

58:12A-26

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 40
NJSA: 58:12A-26 ("Private well testing act")
BILL NO: A1306 (Substituted for S635)

SPONSOR(S): Geist and Collins

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Environment
SENATE: Environment; Budget

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 8, 2001
SENATE: February 15, 2001

DATE OF APPROVAL: March 23, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (3rd reprint enacted)

(Amendments during passage denoted by superscript numbers)

A1306

SPONSORS STATEMENT: (Begins on page 6 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes 3-2-00
(Environment)

(Environment) 12-4-00

(Environment) **SENATE:** Yes 12-4-00

12-14-00 (Budget)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S635

SPONSORS STATEMENT: (Begins on page 6 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes 12-4-00

(Environment)

Identical to Assembly Statement for A1306 dated

12-4-00

12-14-00 (Budget)

Identical to Senate Statement for A1306 dated 12-

14-00

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"New law mandates well testing before selling home," 3-24-2001 The Press, pC1.

"State mandates testing of drinking water wells," 3-24-2001 Star Ledger, p.11

ASSEMBLY, No. 1306

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman GEORGE F. GEIST

District 4 (Camden and Gloucester)

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblywoman Previte, Assemblymen Gibson, Greenwald,

Assemblywoman Cruz-Perez, Assemblymen Azzolina, Bodine, Corodemus,

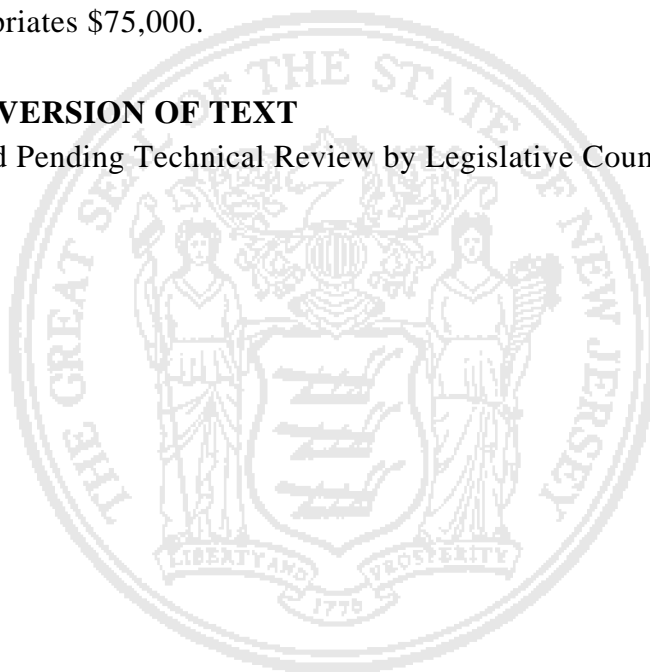
B.Smith and Wolfe

SYNOPSIS

Requires testing of potable water supplied to dwelling units from private wells; appropriates \$75,000.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/3/2000)

1 AN ACT concerning the testing of certain private wells providing
2 potable water, supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.) and P.L.1977, c.224 (C.58:12A-1 et seq.) and providing an
4 appropriation therefor.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. This act shall be known and may be cited as the "Private Well
10 Testing Act."

11
12 2. a. (1) No person may sell or otherwise convey a dwelling unit
13 if the supply of water for human consumption provided to the dwelling
14 unit is a private well that is not a public water system pursuant to
15 P.L.1977, c.224 (C.58:12A-1 et seq.), unless a certificate of water
16 quality issued in accordance with section 5 of this act is in force on the
17 contract date of the conveyance, except as otherwise provided in this
18 section.

19 (2) Any person leasing for a lease term of one year or longer a
20 dwelling unit for which the supply of water for human consumption is
21 a private well that is not a public water system pursuant to P.L.1977,
22 c.224 (C.58:12A-1 et seq.) shall have the supply of water tested once
23 each year for bacteria and nitrates in accordance with the parameters
24 established pursuant to section 3 of this act, and shall have the supply
25 of water tested once every five years for volatile organic chemicals,
26 mercury and radium in accordance with the parameters established
27 pursuant to section 3 of this act. The same testing requirements shall
28 apply to dwelling units in a multiple-unit building if the supply of
29 water for human consumption for the building is a private well that is
30 not a public water system pursuant to P.L.1977, c.224 (C.58:12A-1 et
31 seq.). No person leasing a dwelling unit for which the supply of water
32 for human consumption is a private well that is not a public water
33 system pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.) for a period
34 of time or lease term that is less than one year shall be required to have
35 the supply of water for the dwelling unit tested pursuant to this act.

36 (3) A person may convey a one dwelling unit structure subject to
37 the provisions of this act notwithstanding that the water supply to the
38 dwelling unit fails to satisfy the water quality standards imposed
39 pursuant to subsection a. of section 5 of this act if the person
40 conveying the unit and the person acquiring title or other interest in
41 the dwelling unit agree in writing that the water supply shall be
42 brought into compliance by one or the other party as a contingency
43 provision between the person conveying the unit and the person
44 acquiring title in the contract of sale. Upon the date of the closing of
45 title, the person who has agreed to be responsible for bringing the
46 water supply into compliance pursuant to the contract of sale shall file

1 a written agreement with the county health department or, in the case
2 of a county without a health department, the county health agency, or
3 designated health officer. The written agreement shall identify the
4 person filing the agreement as the person responsible for bringing the
5 water supply into compliance and shall provide that the person filing
6 the agreement shall bring the water supply into compliance within 60
7 days after the closing of title date. The person who files a written
8 agreement pursuant to this subsection shall be subject to the civil
9 penalty provisions of paragraph (2) of subsection a. of section 8 of this
10 act, if the person fails to bring the water supply into compliance with
11 the water quality standards imposed pursuant to subsection a. of
12 section 5 of this act, or to secure a complying alternative water source,
13 other than bottled water, within 60 days after the closing of title date,
14 or within such additional time as may be authorized by the county
15 health department, health agency or designated health officer, as the
16 case may be, which time period in the aggregate shall not exceed
17 120 days.

18 (4) The provisions of this act shall not apply to a conveyance by
19 foreclosure proceedings, a judicial or arbitration award, or devise or
20 gift. Any such conveyance shall, however, be reported to the county
21 health department, health agency or designated health officer within
22 30 days after the date of conveyance of the dwelling unit, which notice
23 shall also state that a testing of the water supply for the dwelling unit
24 pursuant to section 3 of this act has been requested, and shall provide
25 the date that the test was requested and the name and address of the
26 certified laboratory that is to conduct the test. The test results,
27 performed in accordance with section 3 of this act and providing the
28 results for the parameters specified in that section, shall be provided
29 to the county health department, health agency or designated health
30 officer. If the test results exceed the water quality standards imposed
31 pursuant to subsection a. of section 5 of this act, notice thereof shall
32 be provided in accordance with subsection b. of section 5 of this act
33 and the water supply shall be brought into compliance with this act, or
34 an alternative water supply provided therefor, within 60 days after
35 receipt of notification pursuant to section b. of section 5 of this act, or
36 within such additional time as may be authorized by the county health
37 department, health agency or designated health officer, which time
38 period in the aggregate shall not exceed 120 days. Any person failing
39 to comply with the provisions of this subsection shall be subject to the
40 civil penalty and any other applicable provisions of section 8 of this
41 act.

42 The renewal or extension of a lease agreement to an existing lessee
43 shall not be considered a conveyance for the purposes of this act.

44 b. No person may draw potable water from a new private water
45 well unless a certificate of water quality issued in accordance with
46 section 5 of this act is in force. As used in this act, a "new private

1 water well" means a private water well drilled after the effective date
2 of this act.

3
4 3. a. A laboratory certified to test for drinking water contaminants
5 by the Department of Environmental Protection pursuant to subsection
6 c. of section 4 of P.L.1977, c.224 (C.58:12A-4) shall conduct the
7 water testing required pursuant to the provisions of this act. Sampling
8 and testing shall conform to the maximum extent practicable, with
9 such procedures and other requirements as may be adopted by the
10 Department of Environmental Protection.

11 b. All water quality testing shall be for the following parameters:
12 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
13 organic chemicals, mercury and radium. In addition, the department
14 shall develop, in consultation with each county health department,
15 health agency or designated health officer, a list of additional
16 parameters the department determines to be significant in the county
17 that shall be subject to testing.

18
19 4. The certified laboratory shall submit to the county health
20 department, health agency or designated health officer the results of
21 its analysis with the following information:

22 a. The lot number and block number of the property on which the
23 dwelling unit is located and that on which the well is located, if other
24 than the location of the dwelling unit;

25 b. A statement that the testing is for the purpose of complying with
26 the "Private Well Testing Act," P.L. , c. (C.) (before the
27 Legislature as this bill);

28 c. The names and mailing addresses of all persons owning the
29 property on which the well is located and of those owning the property
30 on which the dwelling unit is located, if the dwelling unit and well are
31 located on different property;

32 d. The name of the employee or authorized representative of the
33 laboratory who collected the well sample;

34 e. The date and time that the well sample was collected and the
35 specific point of collection;

36 f. The date and time the sample was analyzed by the laboratory;
37 and

38 g. Such other information as the county health department, health
39 agency or designated health officer may require.

40
41 5. a. If the potability test results do not exceed the maximum
42 contaminant levels therefor in the State primary drinking water
43 regulations for groundwater adopted therefor pursuant to P.L.1977,
44 c.224 (C.58:12A-1 et seq.), the county health department, health
45 agency or designated health officer shall certify in writing that the
46 water supply for the dwelling unit satisfies the water quality standards

1 imposed in accordance with this act.

2 b. If the test results for any of the contaminants or for the pH level
3 exceed those imposed pursuant to subsection a. of this section, the
4 county health department, health agency or designated health officer
5 shall notify the owner, or the persons having ordered the laboratory
6 test if other than the owner, of the results for all of the parameters to
7 be tested for pursuant to section 3 of this act, and the maximum
8 permissible levels prescribed therefor. A copy of the notification shall
9 be provided to the Department of Environmental Protection.

10

11 6. Certification of a water supply pursuant to subsection a. of
12 section 5 of this act shall be valid for six months from the date of issue
13 of the certification. No sale or other conveyance of title or lease of a
14 dwelling unit subject to the provisions of this act shall require
15 recertification of the water supply if a valid certification is in force for
16 the water supply of the dwelling unit on the contract date of the
17 conveyance or lease.

18

19 7. The governing body of a county may, by ordinance or
20 resolution, authorize the county health department, health agency or
21 designated health officer to charge and collect, in accordance with a
22 schedule set forth in the ordinance or resolution, fees sufficient to
23 recover the costs of administering the provisions of this act.

24

25 8. a. Any person who sells or otherwise conveys a dwelling unit,
26 other than under a lease arrangement, in violation of the provisions of
27 this act shall be liable to:

28 (1) The buyer or other person to whom the conveyance is made for
29 the actual costs incurred by the acquiring party in bringing the water
30 supply into compliance with the requirements imposed pursuant to
31 subsection a. of section 5 of this act, in accordance with regulations
32 therefor adopted by the Department of Environmental Protection
33 pursuant to section 10 of this act, as well as for the costs of an
34 alternative water supply that may be required by the county health
35 department, health agency or designated health officer to be provided
36 to the affected dwelling unit or units until such time as the water
37 supply of the dwelling unit or units has been brought into compliance;
38 and

39 (2) A civil penalty of not less than \$500 nor more than \$1,000 for
40 the first offense, and not less than \$1,000 nor more than \$2,500 for a
41 second or subsequent offense occurring within a five-year period.

42 b. In the case of a lease agreement entered into in violation of the
43 provisions of this act, the lessee may void the lease agreement and the
44 lessor shall be subject to a civil penalty as prescribed in paragraph (2)
45 of subsection a. of this section; shall be required to bring the water
46 supply into compliance with this act within the applicable time period

1 prescribed in paragraph (2) or paragraph (3) of subsection a. of section
2 2 of this act; and shall be subject to the penalty provisions of
3 paragraph (2) of subsection a. of this section for failure to do so; and
4 may be required by the county health department, health agency or
5 designated health officer to provide an alternative water supply to the
6 affected dwelling unit or units until such time as the water supply is
7 brought into compliance.

8
9 9. Nothing in this act shall be construed to limit the authority of a
10 county health department, health agency or designated health officer
11 from making or causing to be made such inspection and testing of a
12 water supply as may be necessary to assure the health and safety of the
13 residents of this State.

14
15 10. The Department of Environmental Protection shall adopt,
16 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
17 (C.52:14B-1 et seq.), rules and regulations establishing remedial
18 measures that may be taken to bring a private well that is subject to
19 the provisions of sections 1 through 9 of this act into compliance.

20
21 11. Within nine months after the effective date of this act, the
22 Department of Environmental Protection shall adopt a Well Water
23 Test Reporting Form to be used by certified laboratories in reporting
24 the results of the tests they have conducted pursuant to this act.

25
26 12. There is appropriated from the General Fund to the
27 Department of Environmental Protection the sum of \$75,000 to
28 administer this act.

29
30 13. This act shall take effect on the 180th day following enactment.

31
32
33 STATEMENT

34
35 This bill requires certain water quality tests for dwelling units for
36 which the potable water supply is a private well that is not a public
37 water system. The bill requires a water quality test to be performed
38 on potable water supplied to a dwelling unit from a private well that
39 is not a public water system before any sale or other conveyance of a
40 dwelling unit, and before water is drawn from a new well, except as
41 otherwise provided. No test is required for the potable water supplied
42 to a dwelling unit being leased for less than one year. The potable
43 water supply for dwelling units being leased for a lease term of one
44 year or longer must be annually tested for bacteria and nitrates, and
45 every five years for volatile organic chemicals, mercury and radium. A
46 provisional exception is also made for conveyances by foreclosure

1 proceedings, a judicial or arbitration award, or devise or gift.

2 The testing is to be done by a laboratory certified by the
3 Department of Environmental Protection and the test results shall be
4 submitted to the county health department, county health agency or
5 designated health officer. Except in the cases of conveyances of a
6 structure with only one dwelling unit, or by foreclosures, judicial or
7 arbitration award, or devise or gift, the water supply of a dwelling unit
8 subject to the provisions of the bill must be brought into compliance
9 with the water quality standards mandated or adopted under the bill
10 before conveyance of the dwelling unit. Certain exceptions to this
11 requirement are provided for certain conveyances or transfers,
12 including the conveyance of one dwelling unit structures, but these
13 conveyances shall bring the water supply into compliance with the act
14 within 60 or 120 days after the closing of title date, as the case may
15 be.

16 All water quality testing shall be for the following parameters:
17 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
18 organic chemicals, mercury and radium. In addition, the department
19 shall develop, in consultation with each county health agency, a list of
20 additional parameters the department determines to be significant in
21 the county that shall be subject to testing.

22 The bill also provides an appropriation of \$75,000 to the
23 department to administer the act.

ASSEMBLY ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1306

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 2, 2000

The Assembly Environment Committee reports favorably and with committee amendments Assembly Bill No. 1306.

As introduced, this bill requires certain water quality tests for dwelling units for which the potable water supply is a private well that is not a public water system. The bill requires a water quality test to be performed on potable water supplied to a dwelling unit from a private well that is not a public water system before any sale or other conveyance of a dwelling unit, and before water is drawn from a new well, except as otherwise provided. No test is required for the potable water supplied to a dwelling unit being leased for less than one year. The potable water supply for dwelling units being leased for a lease term of one year or longer must be annually tested for bacteria and nitrates, and every five years for volatile organic chemicals, mercury and radium. A provisional exception is also made for conveyances by foreclosure proceedings, a judicial or arbitration award, or devise or gift.

The testing is to be done by a laboratory certified by the Department of Environmental Protection and the test results shall be submitted to the county health department, county health agency or designated health officer. Except in the cases of conveyances of a structure with only one dwelling unit, or by foreclosures, judicial or arbitration award, or devise or gift, the water supply of a dwelling unit subject to the provisions of the bill must be brought into compliance with the water quality standards mandated or adopted under the bill before conveyance of the dwelling unit. Certain exceptions to this requirement are provided for certain conveyances or transfers, including the conveyance of one dwelling unit structures, but these conveyances shall bring the water supply into compliance with the act within 60 or 120 days after the closing of title date, as the case may be.

All water quality testing shall be for the following parameters: bacteria (total coliform), nitrates, iron, manganese, pH, volatile organic chemicals, mercury and radium. In addition, the department shall develop, in consultation with each county health agency, a list of additional parameters the department determines to be significant in

the county that shall be subject to testing.

The bill also provides an appropriation of \$75,000 to the department to administer the act.

The committee amended the bill to require testing for radium under the bill as indicated by a gross alpha 48-hour test.

This bill was pre-filed for introduction in the 2000-2001 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

[First Reprint]

ASSEMBLY, No. 1306

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman GEORGE F. GEIST

District 4 (Camden and Gloucester)

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblywoman Previte, Assemblymen Gibson, Greenwald,

Assemblywoman Cruz-Perez, Assemblymen Azzolina, Bodine, Corodemus,

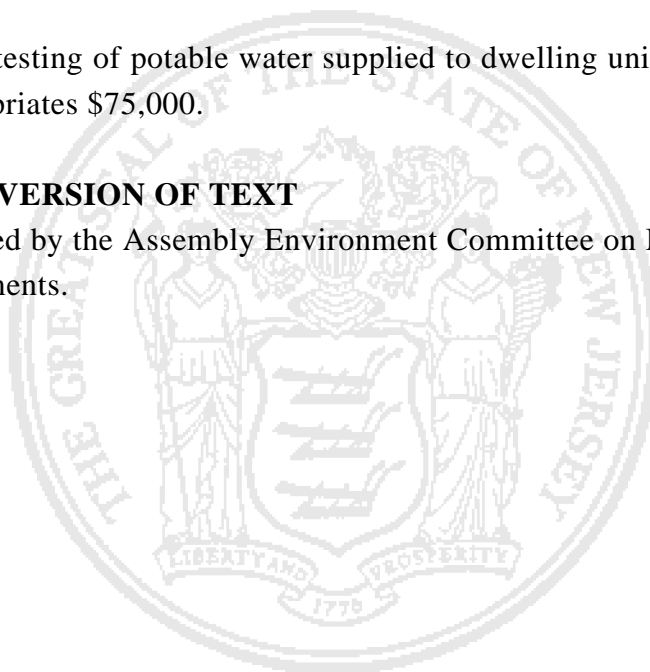
B.Smith and Wolfe

SYNOPSIS

Requires testing of potable water supplied to dwelling units from private wells; appropriates \$75,000.

CURRENT VERSION OF TEXT

As reported by the Assembly Environment Committee on March 2, 2000, with amendments.



(Sponsorship Updated As Of: 3/3/2000)

1 AN ACT concerning the testing of certain private wells providing
2 potable water, supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.) and P.L.1977, c.224 (C.58:12A-1 et seq.) and providing an
4 appropriation therefor.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. This act shall be known and may be cited as the "Private Well
10 Testing Act."

11

12 2. a. (1) No person may sell or otherwise convey a dwelling unit
13 if the supply of water for human consumption provided to the dwelling
14 unit is a private well that is not a public water system pursuant to
15 P.L.1977, c.224 (C.58:12A-1 et seq.), unless a certificate of water
16 quality issued in accordance with section 5 of this act is in force on the
17 contract date of the conveyance, except as otherwise provided in this
18 section.

19 (2) Any person leasing for a lease term of one year or longer a
20 dwelling unit for which the supply of water for human consumption is
21 a private well that is not a public water system pursuant to P.L.1977,
22 c.224 (C.58:12A-1 et seq.) shall have the supply of water tested once
23 each year for bacteria and nitrates in accordance with the parameters
24 established pursuant to section 3 of this act, and shall have the supply
25 of water tested once every five years for volatile organic chemicals,
26 mercury ¹,¹ and radium ¹as indicated by a gross alpha 48-hour test.¹
27 in accordance with the parameters established pursuant to section 3 of
28 this act. The same testing requirements shall apply to dwelling units
29 in a multiple-unit building if the supply of water for human
30 consumption for the building is a private well that is not a public water
31 system pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.). No person
32 leasing a dwelling unit for which the supply of water for human
33 consumption is a private well that is not a public water system
34 pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.) for a period of time
35 or lease term that is less than one year shall be required to have the
36 supply of water for the dwelling unit tested pursuant to this act.

37 (3) A person may convey a one dwelling unit structure subject to
38 the provisions of this act notwithstanding that the water supply to the
39 dwelling unit fails to satisfy the water quality standards imposed
40 pursuant to subsection a. of section 5 of this act if the person
41 conveying the unit and the person acquiring title or other interest in
42 the dwelling unit agree in writing that the water supply shall be

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AEN committee amendments adopted March 2, 2000.

1 brought into compliance by one or the other party as a contingency
2 provision between the person conveying the unit and the person
3 acquiring title in the contract of sale. Upon the date of the closing of
4 title, the person who has agreed to be responsible for bringing the
5 water supply into compliance pursuant to the contract of sale shall file
6 a written agreement with the county health department or, in the case
7 of a county without a health department, the county health agency, or
8 designated health officer. The written agreement shall identify the
9 person filing the agreement as the person responsible for bringing the
10 water supply into compliance and shall provide that the person filing
11 the agreement shall bring the water supply into compliance within 60
12 days after the closing of title date. The person who files a written
13 agreement pursuant to this subsection shall be subject to the civil
14 penalty provisions of paragraph (2) of subsection a. of section 8 of this
15 act, if the person fails to bring the water supply into compliance with
16 the water quality standards imposed pursuant to subsection a. of
17 section 5 of this act, or to secure a complying alternative water source,
18 other than bottled water, within 60 days after the closing of title date,
19 or within such additional time as may be authorized by the county
20 health department, health agency or designated health officer, as the
21 case may be, which time period in the aggregate shall not exceed
22 120 days.

23 (4) The provisions of this act shall not apply to a conveyance by
24 foreclosure proceedings, a judicial or arbitration award, or devise or
25 gift. Any such conveyance shall, however, be reported to the county
26 health department, health agency or designated health officer within
27 30 days after the date of conveyance of the dwelling unit, which notice
28 shall also state that a testing of the water supply for the dwelling unit
29 pursuant to section 3 of this act has been requested, and shall provide
30 the date that the test was requested and the name and address of the
31 certified laboratory that is to conduct the test. The test results,
32 performed in accordance with section 3 of this act and providing the
33 results for the parameters specified in that section, shall be provided
34 to the county health department, health agency or designated health
35 officer. If the test results exceed the water quality standards imposed
36 pursuant to subsection a. of section 5 of this act, notice thereof shall
37 be provided in accordance with subsection b. of section 5 of this act
38 and the water supply shall be brought into compliance with this act, or
39 an alternative water supply provided therefor, within 60 days after
40 receipt of notification pursuant to section b. of section 5 of this act, or
41 within such additional time as may be authorized by the county health
42 department, health agency or designated health officer, which time
43 period in the aggregate shall not exceed 120 days. Any person failing
44 to comply with the provisions of this subsection shall be subject to the
45 civil penalty and any other applicable provisions of section 8 of this
46 act.

1 The renewal or extension of a lease agreement to an existing lessee
2 shall not be considered a conveyance for the purposes of this act.

3 b. No person may draw potable water from a new private water
4 well unless a certificate of water quality issued in accordance with
5 section 5 of this act is in force. As used in this act, a "new private
6 water well" means a private water well drilled after the effective date
7 of this act.

8

9 3. a. A laboratory certified to test for drinking water contaminants
10 by the Department of Environmental Protection pursuant to subsection
11 c. of section 4 of P.L.1977, c.224 (C.58:12A-4) shall conduct the
12 water testing required pursuant to the provisions of this act. Sampling
13 and testing shall conform to the maximum extent practicable, with
14 such procedures and other requirements as may be adopted by the
15 Department of Environmental Protection.

16 b. All water quality testing shall be for the following parameters:
17 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
18 organic chemicals, mercury ^{1,1} and radium ¹as indicated by a gross
19 alpha 48-hour test¹. In addition, the department shall develop, in
20 consultation with each county health department, health agency or
21 designated health officer, a list of additional parameters the
22 department determines to be significant in the county that shall be
23 subject to testing.

24

25 4. The certified laboratory shall submit to the county health
26 department, health agency or designated health officer the results of
27 its analysis with the following information:

28 a. The lot number and block number of the property on which the
29 dwelling unit is located and that on which the well is located, if other
30 than the location of the dwelling unit;

31 b. A statement that the testing is for the purpose of complying with
32 the "Private Well Testing Act," P.L. , c. (C.) (before the
33 Legislature as this bill);

34 c. The names and mailing addresses of all persons owning the
35 property on which the well is located and of those owning the property
36 on which the dwelling unit is located, if the dwelling unit and well are
37 located on different property;

38 d. The name of the employee or authorized representative of the
39 laboratory who collected the well sample;

40 e. The date and time that the well sample was collected and the
41 specific point of collection;

42 f. The date and time the sample was analyzed by the laboratory;
43 and

44 g. Such other information as the county health department, health
45 agency or designated health officer may require.

1 5. a. If the potability test results do not exceed the maximum
2 contaminant levels therefor in the State primary drinking water
3 regulations for groundwater adopted therefor pursuant to P.L.1977,
4 c.224 (C.58:12A-1 et seq.), the county health department, health
5 agency or designated health officer shall certify in writing that the
6 water supply for the dwelling unit satisfies the water quality standards
7 imposed in accordance with this act.

8 b. If the test results for any of the contaminants or for the pH level
9 exceed those imposed pursuant to subsection a. of this section, the
10 county health department, health agency or designated health officer
11 shall notify the owner, or the persons having ordered the laboratory
12 test if other than the owner, of the results for all of the parameters to
13 be tested for pursuant to section 3 of this act, and the maximum
14 permissible levels prescribed therefor. A copy of the notification shall
15 be provided to the Department of Environmental Protection.

16
17 6. Certification of a water supply pursuant to subsection a. of
18 section 5 of this act shall be valid for six months from the date of issue
19 of the certification. No sale or other conveyance of title or lease of a
20 dwelling unit subject to the provisions of this act shall require
21 recertification of the water supply if a valid certification is in force for
22 the water supply of the dwelling unit on the contract date of the
23 conveyance or lease.

24
25 7. The governing body of a county may, by ordinance or
26 resolution, authorize the county health department, health agency or
27 designated health officer to charge and collect, in accordance with a
28 schedule set forth in the ordinance or resolution, fees sufficient to
29 recover the costs of administering the provisions of this act.

30
31 8. a. Any person who sells or otherwise conveys a dwelling unit,
32 other than under a lease arrangement, in violation of the provisions of
33 this act shall be liable to:

34 (1) The buyer or other person to whom the conveyance is made for
35 the actual costs incurred by the acquiring party in bringing the water
36 supply into compliance with the requirements imposed pursuant to
37 subsection a. of section 5 of this act, in accordance with regulations
38 therefor adopted by the Department of Environmental Protection
39 pursuant to section 10 of this act, as well as for the costs of an
40 alternative water supply that may be required by the county health
41 department, health agency or designated health officer to be provided
42 to the affected dwelling unit or units until such time as the water
43 supply of the dwelling unit or units has been brought into compliance;
44 and

45 (2) A civil penalty of not less than \$500 nor more than \$1,000 for
46 the first offense, and not less than \$1,000 nor more than \$2,500 for a

1 second or subsequent offense occurring within a five-year period.

2 b. In the case of a lease agreement entered into in violation of the
3 provisions of this act, the lessee may void the lease agreement and the
4 lessor shall be subject to a civil penalty as prescribed in paragraph (2)
5 of subsection a. of this section; shall be required to bring the water
6 supply into compliance with this act within the applicable time period
7 prescribed in paragraph (2) or paragraph (3) of subsection a. of section
8 2 of this act; and shall be subject to the penalty provisions of
9 paragraph (2) of subsection a. of this section for failure to do so; and
10 may be required by the county health department, health agency or
11 designated health officer to provide an alternative water supply to the
12 affected dwelling unit or units until such time as the water supply is
13 brought into compliance.

14

15 9. Nothing in this act shall be construed to limit the authority of a
16 county health department, health agency or designated health officer
17 from making or causing to be made such inspection and testing of a
18 water supply as may be necessary to assure the health and safety of the
19 residents of this State.

20

21 10. The Department of Environmental Protection shall adopt,
22 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
23 (C.52:14B-1 et seq.), rules and regulations establishing remedial
24 measures that may be taken to bring a private well that is subject to
25 the provisions of sections 1 through 9 of this act into compliance.

26

27 11. Within nine months after the effective date of this act, the
28 Department of Environmental Protection shall adopt a Well Water
29 Test Reporting Form to be used by certified laboratories in reporting
30 the results of the tests they have conducted pursuant to this act.

31

32 12. There is appropriated from the General Fund to the
33 Department of Environmental Protection the sum of \$75,000 to
34 administer this act.

35

36 13. This act shall take effect on the 180th day following enactment.

ASSEMBLY ENVIRONMENT COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1306

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2000

The Senate Environment Committee reports favorably and with committee amendments Assembly Bill No. 1306 (1R).

As amended, this bill would require that every contract of sale for real property that is served by a water supply that is not subject to testing under State law, include a provision requiring the testing of the water supply. The bill would require that the buyer and the seller receive and review the test results prior to closing. The bill would also require that every five years the lessor of any real property the potable water supply for which is a private well for which testing is not required by any State law, test the water supply and provide those results to every rental unit. In addition, a lessor would be required to provide the most recent test results to a new lessee of a rental unit on the property.

The testing is to be done by a laboratory certified by the Department of Environmental Protection and the test results shall be submitted to the department and the person requesting the test. All water quality testing shall be for the following parameters: bacteria (total coliform), nitrates, iron, manganese, pH, lead, and all volatile organic compounds for which maximum contaminant levels have been established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.). In addition, the water test shall include a short term 48-hour gross alpha test to screen for the presence of radium, provided that the Department of Environmental Protection has made a finding that there are a sufficient number of laboratories certified to perform the test. If the department finds that there are a sufficient number of laboratories to conduct a short term 48-hour gross alpha test to screen for the presence of radium only within a limited area in the State, then the test shall be required only within that limited area until such time as the department finds that there are a sufficient number of laboratories to provide service elsewhere in the State.

The bill would also authorize the department, in consultation with the Drinking Water Quality Institute, by rule or regulation, to require testing for additional parameters that are deemed significant in a

county or specific geographic area or geologic formation within a county, and to exclude any parameter that the department deems is not significant in a county or specific geographic area or geologic formation within a county. The department would also be required to establish a maximum time period for which a test result would be valid.

The department would be required to compile the data accumulated from the water test results in a manner that is useful to the department, counties, municipalities or other governmental agencies for the purpose of studying groundwater supplies or contamination in the State. The department would be further required to provide a notice, within five business days after receiving a report of a water test failure, to the county health department, health agency, or designated health officer, as appropriate to each county in which the private well that failed the water test is located. The county health department, health agency, or designated health officer, as appropriate to each county, may issue a general notice to owners of real property served by private wells located in the vicinity of the real property experiencing the water test failure suggesting or recommending that those property owners may wish to have their private wells tested for at least the parameters at issue. The specific address or location of the private well that failed a water test shall not be identified in the notice or by any other means or in any other manner. The bill also requires the department to establish criteria for notification which may include, but shall not be limited to, the level of exceedance recommended for notification, and the distance or location of the properties in the vicinity of the contaminated well for which testing is recommended.

The bill would require the department, in consultation with county health departments, to develop a public information and education program to inform the public of the requirements established under the act, and the potential health effects of consuming water from a private well that does not meet water quality standards, the importance of testing, and suggested water treatment techniques, equipment, and strategies for treating water from private wells that have failed a well test. The department must make available to the public a general compilation of water test results data. However, water test results received by the DEP or any county health department, health agency, or designated health officer, or any other State or local government entity shall be confidential and shall not be open for public examination, inspection or copying under current law or any other public disclosure or access law.

The bill would not preempt the authority of any county, county health department, health agency, or designated health officer from making or causing to be made any inspection and testing of a water supply. Finally, the bill would require the department to prepare a report on the implementation and operation of the act which would also describe the benefits and deficiencies realized as a result of the act. The bill would make an appropriation of \$1 million from the

"Safe Drinking Water Fund" to the department to pay, in the first State fiscal year, the costs of implementation of the act and to provide grants to county health departments, health agencies and designated health officers for any costs incurred resulting from the implementation of the act.

This bill, as amended, is identical to the Senate committee substitute for Senate Bill No. 635.

[Corrected Copy]

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1306

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2000

The Senate Environment Committee reports favorably and with committee amendments Assembly Bill No. 1306 (1R).

As amended, this bill would require that every contract of sale for real property that is served by a water supply that is not subject to testing under State law, include a provision requiring the testing of the water supply. The bill would require that the buyer and the seller receive and review the test results prior to closing. The bill would also require that every five years the lessor of any real property the potable water supply for which is a private well for which testing is not required by any State law, test the water supply and provide those results to every rental unit. In addition, a lessor would be required to provide the most recent test results to a new lessee of a rental unit on the property.

The testing is to be done by a laboratory certified by the Department of Environmental Protection and the test results shall be submitted to the department and the person requesting the test. All water quality testing shall be for the following parameters: bacteria (total coliform), nitrates, iron, manganese, pH, lead, and all volatile organic compounds for which maximum contaminant levels have been established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.). In addition, the water test shall include a short term 48-hour gross alpha test to screen for the presence of radium, provided that the Department of Environmental Protection has made a finding that there are a sufficient number of laboratories certified to perform the test. If the department finds that there are a sufficient number of laboratories to conduct a short term 48-hour gross alpha test to screen for the presence of radium only within a limited area in the State, then the test shall be required only within that limited area until such time as the department finds that there are a sufficient number of laboratories to provide service elsewhere in the State.

The bill would also authorize the department, in consultation with the Drinking Water Quality Institute, by rule or regulation, to require testing for additional parameters that are deemed significant in a county or specific geographic area or geologic formation within a county, and to exclude any parameter that the department deems is not significant in a county or specific geographic area or geologic formation within a county. The department would also be required to establish a maximum time period for which a test result would be valid.

The department would be required to compile the data accumulated from the water test results in a manner that is useful to the department, counties, municipalities or other governmental agencies for the purpose of studying groundwater supplies or contamination in the State. The department would be further required to provide a notice, within five business days after receiving a report of a water test failure, to the county health department, health agency, or designated health officer, as appropriate to each county in which the private well that failed the water test is located. The county health department, health agency, or designated health officer, as appropriate to each county, may issue a general notice to owners of real property served by private wells located in the vicinity of the real property experiencing the water test failure suggesting or recommending that those property owners may wish to have their private wells tested for at least the parameters at issue. The specific address or location of the private well that failed a water test shall not be identified in the notice or by any other means or in any other manner. The bill also requires the department to establish criteria for notification which may include, but shall not be limited to, the level of exceedance recommended for notification, and the distance or location of the properties in the vicinity of the contaminated well for which testing is recommended.

The bill would require the department, in consultation with county health departments, to develop a public information and education program to inform the public of the requirements established under the act, and the potential health effects of consuming water from a private well that does not meet water quality standards, the importance of testing, and suggested water treatment techniques, equipment, and strategies for treating water from private wells that have failed a well test. The department must make available to the public a general compilation of water test results data. However, water test results received by the DEP or any county health department, health agency, or designated health officer, or any other State or local government entity shall be confidential and shall not be open for public examination, inspection or copying under current law or any other public disclosure or access law.

The bill would not preempt the authority of any county, county health department, health agency, or designated health officer from making or causing to be made any inspection and testing of a water

supply. Finally, the bill would require the department to prepare a report on the implementation and operation of the act which would also describe the benefits and deficiencies realized as a result of the act. The bill would make an appropriation of \$1 million from the "Safe Drinking Water Fund" to the department to pay, in the first State fiscal year, the costs of implementation of the act and to provide grants to county health departments, health agencies and designated health officers for any costs incurred resulting from the implementation of the act.

This bill, as amended, is identical to the Senate committee substitute for Senate Bill No. 635.

[Second Reprint]

ASSEMBLY, No. 1306

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman GEORGE F. GEIST

District 4 (Camden and Gloucester)

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblywoman Previte, Assemblymen Gibson, Greenwald,

Assemblywoman Cruz-Perez, Assemblymen Azzolina, Bodine, Corodemus,

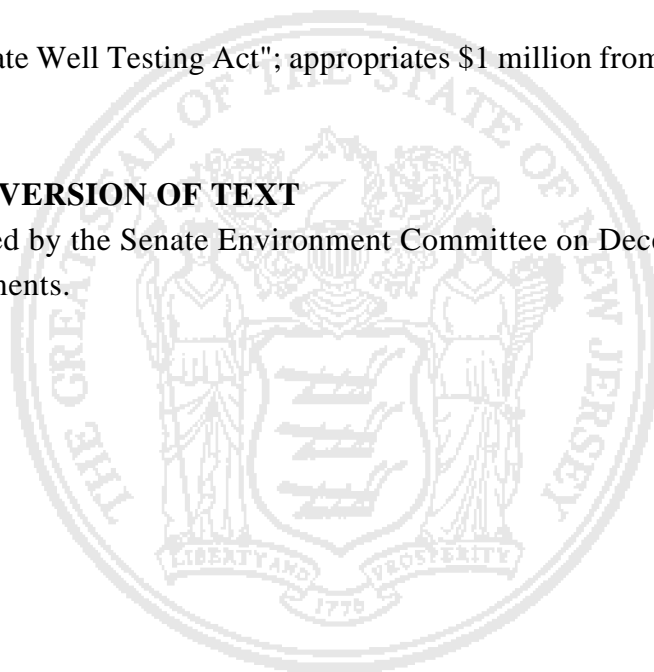
B.Smith and Wolfe

SYNOPSIS

The "Private Well Testing Act"; appropriates \$1 million from Safe Drinking Water Fund.

CURRENT VERSION OF TEXT

As reported by the Senate Environment Committee on December 4, 2000, with amendments.



(Sponsorship Updated As Of: 3/3/2000)

1 AN ACT concerning the testing ²[of certain private wells providing
2 potable water, supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.) and P.L.1977, c.224 (C.58:12A-1 et seq.) and providing an
4 appropriation therefor]of water from private wells, supplementing
5 Title 58 of the Revised Statutes, and making an appropriation² .
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. This act shall be known and may be cited as the "Private Well
11 Testing Act."
12

13 2. ²[a. (1) No person may sell or otherwise convey a dwelling
14 unit if the supply of water for human consumption provided to the
15 dwelling unit is a private well that is not a public water system
16 pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.), unless a certificate
17 of water quality issued in accordance with section 5 of this act is in
18 force on the contract date of the conveyance, except as otherwise
19 provided in this section.

20 (2) Any person leasing for a lease term of one year or longer a
21 dwelling unit for which the supply of water for human consumption is
22 a private well that is not a public water system pursuant to P.L.1977,
23 c.224 (C.58:12A-1 et seq.) shall have the supply of water tested once
24 each year for bacteria and nitrates in accordance with the parameters
25 established pursuant to section 3 of this act, and shall have the supply
26 of water tested once every five years for volatile organic chemicals,
27 mercury ^{1,1} and radium ¹as indicated by a gross alpha 48-hour test.¹
28 in accordance with the parameters established pursuant to section 3 of
29 this act. The same testing requirements shall apply to dwelling units
30 in a multiple-unit building if the supply of water for human
31 consumption for the building is a private well that is not a public water
32 system pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.). No person
33 leasing a dwelling unit for which the supply of water for human
34 consumption is a private well that is not a public water system
35 pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.) for a period of time
36 or lease term that is less than one year shall be required to have the
37 supply of water for the dwelling unit tested pursuant to this act.

38 (3) A person may convey a one dwelling unit structure subject to
39 the provisions of this act notwithstanding that the water supply to the
40 dwelling unit fails to satisfy the water quality standards imposed
41 pursuant to subsection a. of section 5 of this act if the person

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AEN committee amendments adopted March 2, 2000.

² Senate SEN committee amendments adopted December 4, 2000.

1 conveying the unit and the person acquiring title or other interest in
2 the dwelling unit agree in writing that the water supply shall be
3 brought into compliance by one or the other party as a contingency
4 provision between the person conveying the unit and the person
5 acquiring title in the contract of sale. Upon the date of the closing of
6 title, the person who has agreed to be responsible for bringing the
7 water supply into compliance pursuant to the contract of sale shall file
8 a written agreement with the county health department or, in the case
9 of a county without a health department, the county health agency, or
10 designated health officer. The written agreement shall identify the
11 person filing the agreement as the person responsible for bringing the
12 water supply into compliance and shall provide that the person filing
13 the agreement shall bring the water supply into compliance within 60
14 days after the closing of title date. The person who files a written
15 agreement pursuant to this subsection shall be subject to the civil
16 penalty provisions of paragraph (2) of subsection a. of section 8 of this
17 act, if the person fails to bring the water supply into compliance with
18 the water quality standards imposed pursuant to subsection a. of
19 section 5 of this act, or to secure a complying alternative water source,
20 other than bottled water, within 60 days after the closing of title date,
21 or within such additional time as may be authorized by the county
22 health department, health agency or designated health officer, as the
23 case may be, which time period in the aggregate shall not exceed
24 120 days.

25 (4) The provisions of this act shall not apply to a conveyance by
26 foreclosure proceedings, a judicial or arbitration award, or devise or
27 gift. Any such conveyance shall, however, be reported to the county
28 health department, health agency or designated health officer within
29 30 days after the date of conveyance of the dwelling unit, which notice
30 shall also state that a testing of the water supply for the dwelling unit
31 pursuant to section 3 of this act has been requested, and shall provide
32 the date that the test was requested and the name and address of the
33 certified laboratory that is to conduct the test. The test results,
34 performed in accordance with section 3 of this act and providing the
35 results for the parameters specified in that section, shall be provided
36 to the county health department, health agency or designated health
37 officer. If the test results exceed the water quality standards imposed
38 pursuant to subsection a. of section 5 of this act, notice thereof shall
39 be provided in accordance with subsection b. of section 5 of this act
40 and the water supply shall be brought into compliance with this act, or
41 an alternative water supply provided therefor, within 60 days after
42 receipt of notification pursuant to section b. of section 5 of this act, or
43 within such additional time as may be authorized by the county health
44 department, health agency or designated health officer, which time
45 period in the aggregate shall not exceed 120 days. Any person failing
46 to comply with the provisions of this subsection shall be subject to the

1 civil penalty and any other applicable provisions of section 8 of this
2 act.

3 The renewal or extension of a lease agreement to an existing lessee
4 shall not be considered a conveyance for the purposes of this act.

5 b. No person may draw potable water from a new private water
6 well unless a certificate of water quality issued in accordance with
7 section 5 of this act is in force. As used in this act, a "new private
8 water well" means a private water well drilled after the effective date
9 of this act.] a. Every contract of sale of (1) real property the potable
10 water supply for which is a private well located on the property, or (2)
11 any other real property the potable water supply for which is a well
12 that has less than 15 service connections or that does not regularly
13 serve an average of at least 25 individuals daily at least 60 days out of
14 the year, shall include a provision requiring, as a condition of the sale,
15 the testing of that water supply for at least the parameters prescribed
16 pursuant to sections 3 and 4 of this act.

17 b. Closing of title on the sale of the real property shall not occur
18 unless both the buyer and the seller have received and reviewed a copy
19 of the water test results. At closing, the buyer and seller both shall
20 certify in writing that they have received and reviewed the water test
21 results.²

22
23 3. ²[a. A laboratory certified to test for drinking water
24 contaminants by the Department of Environmental Protection pursuant
25 to subsection c. of section 4 of P.L.1977, c.224 (C.58:12A-4) shall
26 conduct the water testing required pursuant to the provisions of this
27 act. Sampling and testing shall conform to the maximum extent
28 practicable, with such procedures and other requirements as may be
29 adopted by the Department of Environmental Protection.

30 b. All water quality testing shall be for the following parameters:
31 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
32 organic chemicals, mercury ¹,¹ and radium ¹as indicated by a gross
33 alpha 48-hour test¹ . In addition, the department shall develop, in
34 consultation with each county health department, health agency or
35 designated health officer, a list of additional parameters the
36 department determines to be significant in the county that shall be
37 subject to testing.]Every water test conducted in accordance with this
38 act shall include a test for at least the following parameters: bacteria
39 (total coliform); nitrates; iron; manganese; pH; all volatile organic
40 compounds for which maximum contaminant levels have been
41 established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.); and
42 lead.

43 In addition, the water test shall include a short term 48-hour gross
44 alpha test to screen for the presence of radium, provided that the
45 Department of Environmental Protection has made a finding pursuant
46 to subsection b. of section 4 of this act that there are a sufficient

1 number of laboratories certified to perform the test.²

2

3 4. ²[The certified laboratory shall submit to the county health
4 department, health agency or designated health officer the results of
5 its analysis with the following information:

6 a. The lot number and block number of the property on which the
7 dwelling unit is located and that on which the well is located, if other
8 than the location of the dwelling unit;

9 b. A statement that the testing is for the purpose of complying with
10 the "Private Well Testing Act," P.L. , c. (C.) (before the
11 Legislature as this bill);

12 c. The names and mailing addresses of all persons owning the
13 property on which the well is located and of those owning the property
14 on which the dwelling unit is located, if the dwelling unit and well are
15 located on different property;

16 d. The name of the employee or authorized representative of the
17 laboratory who collected the well sample;

18 e. The date and time that the well sample was collected and the
19 specific point of collection;

20 f. The date and time the sample was analyzed by the laboratory;
21 and

22 g. Such other information as the county health department, health
23 agency or designated health officer may require.] a. The Department
24 of Environmental Protection, in consultation with the Drinking Water
25 Quality Institute, established pursuant to section 10 of P.L.1983, c.443
26 (C.58:12A-20), shall develop, by rule or regulation adopted pursuant
27 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
28 et seq.), a list of additional parameters which the department deems
29 significant in each county or in any specific area within a county and
30 which shall be tested for as part of any water test to be conducted in
31 accordance with this act. These additional parameters may include,
32 but need not be limited to, arsenic and mercury.

33 b. (1) The Department of Environmental Protection shall conduct
34 an annual review to determine if there are a sufficient number of
35 laboratories certified to perform the short term 48-hour gross alpha
36 test to screen for the presence of radium that are able to provide
37 results at a reasonable cost within 10 days of a request for testing.
38 This review shall be based upon the projected number of transactions
39 for which the test is required. The department shall publish its findings
40 in the New Jersey Register.

41 For the purposes of section 3 of this act, if the department finds
42 that there are a sufficient number of laboratories to conduct the short
43 term 48-hour gross alpha test to screen for the presence of radium
44 only within a limited area in the State, as determined by the
45 department, and which laboratories are able to provide results at a
46 reasonable cost within 10 days of a request for testing, then the test

1 shall be required only within that limited area until such time as the
2 department finds that there are a sufficient number of laboratories to
3 provide service elsewhere in the State.

4 (2) The department shall establish, by rule or regulation adopted
5 pursuant to the "Administrative Procedure Act," a protocol for proper
6 conducting of the short term 48-hour gross alpha test to screen for the
7 presence of radium.

8 c. The Department of Environmental Protection, in consultation
9 with the Drinking Water Quality Institute and by rule or regulation
10 adopted pursuant to the "Administrative Procedure Act," may exclude
11 or limit by geographic area or geologic formation, or based upon well
12 record information, any parameter listed in section 3 of this act that
13 the department deems is not significant in a county or in any specific
14 area within a county and which need not be tested for as part of any
15 water test to be conducted in accordance with this act.

16 d. For each parameter to be tested for in accordance with this act,
17 the Department of Environmental Protection shall establish, by rule or
18 regulation adopted pursuant to the "Administrative Procedure Act," a
19 maximum time period for which a test result shall remain valid for the
20 purposes of section 2 of this act without necessitating retesting for
21 that parameter. A retest of the water supply shall not be required
22 pursuant to section 2 of this act if the contract of sale is entered into
23 within the period of test validity established pursuant to this
24 subsection. Notwithstanding any provision of this subsection to the
25 contrary, a buyer and seller subject to the provisions of section 2 of
26 this act may mutually agree to retest for a parameter even though the
27 maximum time period for test validity for that parameter established
28 pursuant to this subsection has not expired.²

29
30 5. ²[a. If the potability test results do not exceed the maximum
31 contaminant levels therefor in the State primary drinking water
32 regulations for groundwater adopted therefor pursuant to P.L.1977,
33 c.224 (C.58:12A-1 et seq.), the county health department, health
34 agency or designated health officer shall certify in writing that the
35 water supply for the dwelling unit satisfies the water quality standards
36 imposed in accordance with this act.

37 b. If the test results for any of the contaminants or for the pH level
38 exceed those imposed pursuant to subsection a. of this section, the
39 county health department, health agency or designated health officer
40 shall notify the owner, or the persons having ordered the laboratory
41 test if other than the owner, of the results for all of the parameters to
42 be tested for pursuant to section 3 of this act, and the maximum
43 permissible levels prescribed therefor. A copy of the notification shall
44 be provided to the Department of Environmental Protection.] a. Any
45 water test conducted in accordance with this act shall be conducted by
46 a laboratory certified by the Department of Environmental Protection

1 pursuant to subsection c. of section 4 of P.L.1977, c.224 (C.58:12A-
2 4) to test for drinking water contaminants.

3 b. Any water test results provided by a laboratory to the person or
4 persons requesting the test shall include the maximum contaminant
5 levels or other established water quality standards, if any, prescribed
6 by the Department of Environmental Protection for each parameter
7 tested and shall be transmitted on a standardized private well water
8 test reporting form prescribed by the department.

9 c. The laboratory, within five business days after completion of the
10 water test, shall also submit the water test results to the Department
11 of Environmental Protection together with the following information:

12 (1) A statement that the testing is for the purpose of complying
13 with the "Private Well Testing Act," P.L. , c. (C.) (now
14 before the Legislature as this bill);

15 (2) The location of the real property, described by block and lot
16 number, street address, municipality, and county;

17 (3) The name and mailing address of the person or persons making
18 the request for the test;

19 (4) The name of the employee or authorized representative of the
20 laboratory who collected the well sample;

21 (5) The date and time that the water sample was collected and the
22 specific point of collection;

23 (6) The date and time the sample was analyzed by the laboratory;
24 and

25 (7) Such other information as may be required by the Department
26 of Environmental Protection, in consultation, if deemed necessary or
27 appropriate by the department, with each county health department,
28 health agency, or designated health officer, as appropriate to each
29 county.

30 d. The Department of Environmental Protection may require
31 laboratories to submit electronically the information required pursuant
32 to subsection c. of this section.

33 e. A laboratory shall not release water test results to any person
34 except the buyer and seller of the real property at issue as provided
35 pursuant to section 2 of this act, the lessor of the real property as
36 provided pursuant to section 7 of this act, any person authorized by
37 the buyer, seller, or lessor, as the case may be, the Department of
38 Environmental Protection, or any person designated by court order.

39 f. The Department of Environmental Protection shall compile the
40 data accumulated from the water test results submitted by laboratories
41 pursuant to this section in a manner that shall be useful to the
42 department, counties, municipalities, or other governmental entities for
43 the purposes of studying groundwater supplies or contamination in the
44 State.²

45

46 6. ²[Certification of a water supply pursuant to subsection a. of

1 section 5 of this act shall be valid for six months from the date of issue
2 of the certification. No sale or other conveyance of title or lease of a
3 dwelling unit subject to the provisions of this act shall require
4 recertification of the water supply if a valid certification is in force for
5 the water supply of the dwelling unit on the contract date of the
6 conveyance or lease.] a. The Department of Environmental
7 Protection, within five business days after receiving any report of a
8 water test failure in accordance with this act, shall provide notice
9 thereof to the county health department, health agency, or designated
10 health officer, as appropriate to each county in which the private well
11 that failed the water test is located. The county health department,
12 health agency, or designated health officer, as appropriate to each
13 county, may issue a general notice to owners of real property served
14 by private wells located in the vicinity of the real property
15 experiencing the water test failure suggesting or recommending that
16 those property owners may wish to have their private wells tested for
17 at least the parameters at issue. The specific address or location of the
18 private well that failed a water test shall not be identified in the notice
19 or by any other means or in any other manner. The department shall
20 establish criteria for notification which may include, but shall not be
21 limited to, the level of exceedance recommended for notification, and
22 the distance or location of the properties in the vicinity of the
23 contaminated well for which testing is recommended. It shall be at the
24 sole discretion of the county health department, health agency, or
25 designated health officer, as appropriate to each county, whether or
26 not to issue such a notice and to whom and by what means it shall be
27 given.

28 b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et
29 seq.) or any other law to the contrary, water test results received by
30 the Department of Environmental Protection, a county health
31 department, health agency, or designated health officer, or any other
32 State or local governmental entity in compliance with or as authorized
33 by this act shall be confidential and shall not be open for public
34 examination, inspection, or copying, except that general compilations
35 of water test results data arranged or identified by county and
36 municipality or appropriate geographic areas therein, which do not
37 include specific address or location information, may be made available
38 to the public.²

39
40 7. ²[The governing body of a county may, by ordinance or
41 resolution, authorize the county health department, health agency or
42 designated health officer to charge and collect, in accordance with a
43 schedule set forth in the ordinance or resolution, fees sufficient to
44 recover the costs of administering the provisions of this act.] Within
45 18 months after the effective date of this section, and at least once
46 every five years thereafter, the lessor of any real property the potable

1 water supply for which is a private well for which testing of the water
2 is not required pursuant to any other State law, shall test that water
3 supply in the manner established pursuant to this act for at least the
4 parameters required pursuant to sections 3 and 4 of this act. Within
5 30 days after receipt of the test results, the lessor shall provide a
6 written copy thereof to each rental unit on the property. The lessor
7 shall also provide a written copy of the most recent test results to a
8 new lessee of a rental unit on the property.²

9
10 8. ²[a. Any person who sells or otherwise conveys a dwelling unit,
11 other than under a lease arrangement, in violation of the provisions of
12 this act shall be liable to:

13 (1) The buyer or other person to whom the conveyance is made for
14 the actual costs incurred by the acquiring party in bringing the water
15 supply into compliance with the requirements imposed pursuant to
16 subsection a. of section 5 of this act, in accordance with regulations
17 therefor adopted by the Department of Environmental Protection
18 pursuant to section 10 of this act, as well as for the costs of an
19 alternative water supply that may be required by the county health
20 department, health agency or designated health officer to be provided
21 to the affected dwelling unit or units until such time as the water
22 supply of the dwelling unit or units has been brought into compliance;
23 and

24 (2) A civil penalty of not less than \$500 nor more than \$1,000 for
25 the first offense, and not less than \$1,000 nor more than \$2,500 for a
26 second or subsequent offense occurring within a five-year period.

27 b. In the case of a lease agreement entered into in violation of the
28 provisions of this act, the lessee may void the lease agreement and the
29 lessor shall be subject to a civil penalty as prescribed in paragraph (2)
30 of subsection a. of this section; shall be required to bring the water
31 supply into compliance with this act within the applicable time period
32 prescribed in paragraph (2) or paragraph (3) of subsection a. of section
33 2 of this act; and shall be subject to the penalty provisions of
34 paragraph (2) of subsection a. of this section for failure to do so; and
35 may be required by the county health department, health agency or
36 designated health officer to provide an alternative water supply to the
37 affected dwelling unit or units until such time as the water supply is
38 brought into compliance.] The Department of Environmental
39 Protection, in consultation with county health departments, health
40 agencies, and designated health officers, shall establish a public
41 information and education program to inform the public and
42 appropriate professional disciplines of the enactment of this act and
43 the substance of its provisions and requirements, the potential health
44 effects of consuming water from a private well that does not meet
45 maximum contaminant levels and other established water quality
46 standards, the potential presence of radium in at least some potable

1 groundwater supplies in the State, the geographic areas in the State
2 subject to an actual or potential threat of danger from contaminated
3 groundwater, the importance of testing private wells regularly for
4 contaminants, and suggested water treatment techniques, equipment,
5 and strategies for treating water from private wells that have failed a
6 water test conducted in accordance with this act.

7 The department shall make available to the public a general
8 compilation of water test results data arranged or identified by county
9 and municipality or appropriate geographic areas therein, which does
10 not include specific address or location information.²

11
12 9. ²[Nothing in this act shall be construed to limit the authority of
13 a county health department, health agency or designated health officer
14 from making or causing to be made such inspection and testing of a
15 water supply as may be necessary to assure the health and safety of the
16 residents of this State.] Nothing in this act shall be construed to limit
17 or preempt the authority of a county, county health department, health
18 agency, or designated health officer from making or causing to be
19 made such inspection and testing of a water supply as may be
20 necessary to ensure the health and safety of the residents of the State.²

21
22 10. ²[The Department of Environmental Protection shall adopt,
23 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
24 (C.52:14B-1 et seq.), rules and regulations establishing remedial
25 measures that may be taken to bring a private well that is subject to
26 the provisions of sections 1 through 9 of this act into compliance.]
27 Within five years after the date of enactment of this act, the
28 Department of Environmental Protection, in consultation with county
29 health departments, health agencies, and designated health officers,
30 shall prepare, and transmit to the Governor and Legislature, a report
31 on the implementation and operation of this act, which report shall
32 also describe the benefits and deficiencies realized as a result of the act
33 and include recommendations for any appropriate legislative action.
34 This report shall also be made available free of charge to the public.²

35
36 11. ²[Within nine months after the effective date of this act, the
37 Department of Environmental Protection shall adopt a Well Water
38 Test Reporting Form to be used by certified laboratories in reporting
39 the results of the tests they have conducted pursuant to this act.] The
40 Department of Environmental Protection shall hire, pursuant to Title
41 11A (Civil Service) of the New Jersey Statutes, a sufficient number of
42 new employees as may be deemed necessary by the department to
43 implement this act.²

44
45 12. ²[There is appropriated from the General Fund to the
46 Department of Environmental Protection the sum of \$75,000 to

1 administer this act.] a. Notwithstanding any provision of section 11
2 of P.L.1983, c.443 (C.58:12A-21) or any other law to the contrary,
3 there is appropriated from the "Safe Drinking Water Fund,"
4 established pursuant to section 11 of P.L.1983, c.443 (C.58:12A-21),
5 to the Department of Environmental Protection the sum of \$1,000,000
6 to pay the initial costs of (1) implementing this act, including but not
7 limited to the costs of hiring any new employees needed to implement
8 this act and of establishing and administering the data base required by
9 this act, and (2) providing grants to county health departments, health
10 agencies, and designated health officers to pay for any costs incurred
11 by those entities resulting from implementation of this act.

12 b. For each State fiscal year after the State fiscal year in which this
13 act is enacted, the Commissioner of Environmental Protection shall
14 include in the annual budget request of the Department of
15 Environmental Protection submitted for the annual appropriations act
16 a sufficient sum to meet the costs, as set forth in subsection a. of this
17 section and in section 11 of this act, for the particular State fiscal
18 year.²

19
20 13. This act shall take effect ²[on the 180th day following
21 enactment] immediately except that sections 2 and 7 shall take effect
22 on the 540th day following the date of enactment of this act² .

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 1306

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2000

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 1306 (2R).

This bill mandates the testing, on certain occasions, of potable water that is supplied from private wells.

Testing requirements. The bill requires that every contract of sale for real property served by a water supply from

- < (1) a private well located on the property, or
- < (2) a well with less than 15 service connections or that does not regularly serve an average of at least 25 individuals daily at least 60 days annually

must include a provision requiring, as a condition of the sale, that the water supply be tested. (A water supply that has 15 or more service connections, or that regularly serves an average of at least 25 individuals daily at least 60 days annually, constitutes a "public water system" under existing State law, P.L.1977, c.224 (N.J.S.A.58:12A-1 et seq.), and as such is already subject to a water testing requirement.) The bill requires that the buyer and the seller receive and review the test results prior to closing, and that at closing, both parties certify to such receipt and review. It also requires that every five years, the lessor of any real property, the potable water supply for which is a private well for which testing is not required by any State law, shall test the water supply and provide those results to every rental unit. In addition, a lessor would be required to provide the most recent test results to a new lessee of a rental unit on the property.

Test performance and parameters. The testing is to be done by a laboratory certified by the Department of Environmental Protection (DEP), and the test results shall be submitted to the department and the person requesting the test. All water quality testing shall be for the following parameters: bacteria (total coliform), nitrates, iron, manganese, pH, lead, and all volatile organic compounds for which maximum contaminant levels have been established under P.L.1977,

c.224. In addition, the water test shall include a short term 48-hour gross alpha test to screen for the presence of radium, provided that the DEP has made a finding that there are a sufficient number of laboratories certified to perform the test. If the department finds that there are a sufficient number of laboratories to conduct a short term 48-hour gross alpha test to screen for the presence of radium only within a limited area in the State, then the test shall be required only within that limited area until such time as the department finds that there are a sufficient number of laboratories to provide service elsewhere in the State.

The bill also authorizes the DEP, in consultation with the Drinking Water Quality Institute, by rule or regulation, to require testing for additional parameters that are deemed significant in a county or specific geographic area or geologic formation within a county, and to exclude any parameter that the department deems is not significant in a county or specific geographic area or geologic formation within a county. The department is also required to establish a maximum time period for which a test result would be valid.

Data base compilation. The bill requires the DEP to compile the data accumulated from the water test results in a manner that is useful to the department, counties, municipalities or other governmental agencies for the purpose of studying groundwater supplies or contamination in the State. The DEP is further required to provide a notice, within five business days after receiving a report of a water test failure, to the county health department, health agency, or designated health officer, as appropriate to each county in which the private well that failed the water test is located. The county health department, health agency, or designated health officer, as appropriate to each county, may issue a general notice to owners of real property served by private wells located in the vicinity of the real property experiencing the water test failure suggesting or recommending that those property owners may wish to have their private wells tested for at least the parameters at issue. The specific address or location of the private well that failed a water test shall not be identified in the notice or by any other means or in any other manner. The bill also requires the DEP to establish criteria for notification which may include, but shall not be limited to, the level of exceedance recommended for notification, and the distance or location of the properties in the vicinity of the contaminated well for which testing is recommended.

Public information program. The bill directs the DEP, in consultation with county health departments, to develop a public information and education program to inform the public of the requirements established under the act, and the potential health effects of consuming water from a private well that does not meet water quality standards, the importance of testing, and suggested water treatment techniques, equipment, and strategies for treating water from private wells that have failed a well test. The department must

make available to the public a general compilation of water test results data. However, water test results received by the DEP or any county health department, health agency, or designated health officer, or any other State or local government entity shall be confidential and shall not be open for public examination, inspection or copying under current law or any other public disclosure or access law.

Miscellaneous. The bill would not preempt the authority of any county, county health department, health agency, or designated health officer from making or causing to be made any inspection and testing of a water supply. Finally, the bill requires the DEP to prepare a report on the implementation and operation of the legislation that describes the benefits and deficiencies realized as a result.

The provisions of this bill, as amended, are identical to those of Senate Bill No. 635 (SCS) Sca, which the committee also reports this day.

COMMITTEE AMENDMENTS:

Committee amendments to the bill provide for inclusion, in the standardized form to be used in reporting results to those who have requested water tests under the legislation, of information regarding remediation funding alternatives.

FISCAL IMPACT:

This bill appropriates \$1 million from the "Safe Drinking Water Fund" to the department to pay, in the first State fiscal year, the costs of implementation of the act and to provide grants to county health departments, health agencies and designated health officers for any costs incurred resulting from the implementation of the act.

[Third Reprint]

ASSEMBLY, No. 1306

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman GEORGE F. GEIST

District 4 (Camden and Gloucester)

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblywoman Previte, Assemblymen Gibson, Greenwald, Assemblywoman Cruz-Perez, Assemblymen Azzolina, Bodine, Corodemus, B.Smith, Wolfe, Senators Matheussen, Adler, McNamara, Codey, Vitale, Allen, Bark, Bennett, Robertson, Inverso, Cafiero, Sinagra, Singer, Kosco, Assemblywoman Greenstein and Assemblyman R.Smith

SYNOPSIS

The "Private Well Testing Act"; appropriates \$1 million from Safe Drinking Water Fund.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 14, 2000, with amendments.

(Sponsorship Updated As Of: 3/9/2001)

1 AN ACT concerning the testing ²[of certain private wells providing
2 potable water, supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.) and P.L.1977, c.224 (C.58:12A-1 et seq.) and providing an
4 appropriation therefor]of water from private wells, supplementing
5 Title 58 of the Revised Statutes, and making an appropriation².
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. This act shall be known and may be cited as the "Private Well
11 Testing Act."
12

13 2. ²[a. (1) No person may sell or otherwise convey a dwelling
14 unit if the supply of water for human consumption provided to the
15 dwelling unit is a private well that is not a public water system
16 pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.), unless a certificate
17 of water quality issued in accordance with section 5 of this act is in
18 force on the contract date of the conveyance, except as otherwise
19 provided in this section.

20 (2) Any person leasing for a lease term of one year or longer a
21 dwelling unit for which the supply of water for human consumption is
22 a private well that is not a public water system pursuant to P.L.1977,
23 c.224 (C.58:12A-1 et seq.) shall have the supply of water tested once
24 each year for bacteria and nitrates in accordance with the parameters
25 established pursuant to section 3 of this act, and shall have the supply
26 of water tested once every five years for volatile organic chemicals,
27 mercury ¹,¹ and radium ¹as indicated by a gross alpha 48-hour test.¹
28 in accordance with the parameters established pursuant to section 3 of
29 this act. The same testing requirements shall apply to dwelling units
30 in a multiple-unit building if the supply of water for human
31 consumption for the building is a private well that is not a public water
32 system pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.). No person
33 leasing a dwelling unit for which the supply of water for human
34 consumption is a private well that is not a public water system
35 pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.) for a period of time
36 or lease term that is less than one year shall be required to have the
37 supply of water for the dwelling unit tested pursuant to this act.

38 (3) A person may convey a one dwelling unit structure subject to
39 the provisions of this act notwithstanding that the water supply to the
40 dwelling unit fails to satisfy the water quality standards imposed

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AEN committee amendments adopted March 2, 2000.

² Senate SEN committee amendments adopted December 4, 2000.

³ Senate SBA committee amendments adopted December 14, 2000.

1 pursuant to subsection a. of section 5 of this act if the person
2 conveying the unit and the person acquiring title or other interest in
3 the dwelling unit agree in writing that the water supply shall be
4 brought into compliance by one or the other party as a contingency
5 provision between the person conveying the unit and the person
6 acquiring title in the contract of sale. Upon the date of the closing of
7 title, the person who has agreed to be responsible for bringing the
8 water supply into compliance pursuant to the contract of sale shall file
9 a written agreement with the county health department or, in the case
10 of a county without a health department, the county health agency, or
11 designated health officer. The written agreement shall identify the
12 person filing the agreement as the person responsible for bringing the
13 water supply into compliance and shall provide that the person filing
14 the agreement shall bring the water supply into compliance within
15 60 days after the closing of title date. The person who files a written
16 agreement pursuant to this subsection shall be subject to the civil
17 penalty provisions of paragraph (2) of subsection a. of section 8 of this
18 act, if the person fails to bring the water supply into compliance with
19 the water quality standards imposed pursuant to subsection a. of
20 section 5 of this act, or to secure a complying alternative water source,
21 other than bottled water, within 60 days after the closing of title date,
22 or within such additional time as may be authorized by the county
23 health department, health agency or designated health officer, as the
24 case may be, which time period in the aggregate shall not exceed
25 120 days.

26 (4) The provisions of this act shall not apply to a conveyance by
27 foreclosure proceedings, a judicial or arbitration award, or devise or
28 gift. Any such conveyance shall, however, be reported to the county
29 health department, health agency or designated health officer within
30 30 days after the date of conveyance of the dwelling unit, which notice
31 shall also state that a testing of the water supply for the dwelling unit
32 pursuant to section 3 of this act has been requested, and shall provide
33 the date that the test was requested and the name and address of the
34 certified laboratory that is to conduct the test. The test results,
35 performed in accordance with section 3 of this act and providing the
36 results for the parameters specified in that section, shall be provided
37 to the county health department, health agency or designated health
38 officer. If the test results exceed the water quality standards imposed
39 pursuant to subsection a. of section 5 of this act, notice thereof shall
40 be provided in accordance with subsection b. of section 5 of this act
41 and the water supply shall be brought into compliance with this act, or
42 an alternative water supply provided therefor, within 60 days after
43 receipt of notification pursuant to section b. of section 5 of this act, or
44 within such additional time as may be authorized by the county health
45 department, health agency or designated health officer, which time
46 period in the aggregate shall not exceed 120 days. Any person failing

1 to comply with the provisions of this subsection shall be subject to the
2 civil penalty and any other applicable provisions of section 8 of this
3 act.

4 The renewal or extension of a lease agreement to an existing lessee
5 shall not be considered a conveyance for the purposes of this act.

6 b. No person may draw potable water from a new private water
7 well unless a certificate of water quality issued in accordance with
8 section 5 of this act is in force. As used in this act, a "new private
9 water well" means a private water well drilled after the effective date
10 of this act.] a. Every contract of sale of (1) real property the potable
11 water supply for which is a private well located on the property, or (2)
12 any other real property the potable water supply for which is a well
13 that has less than 15 service connections or that does not regularly
14 serve an average of at least 25 individuals daily at least 60 days out of
15 the year, shall include a provision requiring, as a condition of the sale,
16 the testing of that water supply for at least the parameters prescribed
17 pursuant to sections 3 and 4 of this act.

18 b. Closing of title on the sale of the real property shall not occur
19 unless both the buyer and the seller have received and reviewed a copy
20 of the water test results. At closing, the buyer and seller both shall
21 certify in writing that they have received and reviewed the water test
22 results.²

23
24 3. ²[a. A laboratory certified to test for drinking water
25 contaminants by the Department of Environmental Protection pursuant
26 to subsection c. of section 4 of P.L.1977, c.224 (C.58:12A-4) shall
27 conduct the water testing required pursuant to the provisions of this
28 act. Sampling and testing shall conform to the maximum extent
29 practicable, with such procedures and other requirements as may be
30 adopted by the Department of Environmental Protection.

31 b. All water quality testing shall be for the following parameters:
32 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
33 organic chemicals, mercury ¹, ¹ and radium ¹as indicated by a gross
34 alpha 48-hour test¹. In addition, the department shall develop, in
35 consultation with each county health department, health agency or
36 designated health officer, a list of additional parameters the
37 department determines to be significant in the county that shall be
38 subject to testing.]Every water test conducted in accordance with this
39 act shall include a test for at least the following parameters: bacteria
40 (total coliform); nitrates; iron; manganese; pH; all volatile organic
41 compounds for which maximum contaminant levels have been
42 established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.); and
43 lead.

44 In addition, the water test shall include a short term 48-hour gross
45 alpha test to screen for the presence of radium, provided that the
46 Department of Environmental Protection has made a finding pursuant

1 to subsection b. of section 4 of this act that there are a sufficient
2 number of laboratories certified to perform the test.²

3
4 4. ²[The certified laboratory shall submit to the county health
5 department, health agency or designated health officer the results of
6 its analysis with the following information:

7 a. The lot number and block number of the property on which the
8 dwelling unit is located and that on which the well is located, if other
9 than the location of the dwelling unit;

10 b. A statement that the testing is for the purpose of complying with
11 the "Private Well Testing Act," P.L. , c. (C.) (before the
12 Legislature as this bill);

13 c. The names and mailing addresses of all persons owning the
14 property on which the well is located and of those owning the property
15 on which the dwelling unit is located, if the dwelling unit and well are
16 located on different property;

17 d. The name of the employee or authorized representative of the
18 laboratory who collected the well sample;

19 e. The date and time that the well sample was collected and the
20 specific point of collection;

21 f. The date and time the sample was analyzed by the laboratory;
22 and

23 g. Such other information as the county health department, health
24 agency or designated health officer may require.]

25 a. The Department of Environmental Protection, in consultation with the Drinking Water
26 Quality Institute, established pursuant to section 10 of P.L.1983, c.443
27 (C.58:12A-20), shall develop, by rule or regulation adopted pursuant
28 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
29 et seq.), a list of additional parameters which the department deems
30 significant in each county or in any specific area within a county and
31 which shall be tested for as part of any water test to be conducted in
32 accordance with this act. These additional parameters may include,
33 but need not be limited to, arsenic and mercury.

34 b. (1) The Department of Environmental Protection shall conduct
35 an annual review to determine if there are a sufficient number of
36 laboratories certified to perform the short term 48-hour gross alpha
37 test to screen for the presence of radium that are able to provide
38 results at a reasonable cost within 10 days of a request for testing.
39 This review shall be based upon the projected number of transactions
40 for which the test is required. The department shall publish its findings
41 in the New Jersey Register.

42 For the purposes of section 3 of this act, if the department finds
43 that there are a sufficient number of laboratories to conduct the short
44 term 48-hour gross alpha test to screen for the presence of radium
45 only within a limited area in the State, as determined by the
46 department, and which laboratories are able to provide results at a

1 reasonable cost within 10 days of a request for testing, then the test
2 shall be required only within that limited area until such time as the
3 department finds that there are a sufficient number of laboratories to
4 provide service elsewhere in the State.

5 (2) The department shall establish, by rule or regulation adopted
6 pursuant to the "Administrative Procedure Act," a protocol for proper
7 conducting of the short term 48-hour gross alpha test to screen for the
8 presence of radium.

9 c. The Department of Environmental Protection, in consultation
10 with the Drinking Water Quality Institute and by rule or regulation
11 adopted pursuant to the "Administrative Procedure Act," may exclude
12 or limit by geographic area or geologic formation, or based upon well
13 record information, any parameter listed in section 3 of this act that
14 the department deems is not significant in a county or in any specific
15 area within a county and which need not be tested for as part of any
16 water test to be conducted in accordance with this act.

17 d. For each parameter to be tested for in accordance with this act,
18 the Department of Environmental Protection shall establish, by rule or
19 regulation adopted pursuant to the "Administrative Procedure Act," a
20 maximum time period for which a test result shall remain valid for the
21 purposes of section 2 of this act without necessitating retesting for
22 that parameter. A retest of the water supply shall not be required
23 pursuant to section 2 of this act if the contract of sale is entered into
24 within the period of test validity established pursuant to this
25 subsection. Notwithstanding any provision of this subsection to the
26 contrary, a buyer and seller subject to the provisions of section 2 of
27 this act may mutually agree to retest for a parameter even though the
28 maximum time period for test validity for that parameter established
29 pursuant to this subsection has not expired.²

30
31 5. ²[a. If the potability test results do not exceed the maximum
32 contaminant levels therefor in the State primary drinking water
33 regulations for groundwater adopted therefor pursuant to P.L.1977,
34 c.224 (C.58:12A-1 et seq.), the county health department, health
35 agency or designated health officer shall certify in writing that the
36 water supply for the dwelling unit satisfies the water quality standards
37 imposed in accordance with this act.

38 b. If the test results for any of the contaminants or for the pH level
39 exceed those imposed pursuant to subsection a. of this section, the
40 county health department, health agency or designated health officer
41 shall notify the owner, or the persons having ordered the laboratory
42 test if other than the owner, of the results for all of the parameters to
43 be tested for pursuant to section 3 of this act, and the maximum
44 permissible levels prescribed therefor. A copy of the notification shall
45 be provided to the Department of Environmental Protection.] a. Any
46 water test conducted in accordance with this act shall be conducted by

1 a laboratory certified by the Department of Environmental Protection
2 pursuant to subsection c. of section 4 of P.L.1977, c.224
3 (C.58:12A-4) to test for drinking water contaminants.

4 b. Any water test results provided by a laboratory to the person or
5 persons requesting the test shall include the maximum contaminant
6 levels or other established water quality standards, if any, prescribed
7 by the Department of Environmental Protection for each parameter
8 tested and shall be transmitted on a standardized private well water
9 test reporting form prescribed by the department. ³The form shall
10 provide information regarding remediation funding alternatives
11 available, and shall refer the buyer and seller of the real property in
12 question to the appropriate office or person within the Department of
13 Environmental Protection, or to the department's website, for further
14 information regarding such alternatives. ³

15 c. The laboratory, within five business days after completion of the
16 water test, shall also submit the water test results to the Department
17 of Environmental Protection together with the following information:

18 (1) A statement that the testing is for the purpose of complying
19 with the "Private Well Testing Act," P.L. , c. (C.) (now
20 before the Legislature as this bill);

21 (2) The location of the real property, described by block and lot
22 number, street address, municipality, and county;

23 (3) The name and mailing address of the person or persons making
24 the request for the test;

25 (4) The name of the employee or authorized representative of the
26 laboratory who collected the well sample;

27 (5) The date and time that the water sample was collected and the
28 specific point of collection;

29 (6) The date and time the sample was analyzed by the laboratory;
30 and

31 (7) Such other information as may be required by the Department
32 of Environmental Protection, in consultation, if deemed necessary or
33 appropriate by the department, with each county health department,
34 health agency, or designated health officer, as appropriate to each
35 county.

36 d. The Department of Environmental Protection may require
37 laboratories to submit electronically the information required pursuant
38 to subsection c. of this section.

39 e. A laboratory shall not release water test results to any person
40 except the buyer and seller of the real property at issue as provided
41 pursuant to section 2 of this act, the lessor of the real property as
42 provided pursuant to section 7 of this act, any person authorized by
43 the buyer, seller, or lessor, as the case may be, the Department of
44 Environmental Protection, or any person designated by court order.

45 f. The Department of Environmental Protection shall compile the
46 data accumulated from the water test results submitted by laboratories

1 pursuant to this section in a manner that shall be useful to the
2 department, counties, municipalities, or other governmental entities for
3 the purposes of studying groundwater supplies or contamination in the
4 State.²

5
6 6. ²[Certification of a water supply pursuant to subsection a. of
7 section 5 of this act shall be valid for six months from the date of issue
8 of the certification. No sale or other conveyance of title or lease of a
9 dwelling unit subject to the provisions of this act shall require
10 recertification of the water supply if a valid certification is in force for
11 the water supply of the dwelling unit on the contract date of the
12 conveyance or lease.] a. The Department of Environmental
13 Protection, within five business days after receiving any report of a
14 water test failure in accordance with this act, shall provide notice
15 thereof to the county health department, health agency, or designated
16 health officer, as appropriate to each county in which the private well
17 that failed the water test is located. The county health department,
18 health agency, or designated health officer, as appropriate to each
19 county, may issue a general notice to owners of real property served
20 by private wells located in the vicinity of the real property
21 experiencing the water test failure suggesting or recommending that
22 those property owners may wish to have their private wells tested for
23 at least the parameters at issue. The specific address or location of the
24 private well that failed a water test shall not be identified in the notice
25 or by any other means or in any other manner. The department shall
26 establish criteria for notification which may include, but shall not be
27 limited to, the level of exceedance recommended for notification, and
28 the distance or location of the properties in the vicinity of the
29 contaminated well for which testing is recommended. It shall be at the
30 sole discretion of the county health department, health agency, or
31 designated health officer, as appropriate to each county, whether or
32 not to issue such a notice and to whom and by what means it shall be
33 given.

34 b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et
35 seq.) or any other law to the contrary, water test results received by
36 the Department of Environmental Protection, a county health
37 department, health agency, or designated health officer, or any other
38 State or local governmental entity in compliance with or as authorized
39 by this act shall be confidential and shall not be open for public
40 examination, inspection, or copying, except that general compilations
41 of water test results data arranged or identified by county and
42 municipality or appropriate geographic areas therein, which do not
43 include specific address or location information, may be made available
44 to the public.²

45
46 7. ²[The governing body of a county may, by ordinance or
47 resolution, authorize the county health department, health agency or

1 designated health officer to charge and collect, in accordance with a
2 schedule set forth in the ordinance or resolution, fees sufficient to
3 recover the costs of administering the provisions of this act.] Within
4 18 months after the effective date of this section, and at least once
5 every five years thereafter, the lessor of any real property the potable
6 water supply for which is a private well for which testing of the water
7 is not required pursuant to any other State law, shall test that water
8 supply in the manner established pursuant to this act for at least the
9 parameters required pursuant to sections 3 and 4 of this act. Within
10 30 days after receipt of the test results, the lessor shall provide a
11 written copy thereof to each rental unit on the property. The lessor
12 shall also provide a written copy of the most recent test results to a
13 new lessee of a rental unit on the property.²

14

15 8. ²[a. Any person who sells or otherwise conveys a dwelling unit,
16 other than under a lease arrangement, in violation of the provisions of
17 this act shall be liable to:

18 (1) The buyer or other person to whom the conveyance is made for
19 the actual costs incurred by the acquiring party in bringing the water
20 supply into compliance with the requirements imposed pursuant to
21 subsection a. of section 5 of this act, in accordance with regulations
22 therefor adopted by the Department of Environmental Protection
23 pursuant to section 10 of this act, as well as for the costs of an
24 alternative water supply that may be required by the county health
25 department, health agency or designated health officer to be provided
26 to the affected dwelling unit or units until such time as the water
27 supply of the dwelling unit or units has been brought into compliance;
28 and

29 (2) A civil penalty of not less than \$500 nor more than \$1,000 for
30 the first offense, and not less than \$1,000 nor more than \$2,500 for a
31 second or subsequent offense occurring within a five-year period.

32 b. In the case of a lease agreement entered into in violation of the
33 provisions of this act, the lessee may void the lease agreement and the
34 lessor shall be subject to a civil penalty as prescribed in paragraph (2)
35 of subsection a. of this section; shall be required to bring the water
36 supply into compliance with this act within the applicable time period
37 prescribed in paragraph (2) or paragraph (3) of subsection a. of section
38 2 of this act; and shall be subject to the penalty provisions of
39 paragraph (2) of subsection a. of this section for failure to do so; and
40 may be required by the county health department, health agency or
41 designated health officer to provide an alternative water supply to the
42 affected dwelling unit or units until such time as the water supply is
43 brought into compliance.] The Department of Environmental
44 Protection, in consultation with county health departments, health
45 agencies, and designated health officers, shall establish a public
46 information and education program to inform the public and

1 appropriate professional disciplines of the enactment of this act and
2 the substance of its provisions and requirements, the potential health
3 effects of consuming water from a private well that does not meet
4 maximum contaminant levels and other established water quality
5 standards, the potential presence of radium in at least some potable
6 groundwater supplies in the State, the geographic areas in the State
7 subject to an actual or potential threat of danger from contaminated
8 groundwater, the importance of testing private wells regularly for
9 contaminants, and suggested water treatment techniques, equipment,
10 ³[and]³ strategies ³and public funding sources available³ for treating
11 water from private wells that have failed a water test conducted in
12 accordance with this act.

13 The department shall make available to the public a general
14 compilation of water test results data arranged or identified by county
15 and municipality or appropriate geographic areas therein, ³but³ which
16 does not include specific address or location information.²

17
18 9. ²[Nothing in this act shall be construed to limit the authority of
19 a county health department, health agency or designated health officer
20 from making or causing to be made such inspection and testing of a
21 water supply as may be necessary to assure the health and safety of the
22 residents of this State.] Nothing in this act shall be construed to limit
23 or preempt the authority of a county, county health department, health
24 agency, or designated health officer from making or causing to be
25 made such inspection and testing of a water supply as may be
26 necessary to ensure the health and safety of the residents of the State.²

27
28 10. ²[The Department of Environmental Protection shall adopt,
29 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), rules and regulations establishing remedial
31 measures that may be taken to bring a private well that is subject to
32 the provisions of sections 1 through 9 of this act into compliance.] Within five years after the date of enactment of this act, the
33 Department of Environmental Protection, in consultation with county
34 health departments, health agencies, and designated health officers,
35 shall prepare, and transmit to the Governor and Legislature, a report
36 on the implementation and operation of this act, which report shall
37 also describe the benefits and deficiencies realized as a result of the act
38 and include recommendations for any appropriate legislative action.
39 This report shall also be made available free of charge to the public.²

40
41
42 11. ²[Within nine months after the effective date of this act, the
43 Department of Environmental Protection shall adopt a Well Water
44 Test Reporting Form to be used by certified laboratories in reporting
45 the results of the tests they have conducted pursuant to this act.] The
46 Department of Environmental Protection shall hire, pursuant to Title

1 11A (Civil Service) of the New Jersey Statutes, a sufficient number of
2 new employees as may be deemed necessary by the department to
3 implement this act. ²

4
5 12. ²[There is appropriated from the General Fund to the
6 Department of Environmental Protection the sum of \$75,000 to
7 administer this act.] a. Notwithstanding any provision of section 11
8 of P.L.1983, c.443 (C.58:12A-21) or any other law to the contrary,
9 there is appropriated from the "Safe Drinking Water Fund,"
10 established pursuant to section 11 of P.L.1983, c.443 (C.58:12A-21),
11 to the Department of Environmental Protection the sum of \$1,000,000
12 to pay the initial costs of (1) implementing this act, including but not
13 limited to the costs of hiring any new employees needed to implement
14 this act and of establishing and administering the data base required by
15 this act, and (2) providing grants to county health departments, health
16 agencies, and designated health officers to pay for any costs incurred
17 by those entities resulting from implementation of this act.

18 b. For each State fiscal year after the State fiscal year in which this
19 act is enacted, the Commissioner of Environmental Protection shall
20 include in the annual budget request of the Department of
21 Environmental Protection submitted for the annual appropriations act
22 a sufficient sum to meet the costs, as set forth in subsection a. of this
23 section and in section 11 of this act, for the particular State fiscal
24 year. ²

25
26 13. This act shall take effect ²[on the 180th day following
27 enactment] immediately except that sections 2 and 7 shall take effect
28 on the 540th day following the date of enactment of this act ².

SENATE, No. 635

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator JOHN H. ADLER

District 6 (Camden)

Co-Sponsored by:

Senators Codey, Vitale, Allen, Bark and Bennett

SYNOPSIS

Requires testing of potable water supplied to dwelling units from private wells; appropriates \$75,000.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 9/15/2000)

1 AN ACT concerning the testing of certain private wells providing
2 potable water, supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.) and P.L.1977, c.224 (C.58:12A-1 et seq.) and providing an
4 appropriation therefor.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. This act shall be known and may be cited as the "Private Well
10 Testing Act."

11

12 2. a. (1) No person may sell or otherwise convey a dwelling unit
13 if the supply of water for human consumption provided to the dwelling
14 unit is a private well that is not a public water system pursuant to
15 P.L.1977, c.224 (C.58:12A-1 et seq.), unless a certificate of water
16 quality issued in accordance with section 5 of this act is in force on the
17 contract date of the conveyance, except as otherwise provided in this
18 section.

19 (2) Any person leasing for a lease term of one year or longer a
20 dwelling unit for which the supply of water for human consumption is
21 a private well that is not a public water system pursuant to P.L.1977,
22 c.224 (C.58:12A-1 et seq.) shall have the supply of water tested once
23 each year for bacteria and nitrates in accordance with the parameters
24 established pursuant to section 3 of this act, and shall have the supply
25 of water tested once every five years for volatile organic chemicals,
26 mercury and radium in accordance with the parameters established
27 pursuant to section 3 of this act. The same testing requirements shall
28 apply to dwelling units in a multiple-unit building if the supply of
29 water for human consumption for the building is a private well that is
30 not a public water system pursuant to P.L.1977, c.224 (C.58:12A-1 et
31 seq.). No person leasing a dwelling unit for which the supply of water
32 for human consumption is a private well that is not a public water
33 system pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.) for a period
34 of time or lease term that is less than one year shall be required to have
35 the supply of water for the dwelling unit tested pursuant to this act.

36 (3) A person may convey a one dwelling unit structure subject to
37 the provisions of this act notwithstanding that the water supply to the
38 dwelling unit fails to satisfy the water quality standards imposed
39 pursuant to subsection a. of section 5 of this act if the person
40 conveying the unit and the person acquiring title or other interest in
41 the dwelling unit agree in writing that the water supply shall be
42 brought into compliance by one or the other party as a contingency
43 provision between the person conveying the unit and the person
44 acquiring title in the contract of sale. Upon the date of the closing of
45 title, the person who has agreed to be responsible for bringing the
46 water supply into compliance pursuant to the contract of sale shall file

1 a written agreement with the county health department or, in the case
2 of a county without a health department, the county health agency, or
3 designated health officer. The written agreement shall identify the
4 person filing the agreement as the person responsible for bringing the
5 water supply into compliance and shall provide that the person filing
6 the agreement shall bring the water supply into compliance within 60
7 days after the closing of title date. The person who files a written
8 agreement pursuant to this subsection shall be subject to the civil
9 penalty provisions of paragraph (2) of subsection a. of section 8 of this
10 act, if the person fails to bring the water supply into compliance with
11 the water quality standards imposed pursuant to subsection a. of
12 section 5 of this act, or to secure a complying alternative water source,
13 other than bottled water, within 60 days after the closing of title date,
14 or within such additional time as may be authorized by the county
15 health department, health agency or designated health officer, as the
16 case may be, which time period in the aggregate shall not exceed
17 120 days.

18 (4) The provisions of this act shall not apply to a conveyance by
19 foreclosure proceedings, a judicial or arbitration award, or devise or
20 gift. Any such conveyance shall, however, be reported to the county
21 health department, health agency or designated health officer within
22 30 days after the date of conveyance of the dwelling unit, which notice
23 shall also state that a testing of the water supply for the dwelling unit
24 pursuant to section 3 of this act has been requested, and shall provide
25 the date that the test was requested and the name and address of the
26 certified laboratory that is to conduct the test. The test results,
27 performed in accordance with section 3 of this act and providing the
28 results for the parameters specified in that section, shall be provided
29 to the county health department, health agency or designated health
30 officer. If the test results exceed the water quality standards imposed
31 pursuant to subsection a. of section 5 of this act, notice thereof shall
32 be provided in accordance with subsection b. of section 5 of this act
33 and the water supply shall be brought into compliance with this act, or
34 an alternative water supply provided therefor, within 60 days after
35 receipt of notification pursuant to section b. of section 5 of this act, or
36 within such additional time as may be authorized by the county health
37 department, health agency or designated health officer, which time
38 period in the aggregate shall not exceed 120 days. Any person failing
39 to comply with the provisions of this subsection shall be subject to the
40 civil penalty and any other applicable provisions of section 8 of this
41 act.

42 The renewal or extension of a lease agreement to an existing lessee
43 shall not be considered a conveyance for the purposes of this act.

44 b. No person may draw potable water from a new private water
45 well unless a certificate of water quality issued in accordance with
46 section 5 of this act is in force. As used in this act, a "new private

1 water well" means a private water well drilled after the effective date
2 of this act.

3
4 3. a. A laboratory certified to test for drinking water contaminants
5 by the Department of Environmental Protection pursuant to subsection
6 c. of section 4 of P.L.1977, c.224 (C.58:12A-4) shall conduct the
7 water testing required pursuant to the provisions of this act. Sampling
8 and testing shall conform to the maximum extent practicable, with
9 such procedures and other requirements as may be adopted by the
10 Department of Environmental Protection.

11 b. All water quality testing shall be for the following parameters:
12 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
13 organic chemicals, mercury and radium. In addition, the department
14 shall develop, in consultation with each county health department,
15 health agency or designated health officer, a list of additional
16 parameters the department determines to be significant in the county
17 that shall be subject to testing.

18
19 4. The certified laboratory shall submit to the county health
20 department, health agency or designated health officer the results of
21 its analysis with the following information:

22 a. The lot number and block number of the property on which the
23 dwelling unit is located and that on which the well is located, if other
24 than the location of the dwelling unit;

25 b. A statement that the testing is for the purpose of complying with
26 the "Private Well Testing Act," P.L. , c. (C.) (before the
27 Legislature as this bill);

28 c. The names and mailing addresses of all persons owning the
29 property on which the well is located and of those owning the property
30 on which the dwelling unit is located, if the dwelling unit and well are
31 located on different property;

32 d. The name of the employee or authorized representative of the
33 laboratory who collected the well sample;

34 e. The date and time that the well sample was collected and the
35 specific point of collection;

36 f. The date and time the sample was analyzed by the laboratory;
37 and

38 g. Such other information as the county health department, health
39 agency or designated health officer may require.

40
41 5. a. If the potability test results do not exceed the maximum
42 contaminant levels therefor in the State primary drinking water
43 regulations for groundwater adopted therefor pursuant to P.L.1977,
44 c.224 (C.58:12A-1 et seq.), the county health department, health
45 agency or designated health officer shall certify in writing that the
46 water supply for the dwelling unit satisfies the water quality standards

1 imposed in accordance with this act.

2 b. If the test results for any of the contaminants or for the pH level
3 exceed those imposed pursuant to subsection a. of this section, the
4 county health department, health agency or designated health officer
5 shall notify the owner, or the persons having ordered the laboratory
6 test if other than the owner, of the results for all of the parameters to
7 be tested for pursuant to section 3 of this act, and the maximum
8 permissible levels prescribed therefor. A copy of the notification shall
9 be provided to the Department of Environmental Protection.

10

11 6. Certification of a water supply pursuant to subsection a. of
12 section 5 of this act shall be valid for six months from the date of issue
13 of the certification. No sale or other conveyance of title or lease of a
14 dwelling unit subject to the provisions of this act shall require
15 recertification of the water supply if a valid certification is in force for
16 the water supply of the dwelling unit on the contract date of the
17 conveyance or lease.

18

19 7. The governing body of a county may, by ordinance or
20 resolution, authorize the county health department, health agency or
21 designated health officer to charge and collect, in accordance with a
22 schedule set forth in the ordinance or resolution, fees sufficient to
23 recover the costs of administering the provisions of this act.

24

25 8. a. Any person who sells or otherwise conveys a dwelling unit,
26 other than under a lease arrangement, in violation of the provisions of
27 this act shall be liable to:

28 (1) The buyer or other person to whom the conveyance is made for
29 the actual costs incurred by the acquiring party in bringing the water
30 supply into compliance with the requirements imposed pursuant to
31 subsection a. of section 5 of this act, in accordance with regulations
32 therefor adopted by the Department of Environmental Protection
33 pursuant to section 10 of this act, as well as for the costs of an
34 alternative water supply that may be required by the county health
35 department, health agency or designated health officer to be provided
36 to the affected dwelling unit or units until such time as the water
37 supply of the dwelling unit or units has been brought into compliance;
38 and

39 (2) A civil penalty of not less than \$500 nor more than \$1,000 for
40 the first offense, and not less than \$1,000 nor more than \$2,500 for a
41 second or subsequent offense occurring within a five-year period.

42 b. In the case of a lease agreement entered into in violation of the
43 provisions of this act, the lessee may void the lease agreement and the
44 lessor shall be subject to a civil penalty as prescribed in paragraph (2)
45 of subsection a. of this section; shall be required to bring the water
46 supply into compliance with this act within the applicable time period

1 prescribed in paragraph (2) or paragraph (3) of subsection a. of section
2 2 of this act; and shall be subject to the penalty provisions of
3 paragraph (2) of subsection a. of this section for failure to do so; and
4 may be required by the county health department, health agency or
5 designated health officer to provide an alternative water supply to the
6 affected dwelling unit or units until such time as the water supply is
7 brought into compliance.

8
9 9. Nothing in this act shall be construed to limit the authority of a
10 county health department, health agency or designated health officer
11 from making or causing to be made such inspection and testing of a
12 water supply as may be necessary to assure the health and safety of the
13 residents of this State.

14
15 10. The Department of Environmental Protection shall adopt,
16 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
17 (C.52:14B-1 et seq.), rules and regulations establishing remedial
18 measures that may be taken to bring a private well that is subject to
19 the provisions of sections 1 through 9 of this act into compliance.

20
21 11. Within nine months after the effective date of this act, the
22 Department of Environmental Protection shall adopt a Well Water
23 Test Reporting Form to be used by certified laboratories in reporting
24 the results of the tests they have conducted pursuant to this act.

25
26 12. There is appropriated from the General Fund to the
27 Department of Environmental Protection the sum of \$75,000 to
28 administer this act.

29
30 13. This act shall take effect on the 180th day following enactment.

31
32
33 STATEMENT

34
35 This bill would require certain water quality tests for dwelling units
36 for which the potable water supply is a private well that is not a public
37 water system. This bill would require a water quality test to be
38 performed on potable water supplied to a dwelling unit from a private
39 well that is not a public water system before any sale or other
40 conveyance of a dwelling unit, and before water is drawn from a new
41 well, except as otherwise provided. No test would be required for the
42 potable water supplied to a dwelling unit being leased for less than one
43 year. The potable water supply for dwelling units being leased for a
44 lease term of one year or longer must be annually tested for bacteria
45 and nitrates, and every five years for volatile organic chemicals,
46 mercury and radium. A provisional exception is also made for

1 conveyances by foreclosure proceedings, a judicial or arbitration
2 award, or devise or gift.

3 The testing is to be done by a laboratory certified by the
4 Department of Environmental Protection and the test results shall be
5 submitted to the county health department, county health agency or
6 designated health officer. Except in the cases of conveyances of a
7 structure with only one dwelling unit, or by foreclosures, judicial or
8 arbitration award, or devise or gift, the water supply of a dwelling unit
9 subject to the provisions of this bill would be required to be brought
10 into compliance with the water quality standards mandated or adopted
11 under the bill before conveyance of the dwelling unit. Certain
12 exceptions to this requirement are provided for certain conveyances or
13 transfers, including the conveyance of one dwelling unit structures, but
14 these conveyances shall bring the water supply into compliance with
15 the act within 60 or 120 days after the closing of title date, as the case
16 may be.

17 All water quality testing shall be for the following parameters:
18 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
19 organic chemicals, mercury and radium. In addition, the department
20 shall develop, in consultation with each county health agency, a list of
21 additional parameters the department determines to be significant in
22 the county that shall be subject to testing.

23 The bill would provide an appropriation of \$75,000 to the
24 Department of Environmental Protection to administer the act.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 635**

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2000

The Senate Environment Committee favorably reports a committee substitute for Senate Bill No. 635.

This committee substitute would require that every contract of sale for real property that is served by a water supply that is not subject to testing under State law, include a provision requiring the testing of the water supply. The committee substitute would require that the buyer and the seller receive and review the test results prior to closing. The committee substitute would also require that every five years the lessor of any real property the potable water supply for which is a private well for which testing is not required by any State law, test the water supply and provide those results to every rental unit. In addition, a lessor would be required to provide the most recent test results to a new lessee of a rental unit on the property.

The testing is to be done by a laboratory certified by the Department of Environmental Protection and the test results shall be submitted to the department and the person requesting the test. All water quality testing shall be for the following parameters: bacteria (total coliform), nitrates, iron, manganese, pH, lead, and all volatile organic compounds for which maximum contaminant levels have been established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.). In addition, the water test shall include a short term 48-hour gross alpha test to screen for the presence of radium, provided that the Department of Environmental Protection has made a finding that there are a sufficient number of laboratories certified to perform the test. If the department finds that there are a sufficient number of laboratories to conduct a short term 48-hour gross alpha test to screen for the presence of radium only within a limited area in the State, then the test shall be required only within that limited area until such time as the department finds that there are a sufficient number of laboratories to provide service elsewhere in the State.

The committee substitute would also authorize the department, in consultation with the Drinking Water Quality Institute, by rule or regulation, to require testing for additional parameters that are deemed significant in a county or specific geographic area or geologic formation within a county, and to exclude any parameter that the

department deems is not significant in a county or specific geographic area or geologic formation within a county. The department would also be required to establish a maximum time period for which a test result would be valid.

The department would be required to compile the data accumulated from the water test results in a manner that is useful to the department, counties, municipalities or other governmental agencies for the purpose of studying groundwater supplies or contamination in the State. The department would be further required to provide a notice, within five business days after receiving a report of a water test failure, to the county health department, health agency, or designated health officer, as appropriate to each county in which the private well that failed the water test is located. The county health department, health agency, or designated health officer, as appropriate to each county, may issue a general notice to owners of real property served by private wells located in the vicinity of the real property experiencing the water test failure suggesting or recommending that those property owners may wish to have their private wells tested for at least the parameters at issue. The specific address or location of the private well that failed a water test shall not be identified in the notice or by any other means or in any other manner. The committee substitute also requires the department to establish criteria for notification which may include, but shall not be limited to, the level of exceedance recommended for notification, and the distance or location of the properties in the vicinity of the contaminated well for which testing is recommended.

The committee substitute would require the department, in consultation with county health departments, to develop a public information and education program to inform the public of the requirements established under the act, and the potential health effects of consuming water from a private well that does not meet water quality standards, the importance of testing, and suggested water treatment techniques, equipment, and strategies for treating water from private wells that have failed a well test. The department must make available to the public a general compilation of water test results data. However, water test results received by the DEP or any county health department, health agency, or designated health officer, or any other State or local government entity shall be confidential and shall not be open for public examination, inspection or copying under current law or any other public disclosure or access law.

The committee substitute would not preempt the authority of any county, county health department, health agency, or designated health officer from making or causing to be made any inspection and testing of a water supply. Finally, the committee substitute would require the department to prepare a report on the implementation and operation of the act which would also describe the benefits and deficiencies realized as a result of the act. The committee substitute would make an appropriation of \$1 million from the "Safe Drinking Water Fund"

to the department to pay, in the first State fiscal year, the costs of implementation of the act and to provide grants to county health departments, health agencies and designated health officers for any costs incurred resulting from the implementation of the act.

The committee substitute is identical to Assembly Bill No. 1306(1R) as amended by the committee.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 635

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED DECEMBER 4, 2000

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator JOHN H. ADLER

District 6 (Camden)

Co-Sponsored by:

Senators McNamara, Codey, Vitale, Allen, Bark and Bennett

SYNOPSIS

The "Private Well Testing Act"; appropriates \$1 million from Safe Drinking Water Fund.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Environment Committee.



1 AN ACT concerning the testing of water from private wells,
2 supplementing Title 58 of the Revised Statutes, and making an
3 appropriation.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Private Well
9 Testing Act."

10
11 2. a. Every contract of sale of (1) real property the potable water
12 supply for which is a private well located on the property, or (2) any
13 other real property the potable water supply for which is a well that
14 has less than 15 service connections or that does not regularly serve
15 an average of at least 25 individuals daily at least 60 days out of the
16 year, shall include a provision requiring, as a condition of the sale, the
17 testing of that water supply for at least the parameters prescribed
18 pursuant to sections 3 and 4 of this act.

19 b. Closing of title on the sale of the real property shall not occur
20 unless both the buyer and the seller have received and reviewed a copy
21 of the water test results. At closing, the buyer and seller both shall
22 certify in writing that they have received and reviewed the water test
23 results.

24
25 3. Every water test conducted in accordance with this act shall
26 include a test for at least the following parameters: bacteria (total
27 coliform); nitrates; iron; manganese; pH; all volatile organic
28 compounds for which maximum contaminant levels have been
29 established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.); and
30 lead.

31 In addition, the water test shall include a short term 48-hour gross
32 alpha test to screen for the presence of radium, provided that the
33 Department of Environmental Protection has made a finding pursuant
34 to subsection b. of section 4 of this act that there are a sufficient
35 number of laboratories certified to perform the test.

36
37 4. a. The Department of Environmental Protection, in
38 consultation with the Drinking Water Quality Institute, established
39 pursuant to section 10 of P.L.1983, c.443 (C.58:12A-20), shall
40 develop, by rule or regulation adopted pursuant to the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a list of
42 additional parameters which the department deems significant in each
43 county or in any specific area within a county and which shall be tested
44 for as part of any water test to be conducted in accordance with this
45 act. These additional parameters may include, but need not be limited
46 to, arsenic and mercury.

1 b. (1) The Department of Environmental Protection shall conduct
2 an annual review to determine if there are a sufficient number of
3 laboratories certified to perform the short term 48-hour gross alpha
4 test to screen for the presence of radium that are able to provide
5 results at a reasonable cost within 10 days of a request for testing.
6 This review shall be based upon the projected number of transactions
7 for which the test is required. The department shall publish its findings
8 in the New Jersey Register.

9 For the purposes of section 3 of this act, if the department finds
10 that there are a sufficient number of laboratories to conduct the short
11 term 48-hour gross alpha test to screen for the presence of radium
12 only within a limited area in the State, as determined by the
13 department, and which laboratories are able to provide results at a
14 reasonable cost within 10 days of a request for testing, then the test
15 shall be required only within that limited area until such time as the
16 department finds that there are a sufficient number of laboratories to
17 provide service elsewhere in the State.

18 (2) The department shall establish, by rule or regulation adopted
19 pursuant to the "Administrative Procedure Act," a protocol for proper
20 conducting of the short term 48-hour gross alpha test to screen for the
21 presence of radium.

22 c. The Department of Environmental Protection, in consultation
23 with the Drinking Water Quality Institute and by rule or regulation
24 adopted pursuant to the "Administrative Procedure Act," may exclude
25 or limit by geographic area or geologic formation, or based upon well
26 record information, any parameter listed in section 3 of this act that
27 the department deems is not significant in a county or in any specific
28 area within a county and which need not be tested for as part of any
29 water test to be conducted in accordance with this act.

30 d. For each parameter to be tested for in accordance with this act,
31 the Department of Environmental Protection shall establish, by rule or
32 regulation adopted pursuant to the "Administrative Procedure Act," a
33 maximum time period for which a test result shall remain valid for the
34 purposes of section 2 of this act without necessitating retesting for
35 that parameter. A retest of the water supply shall not be required
36 pursuant to section 2 of this act if the contract of sale is entered into
37 within the period of test validity established pursuant to this
38 subsection. Notwithstanding any provision of this subsection to the
39 contrary, a buyer and seller subject to the provisions of section 2 of
40 this act may mutually agree to retest for a parameter even though the
41 maximum time period for test validity for that parameter established
42 pursuant to this subsection has not expired.

43
44 5. a. Any water test conducted in accordance with this act shall
45 be conducted by a laboratory certified by the Department of
46 Environmental Protection pursuant to subsection c. of section 4 of

1 P.L.1977, c.224 (C.58:12A-4) to test for drinking water contaminants.

2 b. Any water test results provided by a laboratory to the person or
3 persons requesting the test shall include the maximum contaminant
4 levels or other established water quality standards, if any, prescribed
5 by the Department of Environmental Protection for each parameter
6 tested and shall be transmitted on a standardized private well water
7 test reporting form prescribed by the department.

8 c. The laboratory, within five business days after completion of the
9 water test, shall also submit the water test results to the Department
10 of Environmental Protection together with the following information:

11 (1) A statement that the testing is for the purpose of complying
12 with the "Private Well Testing Act," P.L. , c. (C.) (now
13 before the Legislature as this bill);

14 (2) The location of the real property, described by block and lot
15 number, street address, municipality, and county;

16 (3) The name and mailing address of the person or persons making
17 the request for the test;

18 (4) The name of the employee or authorized representative of the
19 laboratory who collected the well sample;

20 (5) The date and time that the water sample was collected and the
21 specific point of collection;

22 (6) The date and time the sample was analyzed by the laboratory;
23 and

24 (7) Such other information as may be required by the Department
25 of Environmental Protection, in consultation, if deemed necessary or
26 appropriate by the department, with each county health department,
27 health agency, or designated health officer, as appropriate to each
28 county.

29 d. The Department of Environmental Protection may require
30 laboratories to submit electronically the information required pursuant
31 to subsection c. of this section.

32 e. A laboratory shall not release water test results to any person
33 except the buyer and seller of the real property at issue as provided
34 pursuant to section 2 of this act, the lessor of the real property as
35 provided pursuant to section 7 of this act, any person authorized by
36 the buyer, seller, or lessor, as the case may be, the Department of
37 Environmental Protection, or any person designated by court order.

38 f. The Department of Environmental Protection shall compile the
39 data accumulated from the water test results submitted by laboratories
40 pursuant to this section in a manner that shall be useful to the
41 department, counties, municipalities, or other governmental entities for
42 the purposes of studying groundwater supplies or contamination in the
43 State.

44

45 6. a. The Department of Environmental Protection, within five
46 business days after receiving any report of a water test failure in

1 accordance with this act, shall provide notice thereof to the county
2 health department, health agency, or designated health officer, as
3 appropriate to each county in which the private well that failed the
4 water test is located. The county health department, health agency, or
5 designated health officer, as appropriate to each county, may issue a
6 general notice to owners of real property served by private wells
7 located in the vicinity of the real property experiencing the water test
8 failure suggesting or recommending that those property owners may
9 wish to have their private wells tested for at least the parameters at
10 issue. The specific address or location of the private well that failed
11 a water test shall not be identified in the notice or by any other means
12 or in any other manner. The department shall establish criteria for
13 notification which may include, but shall not be limited to, the level of
14 exceedance recommended for notification, and the distance or location
15 of the properties in the vicinity of the contaminated well for which
16 testing is recommended. It shall be at the sole discretion of the county
17 health department, health agency, or designated health officer, as
18 appropriate to each county, whether or not to issue such a notice and
19 to whom and by what means it shall be given.

20 b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1
21 et seq.) or any other law to the contrary, water test results received by
22 the Department of Environmental Protection, a county health
23 department, health agency, or designated health officer, or any other
24 State or local governmental entity in compliance with or as authorized
25 by this act shall be confidential and shall not be open for public
26 examination, inspection, or copying, except that general compilations
27 of water test results data arranged or identified by county and
28 municipality or appropriate geographic areas therein, which do not
29 include specific address or location information, may be made available
30 to the public.

31

32 7. Within 18 months after the effective date of this section, and at
33 least once every five years thereafter, the lessor of any real property
34 the potable water supply for which is a private well for which testing
35 of the water is not required pursuant to any other State law, shall test
36 that water supply in the manner established pursuant to this act for at
37 least the parameters required pursuant to sections 3 and 4 of this act.
38 Within 30 days after receipt of the test results, the lessor shall provide
39 a written copy thereof to each rental unit on the property. The lessor
40 shall also provide a written copy of the most recent test results to a
41 new lessee of a rental unit on the property.

42

43 8. The Department of Environmental Protection, in consultation
44 with county health departments, health agencies, and designated health
45 officers, shall establish a public information and education program to
46 inform the public and appropriate professional disciplines of the

1 enactment of this act and the substance of its provisions and
2 requirements, the potential health effects of consuming water from a
3 private well that does not meet maximum contaminant levels and other
4 established water quality standards, the potential presence of radium
5 in at least some potable groundwater supplies in the State, the
6 geographic areas in the State subject to an actual or potential threat of
7 danger from contaminated groundwater, the importance of testing
8 private wells regularly for contaminants, and suggested water
9 treatment techniques, equipment, and strategies for treating water
10 from private wells that have failed a water test conducted in
11 accordance with this act.

12 The department shall make available to the public a general
13 compilation of water test results data arranged or identified by county
14 and municipality or appropriate geographic areas therein, but which
15 does not include specific address or location information.

16

17 9. Nothing in this act shall be construed to limit or preempt the
18 authority of a county, county health department, health agency, or
19 designated health officer from making or causing to be made such
20 inspection and testing of a water supply as may be necessary to ensure
21 the health and safety of the residents of the State.

22

23 10. Within five years after the date of enactment of this act, the
24 Department of Environmental Protection, in consultation with county
25 health departments, health agencies, and designated health officers,
26 shall prepare, and transmit to the Governor and Legislature, a report
27 on the implementation and operation of this act, which report shall
28 also describe the benefits and deficiencies realized as a result of the act
29 and include recommendations for any appropriate legislative action.
30 This report shall also be made available free of charge to the public.

31

32 11. The Department of Environmental Protection shall hire,
33 pursuant to Title 11A (Civil Service) of the New Jersey Statutes, a
34 sufficient number of new employees as may be deemed necessary by
35 the department to implement this act.

36

37 12. a. Notwithstanding any provision of section 11 of P.L.1983,
38 c.443 (C.58:12A-21) or any other law to the contrary, there is
39 appropriated from the "Safe Drinking Water Fund," established
40 pursuant to section 11 of P.L.1983, c.443 (C.58:12A-21), to the
41 Department of Environmental Protection the sum of \$1,000,000 to pay
42 the initial costs of (1) implementing this act, including but not limited
43 to the costs of hiring any new employees needed to implement this act
44 and of establishing and administering the data base required by this
45 act, and (2) providing grants to county health departments, health
46 agencies, and designated health officers to pay for any costs incurred

1 by those entities resulting from implementation of this act.

2 b. For each State fiscal year after the State fiscal year in which this
3 act is enacted, the Commissioner of Environmental Protection shall
4 include in the annual budget request of the Department of
5 Environmental Protection submitted for the annual appropriations act
6 a sufficient sum to meet the costs, as set forth in subsection a. of this
7 section and in section 11 of this act, for the particular State fiscal year.

8

9 13. This act shall take effect immediately except that sections 2
10 and 7 shall take effect on the 540th day following the date of
11 enactment of this act.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 635

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2000

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 635 (SCS).

This substitute bill mandates the testing, on certain occasions, of potable water that is supplied from private wells.

Testing requirements. The bill requires that every contract of sale for real property served by a water supply from

- < (1) a private well located on the property, or
- < (2) a well with less than 15 service connections or that does not regularly serve an average of at least 25 individuals daily at least 60 days annually

must include a provision requiring, as a condition of the sale, that the water supply be tested. (A water supply that has 15 or more service connections, or that regularly serves an average of at least 25 individuals daily at least 60 days annually, constitutes a "public water system" under existing State law, P.L.1977, c.224 (N.J.S.A.58:12A-1 et seq.), and as such is already subject to a water testing requirement.) The bill requires that the buyer and the seller receive and review the test results prior to closing, and that at closing, both parties certify to such receipt and review. It also requires that every five years, the lessor of any real property, the potable water supply for which is a private well for which testing is not required by any State law, shall test the water supply and provide those results to every rental unit. In addition, a lessor would be required to provide the most recent test results to a new lessee of a rental unit on the property.

Test performance and parameters. The testing is to be done by a laboratory certified by the Department of Environmental Protection (DEP), and the test results shall be submitted to the department and the person requesting the test. All water quality testing shall be for the following parameters: bacteria (total coliform), nitrates, iron, manganese, pH, lead, and all volatile organic compounds for which maximum contaminant levels have been established under P.L.1977, c.224. In addition, the water test shall include a short term 48-hour gross alpha test to screen for the presence of radium, provided that the DEP has made a finding that there are a sufficient number of

laboratories certified to perform the test. If the department finds that there are a sufficient number of laboratories to conduct a short term 48-hour gross alpha test to screen for the presence of radium only within a limited area in the State, then the test shall be required only within that limited area until such time as the department finds that there are a sufficient number of laboratories to provide service elsewhere in the State.

The bill also authorizes the DEP, in consultation with the Drinking Water Quality Institute, by rule or regulation, to require testing for additional parameters that are deemed significant in a county or specific geographic area or geologic formation within a county, and to exclude any parameter that the department deems is not significant in a county or specific geographic area or geologic formation within a county. The department is also required to establish a maximum time period for which a test result would be valid.

Data base compilation. The bill requires the DEP to compile the data accumulated from the water test results in a manner that is useful to the department, counties, municipalities or other governmental agencies for the purpose of studying groundwater supplies or contamination in the State. The DEP is further required to provide a notice, within five business days after receiving a report of a water test failure, to the county health department, health agency, or designated health officer, as appropriate to each county in which the private well that failed the water test is located. The county health department, health agency, or designated health officer, as appropriate to each county, may issue a general notice to owners of real property served by private wells located in the vicinity of the real property experiencing the water test failure suggesting or recommending that those property owners may wish to have their private wells tested for at least the parameters at issue. The specific address or location of the private well that failed a water test shall not be identified in the notice or by any other means or in any other manner. The bill also requires the DEP to establish criteria for notification which may include, but shall not be limited to, the level of exceedance recommended for notification, and the distance or location of the properties in the vicinity of the contaminated well for which testing is recommended.

Public information program. The bill directs the DEP, in consultation with county health departments, to develop a public information and education program to inform the public of the requirements established under the act, and the potential health effects of consuming water from a private well that does not meet water quality standards, the importance of testing, and suggested water treatment techniques, equipment, and strategies for treating water from private wells that have failed a well test. The department must make available to the public a general compilation of water test results data. However, water test results received by the DEP or any county health department, health agency, or designated health officer, or any other State or local government entity shall be confidential and shall

not be open for public examination, inspection or copying under current law or any other public disclosure or access law.

Miscellaneous. The bill would not preempt the authority of any county, county health department, health agency, or designated health officer from making or causing to be made any inspection and testing of a water supply. Finally, the bill requires the DEP to prepare a report on the implementation and operation of the legislation that describes the benefits and deficiencies realized as a result.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 1306 (2R) Sca, which the committee also reports this day.

COMMITTEE AMENDMENTS

Committee amendments to the bill provide for inclusion, in the standardized form to be used in reporting results to those who have requested water tests under the legislation, of information regarding remediation funding alternatives.

FISCAL IMPACT

This bill appropriates \$1 million from the "Safe Drinking Water Fund" to the department to pay, in the first State fiscal year, the costs of implementation of the act and to provide grants to county health departments, health agencies and designated health officers for any costs incurred resulting from the implementation of the act.

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 635

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED DECEMBER 4, 2000

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator JOHN H. ADLER

District 6 (Camden)

Co-Sponsored by:

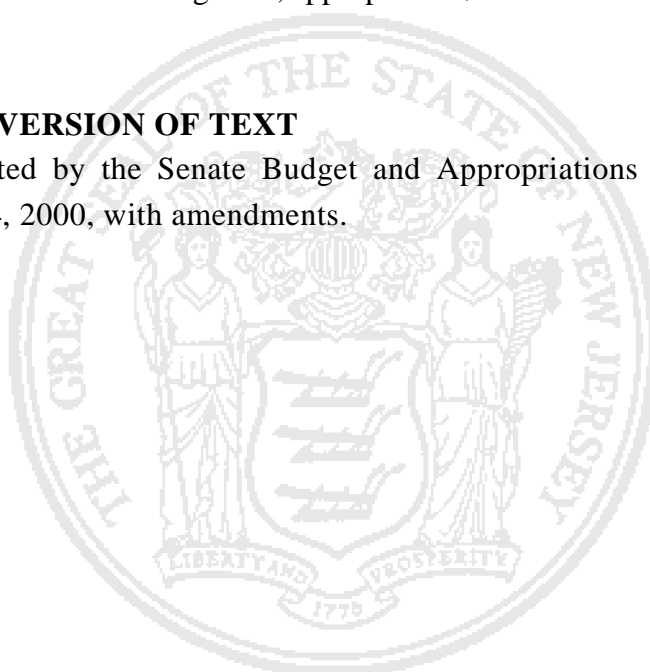
**Senators McNamara, Codey, Vitale, Allen, Bark, Bennett, Robertson,
Inverso, Cafiero, Sinagra, Singer, Kosco, Bucco and Zane**

SYNOPSIS

The "Private Well Testing Act"; appropriates \$1 million from Safe Drinking Water Fund.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 14, 2000, with amendments.



(Sponsorship Updated As Of: 3/16/2001)

1 **AN ACT** concerning the testing of water from private wells,
2 supplementing Title 58 of the Revised Statutes, and making an
3 appropriation.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. This act shall be known and may be cited as the "Private Well
9 Testing Act."

10

11 2. a. Every contract of sale of (1) real property the potable water
12 supply for which is a private well located on the property, or (2) any
13 other real property the potable water supply for which is a well that
14 has less than 15 service connections or that does not regularly serve
15 an average of at least 25 individuals daily at least 60 days out of the
16 year, shall include a provision requiring, as a condition of the sale, the
17 testing of that water supply for at least the parameters prescribed
18 pursuant to sections 3 and 4 of this act.

19

20 b. Closing of title on the sale of the real property shall not occur
21 unless both the buyer and the seller have received and reviewed a copy
22 of the water test results. At closing, the buyer and seller both shall
23 certify in writing that they have received and reviewed the water test
24 results.

24

25 3. Every water test conducted in accordance with this act shall
26 include a test for at least the following parameters: bacteria (total
27 coliform); nitrates; iron; manganese; pH; all volatile organic
28 compounds for which maximum contaminant levels have been
29 established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.); and
30 lead.

31

32 In addition, the water test shall include a short term 48-hour gross
33 alpha test to screen for the presence of radium, provided that the
34 Department of Environmental Protection has made a finding pursuant
35 to subsection b. of section 4 of this act that there are a sufficient
36 number of laboratories certified to perform the test.

36

37 4. a. The Department of Environmental Protection, in
38 consultation with the Drinking Water Quality Institute, established
39 pursuant to section 10 of P.L.1983, c.443 (C.58:12A-20), shall
40 develop, by rule or regulation adopted pursuant to the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a list of
42 additional parameters which the department deems significant in each

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted December 14, 2000.

1 county or in any specific area within a county and which shall be tested
2 for as part of any water test to be conducted in accordance with this
3 act. These additional parameters may include, but need not be limited
4 to, arsenic and mercury.

5 b. (1) The Department of Environmental Protection shall conduct
6 an annual review to determine if there are a sufficient number of
7 laboratories certified to perform the short term 48-hour gross alpha
8 test to screen for the presence of radium that are able to provide
9 results at a reasonable cost within 10 days of a request for testing.
10 This review shall be based upon the projected number of transactions
11 for which the test is required. The department shall publish its findings
12 in the New Jersey Register.

13 For the purposes of section 3 of this act, if the department finds
14 that there are a sufficient number of laboratories to conduct the short
15 term 48-hour gross alpha test to screen for the presence of radium
16 only within a limited area in the State, as determined by the
17 department, and which laboratories are able to provide results at a
18 reasonable cost within 10 days of a request for testing, then the test
19 shall be required only within that limited area until such time as the
20 department finds that there are a sufficient number of laboratories to
21 provide service elsewhere in the State.

22 (2) The department shall establish, by rule or regulation adopted
23 pursuant to the "Administrative Procedure Act," a protocol for proper
24 conducting of the short term 48-hour gross alpha test to screen for the
25 presence of radium.

26 c. The Department of Environmental Protection, in consultation
27 with the Drinking Water Quality Institute and by rule or regulation
28 adopted pursuant to the "Administrative Procedure Act," may exclude
29 or limit by geographic area or geologic formation, or based upon well
30 record information, any parameter listed in section 3 of this act that
31 the department deems is not significant in a county or in any specific
32 area within a county and which need not be tested for as part of any
33 water test to be conducted in accordance with this act.

34 d. For each parameter to be tested for in accordance with this act,
35 the Department of Environmental Protection shall establish, by rule or
36 regulation adopted pursuant to the "Administrative Procedure Act," a
37 maximum time period for which a test result shall remain valid for the
38 purposes of section 2 of this act without necessitating retesting for
39 that parameter. A retest of the water supply shall not be required
40 pursuant to section 2 of this act if the contract of sale is entered into
41 within the period of test validity established pursuant to this
42 subsection. Notwithstanding any provision of this subsection to the
43 contrary, a buyer and seller subject to the provisions of section 2 of
44 this act may mutually agree to retest for a parameter even though the
45 maximum time period for test validity for that parameter established
46 pursuant to this subsection has not expired.

1 5. a. Any water test conducted in accordance with this act shall
2 be conducted by a laboratory certified by the Department of
3 Environmental Protection pursuant to subsection c. of section 4 of
4 P.L.1977, c.224 (C.58:12A-4) to test for drinking water contaminants.

5 b. Any water test results provided by a laboratory to the person or
6 persons requesting the test shall include the maximum contaminant
7 levels or other established water quality standards, if any, prescribed
8 by the Department of Environmental Protection for each parameter
9 tested and shall be transmitted on a standardized private well water
10 test reporting form prescribed by the department. ¹The form shall
11 provide information regarding remediation funding alternatives
12 available, and shall refer the buyer and seller of the real property in
13 question to the appropriate office or person within the Department of
14 Environmental Protection, or to the department's website, for further
15 information regarding such alternatives.¹

16 c. The laboratory, within five business days after completion of the
17 water test, shall also submit the water test results to the Department
18 of Environmental Protection together with the following information:

19 (1) A statement that the testing is for the purpose of complying
20 with the "Private Well Testing Act," P.L. , c. (C.) (now
21 before the Legislature as this bill);

22 (2) The location of the real property, described by block and lot
23 number, street address, municipality, and county;

24 (3) The name and mailing address of the person or persons making
25 the request for the test;

26 (4) The name of the employee or authorized representative of the
27 laboratory who collected the well sample;

28 (5) The date and time that the water sample was collected and the
29 specific point of collection;

30 (6) The date and time the sample was analyzed by the laboratory;
31 and

32 (7) Such other information as may be required by the Department
33 of Environmental Protection, in consultation, if deemed necessary or
34 appropriate by the department, with each county health department,
35 health agency, or designated health officer, as appropriate to each
36 county.

37 d. The Department of Environmental Protection may require
38 laboratories to submit electronically the information required pursuant
39 to subsection c. of this section.

40 e. A laboratory shall not release water test results to any person
41 except the buyer and seller of the real property at issue as provided
42 pursuant to section 2 of this act, the lessor of the real property as
43 provided pursuant to section 7 of this act, any person authorized by
44 the buyer, seller, or lessor, as the case may be, the Department of
45 Environmental Protection, or any person designated by court order.

46 f. The Department of Environmental Protection shall compile the

1 data accumulated from the water test results submitted by laboratories
2 pursuant to this section in a manner that shall be useful to the
3 department, counties, municipalities, or other governmental entities for
4 the purposes of studying groundwater supplies or contamination in the
5 State.

6
7 6. a. The Department of Environmental Protection, within five
8 business days after receiving any report of a water test failure in
9 accordance with this act, shall provide notice thereof to the county
10 health department, health agency, or designated health officer, as
11 appropriate to each county in which the private well that failed the
12 water test is located. The county health department, health agency, or
13 designated health officer, as appropriate to each county, may issue a
14 general notice to owners of real property served by private wells
15 located in the vicinity of the real property experiencing the water test
16 failure suggesting or recommending that those property owners may
17 wish to have their private wells tested for at least the parameters at
18 issue. The specific address or location of the private well that failed
19 a water test shall not be identified in the notice or by any other means
20 or in any other manner. The department shall establish criteria for
21 notification which may include, but shall not be limited to, the level of
22 exceedance recommended for notification, and the distance or location
23 of the properties in the vicinity of the contaminated well for which
24 testing is recommended. It shall be at the sole discretion of the county
25 health department, health agency, or designated health officer, as
26 appropriate to each county, whether or not to issue such a notice and
27 to whom and by what means it shall be given.

28 b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1
29 et seq.) or any other law to the contrary, water test results received by
30 the Department of Environmental Protection, a county health
31 department, health agency, or designated health officer, or any other
32 State or local governmental entity in compliance with or as authorized
33 by this act shall be confidential and shall not be open for public
34 examination, inspection, or copying, except that general compilations
35 of water test results data arranged or identified by county and
36 municipality or appropriate geographic areas therein, which do not
37 include specific address or location information, may be made available
38 to the public.

39
40 7. Within 18 months after the effective date of this section, and at
41 least once every five years thereafter, the lessor of any real property
42 the potable water supply for which is a private well for which testing
43 of the water is not required pursuant to any other State law, shall test
44 that water supply in the manner established pursuant to this act for at
45 least the parameters required pursuant to sections 3 and 4 of this act.
46 Within 30 days after receipt of the test results, the lessor shall provide

1 a written copy thereof to each rental unit on the property. The lessor
2 shall also provide a written copy of the most recent test results to a
3 new lessee of a rental unit on the property.

4
5 8. The Department of Environmental Protection, in consultation
6 with county health departments, health agencies, and designated health
7 officers, shall establish a public information and education program to
8 inform the public and appropriate professional disciplines of the
9 enactment of this act and the substance of its provisions and
10 requirements, the potential health effects of consuming water from a
11 private well that does not meet maximum contaminant levels and other
12 established water quality standards, the potential presence of radium
13 in at least some potable groundwater supplies in the State, the
14 geographic areas in the State subject to an actual or potential threat of
15 danger from contaminated groundwater, the importance of testing
16 private wells regularly for contaminants, and suggested water
17 treatment techniques, equipment, ¹[and]¹ strategies ¹and public
18 funding sources available¹ for treating water from private wells that
19 have failed a water test conducted in accordance with this act.

20 The department shall make available to the public a general
21 compilation of water test results data arranged or identified by county
22 and municipality or appropriate geographic areas therein, but which
23 does not include specific address or location information.

24
25 9. Nothing in this act shall be construed to limit or preempt the
26 authority of a county, county health department, health agency, or
27 designated health officer from making or causing to be made such
28 inspection and testing of a water supply as may be necessary to ensure
29 the health and safety of the residents of the State.

30
31 10. Within five years after the date of enactment of this act, the
32 Department of Environmental Protection, in consultation with county
33 health departments, health agencies, and designated health officers,
34 shall prepare, and transmit to the Governor and Legislature, a report
35 on the implementation and operation of this act, which report shall
36 also describe the benefits and deficiencies realized as a result of the act
37 and include recommendations for any appropriate legislative action.
38 This report shall also be made available free of charge to the public.

39
40 11. The Department of Environmental Protection shall hire,
41 pursuant to Title 11A (Civil Service) of the New Jersey Statutes, a
42 sufficient number of new employees as may be deemed necessary by
43 the department to implement this act.

44
45 12. a. Notwithstanding any provision of section 11 of P.L.1983,
46 c.443 (C.58:12A-21) or any other law to the contrary, there is

1 appropriated from the "Safe Drinking Water Fund," established
2 pursuant to section 11 of P.L.1983, c.443 (C.58:12A-21), to the
3 Department of Environmental Protection the sum of \$1,000,000 to pay
4 the initial costs of (1) implementing this act, including but not limited
5 to the costs of hiring any new employees needed to implement this act
6 and of establishing and administering the data base required by this
7 act, and (2) providing grants to county health departments, health
8 agencies, and designated health officers to pay for any costs incurred
9 by those entities resulting from implementation of this act.

10 b. For each State fiscal year after the State fiscal year in which this
11 act is enacted, the Commissioner of Environmental Protection shall
12 include in the annual budget request of the Department of
13 Environmental Protection submitted for the annual appropriations act
14 a sufficient sum to meet the costs, as set forth in subsection a. of this
15 section and in section 11 of this act, for the particular State fiscal year.
16

17 13. This act shall take effect immediately except that sections 2
18 and 7 shall take effect on the 540th day following the date of
19 enactment of this act.

§§1-12
C.58:12A-26 to
C.58:12A-37
§12 - Approp.
§13 - Note

P.L. 2001, CHAPTER 40, *approved March 23, 2001*
Assembly, No. 1306 (*Third Reprint*)

1 AN ACT concerning the testing ²[of certain private wells providing
2 potable water, supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.) and P.L.1977, c.224 (C.58:12A-1 et seq.) and providing an
4 appropriation therefor]of water from private wells, supplementing
5 Title 58 of the Revised Statutes, and making an appropriation².
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. This act shall be known and may be cited as the "Private Well
11 Testing Act."
12

13 2. ²[a. (1) No person may sell or otherwise convey a dwelling
14 unit if the supply of water for human consumption provided to the
15 dwelling unit is a private well that is not a public water system
16 pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.), unless a certificate
17 of water quality issued in accordance with section 5 of this act is in
18 force on the contract date of the conveyance, except as otherwise
19 provided in this section.

20 (2) Any person leasing for a lease term of one year or longer a
21 dwelling unit for which the supply of water for human consumption is
22 a private well that is not a public water system pursuant to P.L.1977,
23 c.224 (C.58:12A-1 et seq.) shall have the supply of water tested once
24 each year for bacteria and nitrates in accordance with the parameters
25 established pursuant to section 3 of this act, and shall have the supply
26 of water tested once every five years for volatile organic chemicals,
27 mercury ^{1,1} and radium ¹as indicated by a gross alpha 48-hour test.¹
28 in accordance with the parameters established pursuant to section 3 of
29 this act. The same testing requirements shall apply to dwelling units
30 in a multiple-unit building if the supply of water for human
31 consumption for the building is a private well that is not a public water
32 system pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.). No person
33 leasing a dwelling unit for which the supply of water for human
34 consumption is a private well that is not a public water system
35 pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.) for a period of time

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AEN committee amendments adopted March 2, 2000.

² Senate SEN committee amendments adopted December 4, 2000.

³ Senate SBA committee amendments adopted December 14, 2000.

1 or lease term that is less than one year shall be required to have the
2 supply of water for the dwelling unit tested pursuant to this act.

3 (3) A person may convey a one dwelling unit structure subject to
4 the provisions of this act notwithstanding that the water supply to the
5 dwelling unit fails to satisfy the water quality standards imposed
6 pursuant to subsection a. of section 5 of this act if the person
7 conveying the unit and the person acquiring title or other interest in
8 the dwelling unit agree in writing that the water supply shall be
9 brought into compliance by one or the other party as a contingency
10 provision between the person conveying the unit and the person
11 acquiring title in the contract of sale. Upon the date of the closing of
12 title, the person who has agreed to be responsible for bringing the
13 water supply into compliance pursuant to the contract of sale shall file
14 a written agreement with the county health department or, in the case
15 of a county without a health department, the county health agency, or
16 designated health officer. The written agreement shall identify the
17 person filing the agreement as the person responsible for bringing the
18 water supply into compliance and shall provide that the person filing
19 the agreement shall bring the water supply into compliance within
20 60 days after the closing of title date. The person who files a written
21 agreement pursuant to this subsection shall be subject to the civil
22 penalty provisions of paragraph (2) of subsection a. of section 8 of this
23 act, if the person fails to bring the water supply into compliance with
24 the water quality standards imposed pursuant to subsection a. of
25 section 5 of this act, or to secure a complying alternative water source,
26 other than bottled water, within 60 days after the closing of title date,
27 or within such additional time as may be authorized by the county
28 health department, health agency or designated health officer, as the
29 case may be, which time period in the aggregate shall not exceed
30 120 days.

31 (4) The provisions of this act shall not apply to a conveyance by
32 foreclosure proceedings, a judicial or arbitration award, or devise or
33 gift. Any such conveyance shall, however, be reported to the county
34 health department, health agency or designated health officer within
35 30 days after the date of conveyance of the dwelling unit, which notice
36 shall also state that a testing of the water supply for the dwelling unit
37 pursuant to section 3 of this act has been requested, and shall provide
38 the date that the test was requested and the name and address of the
39 certified laboratory that is to conduct the test. The test results,
40 performed in accordance with section 3 of this act and providing the
41 results for the parameters specified in that section, shall be provided
42 to the county health department, health agency or designated health
43 officer. If the test results exceed the water quality standards imposed
44 pursuant to subsection a. of section 5 of this act, notice thereof shall
45 be provided in accordance with subsection b. of section 5 of this act
46 and the water supply shall be brought into compliance with this act, or

1 an alternative water supply provided therefor, within 60 days after
2 receipt of notification pursuant to section b. of section 5 of this act, or
3 within such additional time as may be authorized by the county health
4 department, health agency or designated health officer, which time
5 period in the aggregate shall not exceed 120 days. Any person failing
6 to comply with the provisions of this subsection shall be subject to the
7 civil penalty and any other applicable provisions of section 8 of this
8 act.

9 The renewal or extension of a lease agreement to an existing lessee
10 shall not be considered a conveyance for the purposes of this act.

11 b. No person may draw potable water from a new private water
12 well unless a certificate of water quality issued in accordance with
13 section 5 of this act is in force. As used in this act, a "new private
14 water well" means a private water well drilled after the effective date
15 of this act.] a. Every contract of sale of (1) real property the potable
16 water supply for which is a private well located on the property, or (2)
17 any other real property the potable water supply for which is a well
18 that has less than 15 service connections or that does not regularly
19 serve an average of at least 25 individuals daily at least 60 days out of
20 the year, shall include a provision requiring, as a condition of the sale,
21 the testing of that water supply for at least the parameters prescribed
22 pursuant to sections 3 and 4 of this act.

23 b. Closing of title on the sale of the real property shall not occur
24 unless both the buyer and the seller have received and reviewed a copy
25 of the water test results. At closing, the buyer and seller both shall
26 certify in writing that they have received and reviewed the water test
27 results.²

28

29 3. ²[a. A laboratory certified to test for drinking water
30 contaminants by the Department of Environmental Protection pursuant
31 to subsection c. of section 4 of P.L.1977, c.224 (C.58:12A-4) shall
32 conduct the water testing required pursuant to the provisions of this
33 act. Sampling and testing shall conform to the maximum extent
34 practicable, with such procedures and other requirements as may be
35 adopted by the Department of Environmental Protection.

36 b. All water quality testing shall be for the following parameters:
37 bacteria (total coliform), nitrates, iron, manganese, pH, volatile
38 organic chemicals, mercury ¹,¹ and radium ¹as indicated by a gross
39 alpha 48-hour test¹. In addition, the department shall develop, in
40 consultation with each county health department, health agency or
41 designated health officer, a list of additional parameters the
42 department determines to be significant in the county that shall be
43 subject to testing.]Every water test conducted in accordance with this
44 act shall include a test for at least the following parameters: bacteria
45 (total coliform); nitrates; iron; manganese; pH; all volatile organic
46 compounds for which maximum contaminant levels have been

1 established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.); and
2 lead.

3 In addition, the water test shall include a short term 48-hour gross
4 alpha test to screen for the presence of radium, provided that the
5 Department of Environmental Protection has made a finding pursuant
6 to subsection b. of section 4 of this act that there are a sufficient
7 number of laboratories certified to perform the test.²

8

9 4. ²[The certified laboratory shall submit to the county health
10 department, health agency or designated health officer the results of
11 its analysis with the following information:

12 a. The lot number and block number of the property on which the
13 dwelling unit is located and that on which the well is located, if other
14 than the location of the dwelling unit;

15 b. A statement that the testing is for the purpose of complying with
16 the "Private Well Testing Act," P.L. , c. (C.) (before the
17 Legislature as this bill);

18 c. The names and mailing addresses of all persons owning the
19 property on which the well is located and of those owning the property
20 on which the dwelling unit is located, if the dwelling unit and well are
21 located on different property;

22 d. The name of the employee or authorized representative of the
23 laboratory who collected the well sample;

24 e. The date and time that the well sample was collected and the
25 specific point of collection;

26 f. The date and time the sample was analyzed by the laboratory;
27 and

28 g. Such other information as the county health department, health
29 agency or designated health officer may require.]

30 a. The Department
31 of Environmental Protection, in consultation with the Drinking Water
32 Quality Institute, established pursuant to section 10 of P.L.1983, c.443
33 (C.58:12A-20), shall develop, by rule or regulation adopted pursuant
34 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
35 et seq.), a list of additional parameters which the department deems
36 significant in each county or in any specific area within a county and
37 which shall be tested for as part of any water test to be conducted in
38 accordance with this act. These additional parameters may include,
39 but need not be limited to, arsenic and mercury.

40 b. (1) The Department of Environmental Protection shall conduct
41 an annual review to determine if there are a sufficient number of
42 laboratories certified to perform the short term 48-hour gross alpha
43 test to screen for the presence of radium that are able to provide
44 results at a reasonable cost within 10 days of a request for testing.
45 This review shall be based upon the projected number of transactions
46 for which the test is required. The department shall publish its findings
in the New Jersey Register.

1 For the purposes of section 3 of this act, if the department finds
2 that there are a sufficient number of laboratories to conduct the short
3 term 48-hour gross alpha test to screen for the presence of radium
4 only within a limited area in the State, as determined by the
5 department, and which laboratories are able to provide results at a
6 reasonable cost within 10 days of a request for testing, then the test
7 shall be required only within that limited area until such time as the
8 department finds that there are a sufficient number of laboratories to
9 provide service elsewhere in the State.

10 (2) The department shall establish, by rule or regulation adopted
11 pursuant to the "Administrative Procedure Act," a protocol for proper
12 conducting of the short term 48-hour gross alpha test to screen for the
13 presence of radium.

14 c. The Department of Environmental Protection, in consultation
15 with the Drinking Water Quality Institute and by rule or regulation
16 adopted pursuant to the "Administrative Procedure Act," may exclude
17 or limit by geographic area or geologic formation, or based upon well
18 record information, any parameter listed in section 3 of this act that
19 the department deems is not significant in a county or in any specific
20 area within a county and which need not be tested for as part of any
21 water test to be conducted in accordance with this act.

22 d. For each parameter to be tested for in accordance with this act,
23 the Department of Environmental Protection shall establish, by rule or
24 regulation adopted pursuant to the "Administrative Procedure Act," a
25 maximum time period for which a test result shall remain valid for the
26 purposes of section 2 of this act without necessitating retesting for
27 that parameter. A retest of the water supply shall not be required
28 pursuant to section 2 of this act if the contract of sale is entered into
29 within the period of test validity established pursuant to this
30 subsection. Notwithstanding any provision of this subsection to the
31 contrary, a buyer and seller subject to the provisions of section 2 of
32 this act may mutually agree to retest for a parameter even though the
33 maximum time period for test validity for that parameter established
34 pursuant to this subsection has not expired.²

35
36 5. ²[a. If the potability test results do not exceed the maximum
37 contaminant levels therefor in the State primary drinking water
38 regulations for groundwater adopted therefor pursuant to P.L.1977,
39 c.224 (C.58:12A-1 et seq.), the county health department, health
40 agency or designated health officer shall certify in writing that the
41 water supply for the dwelling unit satisfies the water quality standards
42 imposed in accordance with this act.

43 b. If the test results for any of the contaminants or for the pH level
44 exceed those imposed pursuant to subsection a. of this section, the
45 county health department, health agency or designated health officer
46 shall notify the owner, or the persons having ordered the laboratory

1 test if other than the owner, of the results for all of the parameters to
2 be tested for pursuant to section 3 of this act, and the maximum
3 permissible levels prescribed therefor. A copy of the notification shall
4 be provided to the Department of Environmental Protection.] a. Any
5 water test conducted in accordance with this act shall be conducted by
6 a laboratory certified by the Department of Environmental Protection
7 pursuant to subsection c. of section 4 of P.L.1977, c.224
8 (C.58:12A-4) to test for drinking water contaminants.

9 b. Any water test results provided by a laboratory to the person or
10 persons requesting the test shall include the maximum contaminant
11 levels or other established water quality standards, if any, prescribed
12 by the Department of Environmental Protection for each parameter
13 tested and shall be transmitted on a standardized private well water
14 test reporting form prescribed by the department. ³The form shall
15 provide information regarding remediation funding alternatives
16 available, and shall refer the buyer and seller of the real property in
17 question to the appropriate office or person within the Department of
18 Environmental Protection, or to the department's website, for further
19 information regarding such alternatives.³

20 c. The laboratory, within five business days after completion of the
21 water test, shall also submit the water test results to the Department
22 of Environmental Protection together with the following information:

23 (1) A statement that the testing is for the purpose of complying
24 with the "Private Well Testing Act," P.L. , c. (C.) (now
25 before the Legislature as this bill);

26 (2) The location of the real property, described by block and lot
27 number, street address, municipality, and county;

28 (3) The name and mailing address of the person or persons making
29 the request for the test;

30 (4) The name of the employee or authorized representative of the
31 laboratory who collected the well sample;

32 (5) The date and time that the water sample was collected and the
33 specific point of collection;

34 (6) The date and time the sample was analyzed by the laboratory;
35 and

36 (7) Such other information as may be required by the Department
37 of Environmental Protection, in consultation, if deemed necessary or
38 appropriate by the department, with each county health department,
39 health agency, or designated health officer, as appropriate to each
40 county.

41 d. The Department of Environmental Protection may require
42 laboratories to submit electronically the information required pursuant
43 to subsection c. of this section.

44 e. A laboratory shall not release water test results to any person
45 except the buyer and seller of the real property at issue as provided
46 pursuant to section 2 of this act, the lessor of the real property as

1 provided pursuant to section 7 of this act, any person authorized by
2 the buyer, seller, or lessor, as the case may be, the Department of
3 Environmental Protection, or any person designated by court order.

4 f. The Department of Environmental Protection shall compile the
5 data accumulated from the water test results submitted by laboratories
6 pursuant to this section in a manner that shall be useful to the
7 department, counties, municipalities, or other governmental entities for
8 the purposes of studying groundwater supplies or contamination in the
9 State.²

10
11 6. ²[Certification of a water supply pursuant to subsection a. of
12 section 5 of this act shall be valid for six months from the date of issue
13 of the certification. No sale or other conveyance of title or lease of a
14 dwelling unit subject to the provisions of this act shall require
15 recertification of the water supply if a valid certification is in force for
16 the water supply of the dwelling unit on the contract date of the
17 conveyance or lease.] a. The Department of Environmental
18 Protection, within five business days after receiving any report of a
19 water test failure in accordance with this act, shall provide notice
20 thereof to the county health department, health agency, or designated
21 health officer, as appropriate to each county in which the private well
22 that failed the water test is located. The county health department,
23 health agency, or designated health officer, as appropriate to each
24 county, may issue a general notice to owners of real property served
25 by private wells located in the vicinity of the real property
26 experiencing the water test failure suggesting or recommending that
27 those property owners may wish to have their private wells tested for
28 at least the parameters at issue. The specific address or location of the
29 private well that failed a water test shall not be identified in the notice
30 or by any other means or in any other manner. The department shall
31 establish criteria for notification which may include, but shall not be
32 limited to, the level of exceedance recommended for notification, and
33 the distance or location of the properties in the vicinity of the
34 contaminated well for which testing is recommended. It shall be at the
35 sole discretion of the county health department, health agency, or
36 designated health officer, as appropriate to each county, whether or
37 not to issue such a notice and to whom and by what means it shall be
38 given.

39 b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et
40 seq.) or any other law to the contrary, water test results received by
41 the Department of Environmental Protection, a county health
42 department, health agency, or designated health officer, or any other
43 State or local governmental entity in compliance with or as authorized
44 by this act shall be confidential and shall not be open for public
45 examination, inspection, or copying, except that general compilations
46 of water test results data arranged or identified by county and
47 municipality or appropriate geographic areas therein, which do not

1 include specific address or location information, may be made available
2 to the public.²

3
4 7. ²[The governing body of a county may, by ordinance or
5 resolution, authorize the county health department, health agency or
6 designated health officer to charge and collect, in accordance with a
7 schedule set forth in the ordinance or resolution, fees sufficient to
8 recover the costs of administering the provisions of this act.] Within
9 18 months after the effective date of this section, and at least once
10 every five years thereafter, the lessor of any real property the potable
11 water supply for which is a private well for which testing of the water
12 is not required pursuant to any other State law, shall test that water
13 supply in the manner established pursuant to this act for at least the
14 parameters required pursuant to sections 3 and 4 of this act. Within
15 30 days after receipt of the test results, the lessor shall provide a
16 written copy thereof to each rental unit on the property. The lessor
17 shall also provide a written copy of the most recent test results to a
18 new lessee of a rental unit on the property.²

19
20 8. ²[a. Any person who sells or otherwise conveys a dwelling unit,
21 other than under a lease arrangement, in violation of the provisions of
22 this act shall be liable to:

23 (1) The buyer or other person to whom the conveyance is made for
24 the actual costs incurred by the acquiring party in bringing the water
25 supply into compliance with the requirements imposed pursuant to
26 subsection a. of section 5 of this act, in accordance with regulations
27 therefor adopted by the Department of Environmental Protection
28 pursuant to section 10 of this act, as well as for the costs of an
29 alternative water supply that may be required by the county health
30 department, health agency or designated health officer to be provided
31 to the affected dwelling unit or units until such time as the water
32 supply of the dwelling unit or units has been brought into compliance;
33 and

34 (2) A civil penalty of not less than \$500 nor more than \$1,000 for
35 the first offense, and not less than \$1,000 nor more than \$2,500 for a
36 second or subsequent offense occurring within a five-year period.

37 b. In the case of a lease agreement entered into in violation of the
38 provisions of this act, the lessee may void the lease agreement and the
39 lessor shall be subject to a civil penalty as prescribed in paragraph (2)
40 of subsection a. of this section; shall be required to bring the water
41 supply into compliance with this act within the applicable time period
42 prescribed in paragraph (2) or paragraph (3) of subsection a. of section
43 2 of this act; and shall be subject to the penalty provisions of
44 paragraph (2) of subsection a. of this section for failure to do so; and
45 may be required by the county health department, health agency or
46 designated health officer to provide an alternative water supply to the

1 affected dwelling unit or units until such time as the water supply is
2 brought into compliance.] The Department of Environmental
3 Protection, in consultation with county health departments, health
4 agencies, and designated health officers, shall establish a public
5 information and education program to inform the public and
6 appropriate professional disciplines of the enactment of this act and
7 the substance of its provisions and requirements, the potential health
8 effects of consuming water from a private well that does not meet
9 maximum contaminant levels and other established water quality
10 standards, the potential presence of radium in at least some potable
11 groundwater supplies in the State, the geographic areas in the State
12 subject to an actual or potential threat of danger from contaminated
13 groundwater, the importance of testing private wells regularly for
14 contaminants, and suggested water treatment techniques, equipment,
15 ³[and]³ strategies ³and public funding sources available³ for treating
16 water from private wells that have failed a water test conducted in
17 accordance with this act.

18 The department shall make available to the public a general
19 compilation of water test results data arranged or identified by county
20 and municipality or appropriate geographic areas therein, ³but³ which
21 does not include specific address or location information.²
22

23 9. ²[Nothing in this act shall be construed to limit the authority of
24 a county health department, health agency or designated health officer
25 from making or causing to be made such inspection and testing of a
26 water supply as may be necessary to assure the health and safety of the
27 residents of this State.] Nothing in this act shall be construed to limit
28 or preempt the authority of a county, county health department, health
29 agency, or designated health officer from making or causing to be
30 made such inspection and testing of a water supply as may be
31 necessary to ensure the health and safety of the residents of the State.²
32

33 10. ²[The Department of Environmental Protection shall adopt,
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
35 (C.52:14B-1 et seq.), rules and regulations establishing remedial
36 measures that may be taken to bring a private well that is subject to
37 the provisions of sections 1 through 9 of this act into compliance.]
38 Within five years after the date of enactment of this act, the
39 Department of Environmental Protection, in consultation with county
40 health departments, health agencies, and designated health officers,
41 shall prepare, and transmit to the Governor and Legislature, a report
42 on the implementation and operation of this act, which report shall
43 also describe the benefits and deficiencies realized as a result of the act
44 and include recommendations for any appropriate legislative action.
45 This report shall also be made available free of charge to the public.²

1 11. ²[Within nine months after the effective date of this act, the
2 Department of Environmental Protection shall adopt a Well Water
3 Test Reporting Form to be used by certified laboratories in reporting
4 the results of the tests they have conducted pursuant to this act.] The
5 Department of Environmental Protection shall hire, pursuant to Title
6 11A (Civil Service) of the New Jersey Statutes, a sufficient number of
7 new employees as may be deemed necessary by the department to
8 implement this act. ²

9
10 12. ²[There is appropriated from the General Fund to the
11 Department of Environmental Protection the sum of \$75,000 to
12 administer this act.] a. Notwithstanding any provision of section 11
13 of P.L.1983, c.443 (C.58:12A-21) or any other law to the contrary,
14 there is appropriated from the "Safe Drinking Water Fund,"
15 established pursuant to section 11 of P.L.1983, c.443 (C.58:12A-21),
16 to the Department of Environmental Protection the sum of \$1,000,000
17 to pay the initial costs of (1) implementing this act, including but not
18 limited to the costs of hiring any new employees needed to implement
19 this act and of establishing and administering the data base required by
20 this act, and (2) providing grants to county health departments, health
21 agencies, and designated health officers to pay for any costs incurred
22 by those entities resulting from implementation of this act.

23 b. For each State fiscal year after the State fiscal year in which this
24 act is enacted, the Commissioner of Environmental Protection shall
25 include in the annual budget request of the Department of
26 Environmental Protection submitted for the annual appropriations act
27 a sufficient sum to meet the costs, as set forth in subsection a. of this
28 section and in section 11 of this act, for the particular State fiscal
29 year. ²

30
31 13. This act shall take effect ²[on the 180th day following
32 enactment] immediately except that sections 2 and 7 shall take effect
33 on the 540th day following the date of enactment of this act ².

34
35
36 _____
37
38 The "Private Well Testing Act"; appropriates \$1 million from Safe
39 Drinking Water Fund.

CHAPTER 40

AN ACT concerning the testing of water from private wells, supplementing Title 58 of the Revised Statutes, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.58:12A-26 Short title.

1. This act shall be known and may be cited as the "Private Well Testing Act."

C.58:12A-27 Water testing of private well as provision of contract of sale; reviewing water testing results.

2. a. Every contract of sale of (1) real property the potable water supply for which is a private well located on the property, or (2) any other real property the potable water supply for which is a well that has less than 15 service connections or that does not regularly serve an average of at least 25 individuals daily at least 60 days out of the year, shall include a provision requiring, as a condition of the sale, the testing of that water supply for at least the parameters prescribed pursuant to sections 3 and 4 of this act.

- b. Closing of title on the sale of the real property shall not occur unless both the buyer and the seller have received and reviewed a copy of the water test results. At closing, the buyer and seller both shall certify in writing that they have received and reviewed the water test results.

C.58:12A-28 Water test parameters.

3. Every water test conducted in accordance with this act shall include a test for at least the following parameters: bacteria (total coliform); nitrates; iron; manganese; pH; all volatile organic compounds for which maximum contaminant levels have been established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.); and lead.

In addition, the water test shall include a short term 48-hour gross alpha test to screen for the presence of radium, provided that the Department of Environmental Protection has made a finding pursuant to subsection b. of section 4 of this act that there are a sufficient number of laboratories certified to perform the test.

C.58:12A-29 Rules, regulations; additional parameters.

4. a. The Department of Environmental Protection, in consultation with the Drinking Water Quality Institute, established pursuant to section 10 of P.L.1983, c.443 (C.58:12A-20), shall develop, by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a list of additional parameters which the department deems significant in each county or in any specific area within a county and which shall be tested for as part of any water test to be conducted in accordance with this act. These additional parameters may include, but need not be limited to, arsenic and mercury.

- b. (1) The Department of Environmental Protection shall conduct an annual review to determine if there are a sufficient number of laboratories certified to perform the short term 48-hour gross alpha test to screen for the presence of radium that are able to provide results at a reasonable cost within 10 days of a request for testing. This review shall be based upon the projected number of transactions for which the test is required. The department shall publish its findings in the New Jersey Register.

For the purposes of section 3 of this act, if the department finds that there are a sufficient number of laboratories to conduct the short term 48-hour gross alpha test to screen for the presence of radium only within a limited area in the State, as determined by the department, and which laboratories are able to provide results at a reasonable cost within 10 days of a request for testing, then the test shall be required only within that limited area until such time as the department finds that there are a sufficient number of laboratories to provide service elsewhere in the State.

- (2) The department shall establish, by rule or regulation adopted pursuant to the "Administrative Procedure Act," a protocol for proper conducting of the short term 48-hour gross alpha test to screen for the presence of radium.

- c. The Department of Environmental Protection, in consultation with the Drinking Water Quality Institute and by rule or regulation adopted pursuant to the "Administrative Procedure Act," may exclude or limit by geographic area or geologic formation, or based upon well record

information, any parameter listed in section 3 of this act that the department deems is not significant in a county or in any specific area within a county and which need not be tested for as part of any water test to be conducted in accordance with this act.

d. For each parameter to be tested for in accordance with this act, the Department of Environmental Protection shall establish, by rule or regulation adopted pursuant to the "Administrative Procedure Act," a maximum time period for which a test result shall remain valid for the purposes of section 2 of this act without necessitating retesting for that parameter. A retest of the water supply shall not be required pursuant to section 2 of this act if the contract of sale is entered into within the period of test validity established pursuant to this subsection. Notwithstanding any provision of this subsection to the contrary, a buyer and seller subject to the provisions of section 2 of this act may mutually agree to retest for a parameter even though the maximum time period for test validity for that parameter established pursuant to this subsection has not expired.

C.58:12A-30 Water testing by laboratories; conditions.

5. a. Any water test conducted in accordance with this act shall be conducted by a laboratory certified by the Department of Environmental Protection pursuant to subsection c. of section 4 of P.L.1977, c.224 (C.58:12A-4) to test for drinking water contaminants.

b. Any water test results provided by a laboratory to the person or persons requesting the test shall include the maximum contaminant levels or other established water quality standards, if any, prescribed by the Department of Environmental Protection for each parameter tested and shall be transmitted on a standardized private well water test reporting form prescribed by the department. The form shall provide information regarding remediation funding alternatives available, and shall refer the buyer and seller of the real property in question to the appropriate office or person within the Department of Environmental Protection, or to the department's website, for further information regarding such alternatives.

c. The laboratory, within five business days after completion of the water test, shall also submit the water test results to the Department of Environmental Protection together with the following information:

(1) A statement that the testing is for the purpose of complying with the "Private Well Testing Act," P.L.2001, c.40 (C.58:12A-26 et seq.);

(2) The location of the real property, described by block and lot number, street address, municipality, and county;

(3) The name and mailing address of the person or persons making the request for the test;

(4) The name of the employee or authorized representative of the laboratory who collected the well sample;

(5) The date and time that the water sample was collected and the specific point of collection;

(6) The date and time the sample was analyzed by the laboratory; and

(7) Such other information as may be required by the Department of Environmental Protection, in consultation, if deemed necessary or appropriate by the department, with each county health department, health agency, or designated health officer, as appropriate to each county.

d. The Department of Environmental Protection may require laboratories to submit electronically the information required pursuant to subsection c. of this section.

e. A laboratory shall not release water test results to any person except the buyer and seller of the real property at issue as provided pursuant to section 2 of this act, the lessor of the real property as provided pursuant to section 7 of this act, any person authorized by the buyer, seller, or lessor, as the case may be, the Department of Environmental Protection, or any person designated by court order.

f. The Department of Environmental Protection shall compile the data accumulated from the water test results submitted by laboratories pursuant to this section in a manner that shall be useful to the department, counties, municipalities, or other governmental entities for the purposes of studying groundwater supplies or contamination in the State.

C.58:12A-31 Actions on water testing results; information for public record.

6. a. The Department of Environmental Protection, within five business days after receiving any report of a water test failure in accordance with this act, shall provide notice thereof to the county health department, health agency, or designated health officer, as appropriate to each county in which the private well that failed the water test is located. The county health department, health agency, or designated health officer, as appropriate to each county, may issue a general notice to owners of real property served by private wells located in the vicinity of the real property experiencing the water test failure suggesting or recommending that those property owners may wish to have their private wells tested for at least the parameters at issue. The specific address or location of the private well that failed a water test shall not be identified in the notice or by any other means or in any other manner. The department shall establish criteria for notification which may include, but shall not be limited to, the level of exceedance recommended for notification, and the distance or location of the properties in the vicinity of the contaminated well for which testing is recommended. It shall be at the sole discretion of the county health department, health agency, or designated health officer, as appropriate to each county, whether or not to issue such a notice and to whom and by what means it shall be given.

b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary, water test results received by the Department of Environmental Protection, a county health department, health agency, or designated health officer, or any other State or local governmental entity in compliance with or as authorized by this act shall be confidential and shall not be open for public examination, inspection, or copying, except that general compilations of water test results data arranged or identified by county and municipality or appropriate geographic areas therein, which do not include specific address or location information, may be made available to the public.

C.58:12A-32 Lessor's water testing responsibilities for private wells.

7. Within 18 months after the effective date of this section, and at least once every five years thereafter, the lessor of any real property the potable water supply for which is a private well for which testing of the water is not required pursuant to any other State law, shall test that water supply in the manner established pursuant to this act for at least the parameters required pursuant to sections 3 and 4 of this act. Within 30 days after receipt of the test results, the lessor shall provide a written copy thereof to each rental unit on the property. The lessor shall also provide a written copy of the most recent test results to a new lessee of a rental unit on the property.

C.58:12A-33 Public information, education program, established.

8. The Department of Environmental Protection, in consultation with county health departments, health agencies, and designated health officers, shall establish a public information and education program to inform the public and appropriate professional disciplines of the enactment of this act and the substance of its provisions and requirements, the potential health effects of consuming water from a private well that does not meet maximum contaminant levels and other established water quality standards, the potential presence of radium in at least some potable groundwater supplies in the State, the geographic areas in the State subject to an actual or potential threat of danger from contaminated groundwater, the importance of testing private wells regularly for contaminants, and suggested water treatment techniques, equipment, strategies and public funding sources available for treating water from private wells that have failed a water test conducted in accordance with this act.

The department shall make available to the public a general compilation of water test results data arranged or identified by county and municipality or appropriate geographic areas therein, but which does not include specific address or location information.

C.58:12A-34 Local health authority not preempted.

9. Nothing in this act shall be construed to limit or preempt the authority of a county, county health department, health agency, or designated health officer from making or causing to be made such inspection and testing of a water supply as may be necessary to ensure the health and safety of the residents of the State.

C.58:12A-35 Report to Legislature, Governor.

10. Within five years after the date of enactment of this act, the Department of Environmental Protection, in consultation with county health departments, health agencies, and designated health officers, shall prepare, and transmit to the Governor and Legislature, a report on the implementation and operation of this act, which report shall also describe the benefits and deficiencies realized as a result of the act and include recommendations for any appropriate legislative action. This report shall also be made available free of charge to the public.

C.58:12A-36 Staffing for DEP.

11. The Department of Environmental Protection shall hire, pursuant to Title 11A (Civil Service) of the New Jersey Statutes, a sufficient number of new employees as may be deemed necessary by the department to implement this act.

C.58:12A-37 Annual budget request by DEP for implementation and staffing.

12. a. Notwithstanding any provision of section 11 of P.L.1983, c.443 (C.58:12A-21) or any other law to the contrary, there is appropriated from the "Safe Drinking Water Fund," established pursuant to section 11 of P.L.1983, c.443 (C.58:12A-21), to the Department of Environmental Protection the sum of \$1,000,000 to pay the initial costs of (1) implementing this act, including but not limited to the costs of hiring any new employees needed to implement this act and of establishing and administering the data base required by this act, and (2) providing grants to county health departments, health agencies, and designated health officers to pay for any costs incurred by those entities resulting from implementation of this act.

b. For each State fiscal year after the State fiscal year in which this act is enacted, the Commissioner of Environmental Protection shall include in the annual budget request of the Department of Environmental Protection submitted for the annual appropriations act a sufficient sum to meet the costs, as set forth in subsection a. of this section and in section 11 of this act, for the particular State fiscal year.

13. This act shall take effect immediately except that sections 2 and 7 shall take effect on the 540th day following the date of enactment of this act.

Approved March 23, 2001.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Rae Hutton
John Dourgarian
609-777-2600

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**DiFrancesco Signs Private Well-Testing Bill Into Law
First Initiative in DiFrancesco Clean Water Package Enacted
During Daylong Visit to Salem and Gloucester Counties**

Acting Governor Donald T. DiFrancesco today signed into law a measure designed to ensure that drinking water from residential wells is clean and safe. The Private Well-Testing Act, (A-1306), the first bill in the Acting Governor's Clean Water Package to be enacted, was signed during a daylong visit to Salem and Gloucester Counties, where the Acting Governor also discussed his Senior Gold and Property Tax Relief Now! proposals.

"Last fall, I unveiled a 16-point plan aimed at protecting, conserving, monitoring, testing and defending the most fragile of natural resources for our state's residents - our drinking water," said DiFrancesco. "The Private Well Testing Act is another step forward in our efforts to ensure clean and safe drinking water. There are few public health issues as important to our state and our families." The measure requires the testing of water quality in private wells before home sales are finalized.

During stops in the two South Jersey counties, DiFrancesco also spoke about some of his other major priorities, including the record \$400 million Property Tax Relief Now! package and the landmark Senior Gold prescription discount program for moderate income senior citizens.

"I have always believed that New Jersey seniors are a vital part of making our state all it can be. It is of the utmost importance to me that our seniors receive the best services we are able to provide," DiFrancesco told the audience at the Gloucester County Senior Nutrition Center in Sewell. "That is why I support discount prescription drug coverage for moderate-income seniors under the Senior Gold program and a boost in the Homestead Rebate program, the first in 10 years."

The \$60 million Senior Gold program, a DiFrancesco initiative that has passed the Senate and cleared an Assembly committee yesterday, would provide discount prescription assistance to moderate income seniors who fall through the cracks of prescription coverage. There are approximately 100,000 seniors in New Jersey who lack prescription coverage and would benefit from this program

DiFrancesco's \$400 million Property Tax Relief Now! program would raise the Homestead Rebate to \$750 and include a cost of living provision for the first time, and would increase the NJ Saver Rebate to \$500 this year and add \$100 million to municipal aid for property tax relief. The proposal is scheduled to be voted on by the full Senate on Monday.

Following the senior center visit, DiFrancesco signed the well-testing bill in Monroe Township. The measure, sponsored by Senators John Matheussen and John Adler, Speaker Jack Collins and Assemblyman George Geist, appropriates \$1 million from the Safe Drinking Water Fund to establish a private well testing program to be implemented by the Department of Environmental Protection in partnership with county health agencies.

The 16-point plan unveiled by the Acting Governor last fall targets abandoned municipal landfills and MTBE and contains provisions for boosting drinking water testing, conservation and drought readiness efforts. The remainder of the package will be considered by the full Senate on Thursday, March 29, pending release from the Senate Environment and Budget and Appropriations committees on Monday.

In his first stop of the day, the Acting Governor joined in the celebration of the 50th anniversary of the New Jersey Turnpike and participated in the groundbreaking of a new gateway toll plaza at Interchange 1 in Deepwater.

"The New Jersey Turnpike has had a remarkable record of success in the past 50 years," DiFrancesco said. "This includes an outstanding safety record, widening of the roadway, new interchanges, variable message signs, a toll-free highway advisory system and EZ PASS. The Turnpike - in promoting commerce and interstate travel - has helped New Jersey travel the road to progress and prosperity."

DiFrancesco completed his swing through the region by participating in a roundtable discussion at Rowan University to listen to business and community leaders and gain input on economic and growth priority issues for South Jersey. Other participants at the roundtable included South Jersey legislators, staff of the Southern New Jersey Development Council and the Southern New Jersey Chamber of Commerce, county officials, Delaware River Port Authority officials and corporate leaders.