of delegated counties and the well inspection rate. The 30-day license extension in this bill is very important. An improperly constructed well can cause huge problems; this bill ensures licensed operators will construct wells that are not currently regulated and will improve the program.

Testimony Against: None.

Persons Testifying: William Neal, Washington State Ground Water Association; Ken Slattery, Washington Department of Ecology; and Debbie Riley, Mason County Environmental Health Department and Washington Association of Local Public Health Officials.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 18 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Buri, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia and Schual-Berke.

Minority Report: Do not pass. Signed by 10 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Clements, Pearson, Priest, Talcott and Walsh.

Staff: Alicia Paatsch (786-7178).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Economic Development, Agriculture & Trade:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This is an important bill for the statewide well drilling program. The bill will increase the number of counties that are delegated for inspecting wells, will increase inspections by 50 percent, will add four to six additional counties to our delegated list, and improves partnerships with Washington Well Drillers Association to re-license well drillers.

Testimony Against: None.

Persons Testifying: Joe Stohr, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.