
HOUSE BILL 2796

State of Washington 52nd Legislature 1992 Regular Session
By Representatives Bray, Horn, Rust, Ludwig, Valle, D. Sommers and
Fraser

Read first time 01/28/92. Referred to Committee on Environmental
Affairs.

1 AN ACT Relating to delegation of water well construction
2 enforcement authority; amending RCW 43.21B.110; adding a new section to
3 chapter 18.104 RCW; creating a new section; and providing an expiration
4 date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the public
7 health and safety and the environment would be enhanced by permitting
8 qualified local governmental agencies to administer and enforce
9 portions of the water well construction program.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.104 RCW
11 to read as follows:

12 (1) If requested in writing by the governing body of a county,
13 city, town, or health district, the department by memorandum of

1 agreement may delegate to the governing body the authority to
2 administer and enforce the well sealing, decommissioning, and
3 abandonment portions of the water well construction program.

4 (2) The department shall determine whether a county, city, town, or
5 health district that seeks delegation under this section has the
6 resources, capability, and expertise, including qualified field
7 inspectors, to administer the delegated program. If the department
8 determines the local government has these resources, it shall notify
9 drilling contractors, consultants, and operators of the proposal. The
10 department shall accept written comments on the proposal for sixty days
11 after the notice is mailed.

12 (3) If the department determines that a delegation of authority to
13 a county, city, town, or health district to administer and enforce the
14 well sealing, decommissioning, and abandonment portions of the water
15 well construction program will enhance the public health and safety and
16 the environment, the department and the local governing body may enter
17 into a memorandum of agreement setting forth the specific authorities
18 delegated by the department to the local governing body. The
19 memorandum of agreement shall provide for an initial review of the
20 delegation within one year and for periodic review thereafter.

21 (4) The local governing body shall exercise any authority delegated
22 under this section in accordance with this chapter, other applicable
23 laws, the memorandum of agreement, and applicable ordinances. If,
24 after a public hearing, the department determines that a local
25 governing body is not administering the program in accordance with this
26 chapter, it shall notify the local governing body of the deficiencies.
27 If corrective action is not taken within a reasonable time, not to
28 exceed sixty days, the department by order shall withdraw the
29 delegation of authority.

1 (5) The department shall promptly furnish the local governing body
2 with a copy of each water well report and notification of start cards
3 received in the area covered by a delegated program.

4 (6) The department and the local governing body shall coordinate to
5 reduce duplication of effort and shall share all appropriate
6 information including technical reports, violations, well reports, and
7 any needed or proposed changes in water well construction and
8 maintenance standards.

9 (7) Any person aggrieved by a decision of a county, city, town, or
10 health district under a delegated program may obtain review of the
11 decision before the pollution control hearings board in the same manner
12 as review is obtained of decisions of the department under RCW
13 18.104.130.

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

17 **Sec. 3.** RCW 43.21B.110 and 1989 c 175 s 102 are each amended to
18 read as follows:

19 (1) The hearings board shall only have jurisdiction to hear and
20 decide appeals from the following decisions of the department, the
21 director, and the air pollution control boards or authorities as
22 established pursuant to chapter 70.94 RCW, local governing bodies
23 delegated authority to administer portions of the water well
24 construction program under section 2 of this act, or local health
25 departments:

26 (a) Civil penalties imposed pursuant to RCW 70.94.431, 70.105.080,
27 70.107.050, 90.03.600, 90.48.144, and ((90.48.350)) 90.56.330.

28 (b) Orders issued pursuant to RCW 43.27A.190, 70.94.211, 70.94.332,
29 70.105.095, 86.16.020, 90.14.130, and 90.48.120.

1 (c) The issuance, modification, or termination of any permit,
2 certificate, or license by the department or any air authority in the
3 exercise of its jurisdiction, including the issuance or termination of
4 a waste disposal permit, the denial of an application for a waste
5 disposal permit, or the modification of the conditions or the terms of
6 a waste disposal permit.

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

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

12 (f) Decisions of local governing bodies delegated authority to
13 administer portions of the water well construction program as provided
14 for in section 2 of this act.

15 (2) The following hearings shall not be conducted by the hearings
16 board:

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

19 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
20 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

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

28 NEW SECTION. Sec. 4. Sections 1 and 2 of this act shall
29 expire June 30, 1996.