

58:4A-5

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

NJSA: 58:4A-5

(Well Drillers)

LAWS OF: 1968

CHAPTER: 308

Bill No: A29

Sponsor(s): Gimson & Littell

Date Introduced: Pre-filed

Committee: Assembly: Commerce, Industry

Senate: Commerce, Industry

Amended during passage: Yes

Date of Passage: Assembly: February 8, 1968 Re-enacted 9-10-68

Senate: April 18, 1968 Re-enacted 9-13-68

Date of Approval: September 26, 1968

Following statements are attached if available:

Sponsor statement: No

Committee Statement: Assembly: No

Senate: No

Fiscal Note: No

Veto Message: Yes

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

23 *No person, partnership, or corporation shall employ more than 3*

24 *other well drillers in well drilling in this State until he complies*

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

CHAPTER 217 LAWS OF 1968

APPROVED

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 29

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1968 SESSION

By Assemblymen GIMSON and LITTELL

AN ACT to amend "An act to conserve certain natural resources of the State and to protect the public health; to provide for the licensing of well drillers; to fix fees therefore and to provide penalties for violations thereof," approved July 1, 1947 (P. L. 1947, c. 377) and to repeal sections 11, 21 and 22 thereof.

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

3 1. Section 1 of the act of which this act is amendatory is amended
4 to read as follows:

5 1. The *Commissioner of the Department of Conservation and*
6 *Economic Development*, hereinafter called **[department]** *commis-*
7 *sioner*, in furtherance of **[its]** *his* general powers of supervision
8 over the natural resources of the State and their conservation for
9 public use, is hereby authorized, empowered and directed to make
10 effective the provisions of this act and to adopt and effectuate, such
11 rules and regulations as may be proper for this purpose *and for*
12 *the administration of the provisions of this act. The commissioner*
13 *may adopt rules and regulations to carry out the purposes of this*
14 *act.*

15 2. Section 2 of the act of which this act is amendatory is amended
16 to read as follows:

17 2. No person, *partnership or corporation* shall hereafter engage
18 in well drilling in this State *except as provided in section 20 hereof*
19 **[until]** *unless he, if an individual, or a member of the firm, if a*
20 *partnership, or an executive officer, if a corporation, shall [have*
21 *received a license] be licensed as a well driller of the proper class,*
22 *as provided in this act.*

23 *No person, partnership, or corporation shall employ more than 3*
24 *other well drillers in well drilling in this State until he complies*

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

1 with the criteria established therefor under the rules and regula-
2 tions of the commissioner.

3 No other agency or civil division of the State shall be empowered
4 to license or to establish standards or requirements for engaging
5 in the trade, business or calling of well drilling which shall be
6 applicable to any person licensed under this act.

7 3. Section 3 of the act of which this act is amendatory is amended
8 to read as follows:

9 3. A board of ~~6~~ ⁷ well driller examiners is hereby created
10 to be appointed by the ~~The State~~ Commissioner of Conservation
11 and Economic Development ~~shall within 60 days after the effective~~
12 ~~date of this act appoint, with the power of removal~~, which shall
13 function as an ~~7~~ well driller examiners, to be known as the
14 examining board of well drillers, and as an advisory board to the
15 commissioner and shall be hereinafter referred to as the ~~examin-~~
16 ~~ing~~ board. ~~Two~~ ~~At least 3~~ members of the ~~examining~~ board
17 shall be ~~members~~ employees of the department; ~~2 members~~
18 ~~one member~~ not employed by the State or pecuniarily involved in
19 well drilling shall be appointed by the commissioner; and the re-
20 maining ~~4~~ members shall have the qualifications to ~~obtain~~ qualify
21 as master well drillers ~~licenses~~, as provided in section 11 of this
22 act. ~~The members~~ Members of the ~~examining~~ board shall be
23 appointed for terms of 3 years ~~,~~ except that of the members first to
24 be appointed, ~~2~~ shall be for terms of 1 year, ~~2~~ for terms of 2 years,
25 and ~~3~~ for terms of 3 years. A quorum of the ~~examining~~ board
26 shall consist of ~~4~~ 5 members. ~~All persons appointed to said board~~
26A ~~shall be citizens of the United States and residents of the State of~~
26B ~~New Jersey. The commissioner may remove any member of the~~
26C ~~board, after hearing, for misconduct, incompetence, neglect of duty~~
26D ~~or for any other sufficient cause.~~

27 4. Section 4 of the act of which this act is amendatory is amended
28 to read as follows:

29 4. Said board so appointed shall be designated and known as the
30 "State Well Drillers Examining and Advisory Board."

31 Each member of the ~~examining~~ board, except those who are
32 ~~members~~ employees of the department, shall receive compensa-
33 tion of ~~\$15.00~~ \$25.00 per day, and actual and necessary expenses,
34 for each day in which such member is engaged in the attendance
35 upon meetings of the board; such charges to be approved by the
36 commissioner and paid from general funds of the State within the
37 limits of appropriations to the department.

38 5. Section 5 of the act of which this act is amendatory is amended
39 to read as follows:

1 5. The board **[of examiners]** shall meet on the call of the com-
 1A missioner within 30 days after its members are first appointed and
 1B thereafter shall hold at least one meeting each year. A special
 1C meeting of the **[examining]** board shall be called by the commis-
 1D sioner, or his duly authorized representative, whenever the neces-
 2 sity for such a meeting exists.

3 6. Section 6 of the act of which this act is amendatory is amended
 4 to read as follows:

5 6. *The board shall be vested with the following powers and duties:*

6 (a) It shall be the duty of the **[examining]** board to examine
 7 as to their experience and qualifications all persons applying for
 8 licenses as well drillers, and to certify the results thereof within
 9 10 days to the **[division of water policy and supply]** ***[Division of**
 10 **Water Policy and Supply]*** *commissioner* of the department.
 11 Such examinations may be oral or written and shall be of a practical
 11A nature.

12 (b) *It shall, by a majority of all its members, formulate and*
 13 *recommend to the commissioner rules, regulations, and standards*
 14 *for engaging in the trade, business or calling of well drilling, which*
 15 *shall be applicable to any person licensed under this act.*

16 7. Section 8 of the act of which this act is amendatory is amended
 17 to read as follows:

18 8. The board **[said division shall have the power]** *may after*
 19 *public hearing, recommend to the commissioner that he [to] revoke,*
 20 *or suspend for any period less than 1 year the license of any well*
 21 *driller, if the same was obtained through error or fraud, or if the*
 22 *board shall find him guilty of gross neglect, incompetency, or*
 23 *misconduct in the practice of well drilling or if the holder*
 24 **[recipient]** *thereof has a second time willfully violated any of the*
 25 *provisions of this law or any of the rules and regulations prescribed*
 26 *by [said division] the commissioner. Any person whose license*
 27 *has been revoked may, after the expiration of 1 year from the*
 28 *date of such revocation, apply for a new license.*

29 *The charges against any well driller of whom complaint is made*
 30 *shall be in writing and sworn to by the complainant, and filed with*
 31 *the board.*

32 *Such charges unless dismissed by the board as unfounded or*
 33 *trivial shall be heard and determined by the board within 3 months*
 34 *after the date on which they are preferred unless the board shall*
 35 *determine that good cause exists for further delay. The board shall*
 36 *have the power at any such proceeding to require the attendance*
 37 *of witnesses before it, and the production of such books, papers and*
 38 *documents as it may require, and to issue or authorize the issuance*

1 of subpoena therefor.

1A The time and place of the hearing, which may be adjourned from
 1B time to time, shall be fixed by the board. A copy of the charges,
 1C together with a notice of the time and place of hearing shall be
 1D served on the accused by the board personally or by certified mail,
 1E addressed to his last known place of residence in this State, at least
 2 30 days before the day fixed for the hearing. At such hearing the
 3 accused shall have the right to appear personally or by counsel
 4 and to cross-examine witnesses against him and to produce evidence
 5 in his defense.

6 8. Section 9 of the act of which this act is amendatory is amended
 7 to read as follows:

8 9. Any operation on the drilling, boring, coring, driving, digging
 9 or construction of wells shall be under the **[continuous and]**
 10 immediate supervision of a licensed well driller, **[and the number]**
 11 **of his license]** and the name of the owner shall be displayed on the
 12 equipment used by such driller. Nothing in this act shall be con-
 13 strued as applying to the drilling of blast holes in quarries or
 14 mines ***[or to cored holes 3½ inches or less in diameter which are]**
 15 **drilled for exploration or investigation].***

16 9. Section 10 of the act of which this act is amendatory is
 17 amended to read as follows:

18 10. No well shall be drilled until a permit therefor *where required*
 19 *by the provisions of this act*, has been secured from the said
 20 **[division] department**. Application for each such permit shall be
 21 made upon forms prescribed and supplied by the **[division]**
 22 *department*, and the applicant for a permit shall give such informa-
 23 tion pertaining to the proposed well as the **[division] commissioner**
 24 shall require. Each application shall be accompanied by a fee of
 25 \$3.00. As a **[further]** condition to the issuance of such permit,
 26 the division may require that accurate samples of the materials
 27 encountered in sinking the proposed well shall be preserved and
 28 delivered to the State Geologist or one of his authorized representa-
 29 tives. Within 60 days of the completion of the drilling of any
 30 well, a report, on forms prescribed and supplied by the **[division]**
 31 *department*, shall be filed by the driller with the **[division]**
 32 *department*, giving the log (i. e. description of materials pen-
 33 etrated), the size and depth of the well, the diameters and lengths
 34 of casing and screen installed therein, the static and pumping levels
 35 and the yield of the well, and such other information pertaining
 36 to the construction or operation of the well as the **[division]**
 37 *department* may require.

38 Any driller failing to file the report required by this section

1 within the time specified *or to deliver the samples of material*
 1A *required in this section, or who shall willfully file an incomplete or*
 1B *incorrect report, shall be liable to a penalty of \$25.00 which may*
 1C *be collected and enforced in an action by the [division] department*
 1D *in the name of the State in a court of competent jurisdiction in a*
 1E *summary manner, without a jury, in accordance with the procedure*
 2 *prescribed in "The Penalty Enforcement Law" (P. L. 1948, c. 253).*
 3 *All penalties and costs collected in such actions shall be payable*
 4 *to *[said department which shall transmit the same to the State*
 5 *Treasurer]* *the municipality in which the offense occurred*.*

6 10. Section 14 of the act of which this act is amendatory is
 7 amended to read as follows:

8 14. A license once issued *unless revoked or suspended* may be
 9 renewed at any time within 1 year from [the date of its expiration]
 10 *its effective date on application therefor [.] and payment of the*
 11 *required renewal fee, and any such renewal shall [expire on]*
 12 *become effective on and after [June 30] July 1 next following the*
 13 *date of such renewal, and shall expire on June 30 next following*
 14 *such effective date. Any license which shall not have been renewed*
 15 *prior to its expiration date may be reinstated within 3 years of its*
 16 *said expiration date by payment of the cumulative renewal fees*
 17 *for each year, or fraction thereof, during which the license has*
 18 *lapsed.*

19 *After the said 3-year period, renewal shall require prior certifica-*
 20 *tion by the board or the taking and passing of a re-examination*
 21 *in the form and manner prescribed by the board for applicants for*
 22 *new licenses.*

23 11. Section 16 of the act of which this act is amendatory is
 24 amended to read as follows:

25 16. The said *[division]* **commissioner** and the State Geolo-
 26 *gist, or any authorized representative of the commissioner, shall*
 27 *have the power to make such inspections and take such samples as*
 28 *may be deemed necessary for the [supervision] investigation of the*
 29 *construction and repair of wells throughout the State. They shall*
 30 *also have the right to enter upon any and all property for the pur-*
 31 *pose of obtaining information about wells, whether idle, in use or*
 31A *abandoned.*

32 12. Section 19 of the act of which this act is amendatory is
 33 amended to read as follows:

34 19. As used in this act:

35 A "well" is any excavation whether drilled, bored [.] or cored,
 36 for water, oil [.] or gas, or in exploration for water, oil or gas,
 37 or for the storage or disposal thereof, or their derivatives, or for

1 *the storage or disposal of sewage, industrial waste or radioactive*
 1A *material. ***[Drive point wells under 4 inches]*** *Single domestic*
 1B *drive point wells 2 inches and under* in diameter and hand*
 1C *dug wells are excluded from the provisions of this act.*

1D A "well driller" is any person who engages in drilling, digging,
 1E driving, boring, coring, constructing, altering or repairing any well.

1F A "master well driller" is any person skilled in the planning,
 1G superintending and practical construction of wells and the installa-
 2 tion and repair of well pumping equipment, who has been engaged
 3 in well drilling for at least **[10]** 5 years, *and who has been licensed*
 4 *as such by the board.*

5 A "journeyman well driller" is any person, other than a master
 6 well driller, skilled in the practical construction of wells **[and]**,
 7 who has had at least 3 years' experience in such work, *and who has*
 8 *been licensed as such by the board.*

9 *The examining board, the board of examiners, the advisory board*
 10 *or the board of advisors means the "State Well Drillers Examining*
 11 *and Advisory Board."*

12 13. Section 20 of the act of which this act is amendatory is
 13 amended to read as follows:

14 20. Any person who shall engage in the trade, business or calling
 15 of a well driller *or who shall operate a well drilling machine* without
 16 having a license, *except in the presence and under the immediate*
 17 *supervision of a master or journeyman well driller, or any person,*
 18 *partnership or corporation who, or which, shall engage in the*
 19 *trade, business or calling of well drilling without employing a*
 20 *licensed driller to operate his, their or its well drilling machine, or*
 21 *who shall operate without a permit **[,]** as provided in this act, or*
 22 *who shall aid or abet in the commission of such violation, or who*
 23 *shall refuse to perform any duty or obey any direction lawfully*
 24 *enjoined upon him by this act or by the department or said ***[divi-***
 25 *sion]* *commissioner* or the State Geologist, except as provided in*
 26 *section 10 hereof, shall be deemed a disorderly person and upon*
 27 *conviction thereof shall be punished by a fine **[to have violated the***
 28 *provisions of this act and shall be subject to a penalty] of not less
 29 than **[\$10.00]** \$100.00 nor more than **[\$50.00]** \$250.00 for each and
 30 every such violation*, *which may be collected and enforced in an*
 31 *action by the department in the name of the State in a court of*
 32 *competent jurisdiction in summary proceedings pursuant to the*
 33 *Penalty Enforcement Law N. J. S. 2A:58-1 et seq. All penalties*
 34 *and costs collected in such actions shall be payable to the munici-*
 35 *pality in which the offense occurred.* Each day such violation shall*
 36 *continue shall constitute a separate offense. The **[display by an*****

1 unlicensed person of any sign or the advertising in any way, or the
2 acceptance by any [unlicensed] person, *partnership or corporation*
3 of any money or other consideration for the construction of any
4 well *by anyone other than a licensed driller of the proper class as*
5 *provided by this act*, shall be deemed prima facie evidence of the
6 violation of this act.

7 14. Sections 11, 21 and 22 of chapter 377 of the laws of 1947
8 are hereby repealed.

9 15. This act shall take effect immediately, except that no person,
10 partnership or corporation engaged in the business, trade or
11 calling of well drilling shall be required to have a master well
12 driller supervise operations as herein provided until after 180 days
13 from the passage of this act.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 10, 1968

ASSEMBLY BILL NO. 29

To the General Assembly:

Pursuant to Article V, Section 1, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 29, with my objections, for reconsideration.

Assembly Bill No. 29 is the culmination of many years of effort to reconstitute provisions of law for the protection of our natural water supply from incidental incursion. The licensing of well drillers, and the resulting development of information concerning each well in this State has for many years been recognized as an essential instrument in the preservation of our natural resources and in planning for the future. In recent years, particularly, the need for accurate, detailed and complete information has become essential.

This bill will enable the Commissioner of Conservation and Economic Development to undertake information-gathering and regulatory responsibilities in connection with the drilling of wells with greater efficiency and effectiveness. Most significant, this bill provides an efficient procedure to enforce the requirements of law, thus making this regulatory act more responsive to the current needs of the State.

There are, however, several respects in which the bill as adopted by the Legislature requires minor amendment. The inadvertent reference to the "Division" where the evident intent is "Commissioner", provision for the number of members of the Board of Well Drillers Examiners which invites the possibility of frustrating tie votes, and the technically incorrect description of those excavations exempt from regulation should be revised before adoption of these amendments to the act.

Accordingly, I herewith return Assembly Bill No. 29 for reconsideration and recommend that it be amended as follows:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Assembly Bill No. 29

- 2 -

On Page 2, Section 3, Line 9, delete "8" and insert in lieu thereof "7".

On Page 2, Section 3, Line 17, delete "2 members" and insert in lieu thereof "1 member".

On Page 2, Section 3, Line 26, following "5 members." insert "All persons appointed to said board shall be citizens of the United States and residents of the State of New Jersey. The Commissioner may remove any member of the board, after hearing, for misconduct, incompetence, neglect of duty or for any other sufficient cause."

On Page 3, Section 6, Lines 9 and 10, delete "Division of Water Policy and Supply" and insert in lieu thereof "Commissioner".

On Page 4, Section 8, Lines 14 and 15, delete "or to cored holes 3½ inches or less in diameter which are drilled for exploration or investigation."

On Page 5, Section 9, Lines 4 and 5, delete "said department which shall transmit the same to the State Treasurer", and insert in lieu thereof "the municipality in which the offense occurred".

On Page 5, Section 11, Line 25, delete "division", and insert in lieu thereof "Commissioner".

On Page 5, Section 12, Line 39, following "material.", delete "Drive point wells under 4 inches", and insert in lieu thereof "Single domestic drive point wells 2 inches and under".

On Page 6, Section 13, Line 24, delete "division", and insert in lieu thereof "Commissioner".

On page 6, Section 13, Line 29, following "such violation," delete ".", and insert, ", which may be collected and enforced in an action by the department in the name of the State in a court of competent jurisdiction in summary proceedings pursuant to the Penalty Enforcement Law N.J.S. 2A:58-1 et seq. All penalties and costs collected in such actions shall be payable to the municipality in which the offense occurred."

[seal]

Respectfully,

/S/ RICHARD J. HUGHES

GOVERNOR

Attest:

/S/ ALAN J. KARCHER

Acting Secretary to the Governor