

58:4A-4.2a

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(Well drilling)

NJSA: 58:4A-4.2a

LAWS OF: 1995 CHAPTER: 312

BILL NO: S743

SPONSOR(S): Bennett

DATE INTRODUCED: March 3, 1994

COMMITTEE: ASSEMBLY Environment & Energy; Appropriations
SENATE: Natural Resources; Budget & Appropriations

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: December 11, 1995

SENATE: February 9, 1995

DATE OF APPROVAL: January 5, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 5-8-95 & 11-27-95
SENATE: Yes 3-21-94 & 11-21-94

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MESSAGE ON SIGNING: No

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REPORTS: No

HEARINGS: No

KBP:pp

P.L.1995, CHAPTER 312, *approved January 5, 1996*
1994 Senate No. 743 (*Second Reprint*)

1 AN ACT concerning well drillers and pump installers, establishing
2 a "well sealing fund," ¹amending the title and amending and
3 supplementing the body of P.L.1947, c.377,¹ amending
4 P.L.1979, c.398, amending and supplementing ¹[P.L.1947, c.377
5 and]¹ P.L.1951, c.193, and repealing parts of the statutory law.
6

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

9 1. The title of P.L.1947, c.377 is amended to read as follows:
10 AN ACT to conserve certain natural resources of the State and to
11 protect the public health; to provide for the licensing of well
12 drillers and pump installers; to establish standards for the
13 construction and installation of wells and the installation of
14 pumps; to fix fees [therefor]; and to provide penalties for
15 violations [thereof].

16 (cf: P.L.1979, c.398, s.1)

17 2. Section 2 of P.L.1951 c.193 (C.58:4A-4.1) is amended to
18 read as follows:

19 2. The owner of any well shall [, upon abandonment of any
20 existing well or test hole, so notify the department and shall
21 effectively seal and fill such wells and test holes] be responsible
22 for having the well sealed in accordance with the rules and
23 regulations of the department if the well is not in use or if it
24 endangers or threatens the subsurface or percolating waters by
25 the intrusion of salt water or from any other cause, or if it
26 endangers life. Notwithstanding the well owner's responsibility
27 to seal a well, the drilling contractor is also and primarily
28 responsible for sealing ²[an abandoned] a² borehole or ²[any
29 incomplete]² well ²[if the borehole or well presents an imminent
30 danger to the environment or to public safety as provided by rules
31 and regulations of the department] that is abandoned during
32 construction or is not completed or constructed in accordance
33 with rules and regulations in effect at the time of construction².
34 [A well not in operation for 3 or more years or improperly
35 maintained to prevent contamination may be deemed to have
36 been abandoned.] Any person who ¹[shall violate] violates¹ the
37 provisions of this section shall be guilty of a [misdemeanor]
38 disorderly persons offense and shall be subject to the penalty
39 provisions and other remedies set forth in section 20 of P.L.1947,
40 c.377 (C.58:4A-24). Nothing in this section shall be construed to
41 limit the ability of the owner of a well ¹[from seeking] to seek¹
42 indemnification, contribution, or other civil damages from the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is 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 SNI committee amendments adopted March 21, 1994.

² Senate SBA committee amendments adopted November 21, 1994.

1 drilling contractor as may be authorized pursuant to any other
 2 statutory or common law.

3 (cf: P.L.1979, c.398, s.21)

4 3. Section 3 of P.L.1951, c.193 (C.58:4A-4.2) is amended to
 5 read as follows:

6 3. The department shall have the power to [order] direct the
 7 sealing of any [such abandoned] abandoned borehole or well not in
 8 use, or any well when, in its judgment, the condition of the well
 9 endangers or threatens [to endanger] the subsurface or
 10 percolating waters by the intrusion of salt water or from any
 11 other [causes] cause, or if it endangers life. The department
 12 may, when it determines that an emergency condition exists,
 13 direct the prompt sealing of an abandoned borehole or well.

14 ¹[The] An¹ owner or drilling contractor of any abandoned
 15 borehole or well ¹[,]¹ who is responsible ¹[to have] for having¹
 16 that borehole or well sealed pursuant to section 2 of P.L.1951,
 17 c.193 (C.58:4A-4.1) ¹[, who shall fail or refuse] but fails or
 18 refuses¹ to seal it in the time and manner [ordered] ¹[as]¹
 19 directed by the department shall be subject to [a penalty of five
 20 hundred dollars (\$500.00) for each and every violation, and
 21 further penalty of fifty dollars (\$50.00) for each day during which
 22 such violation shall continue] the penalty provisions and other
 23 remedies set forth in section 20 of P.L.1947, c.377 (C.58:4A-24).

24 (cf: P.L.1979, c.398, s.22)

25 4. (New section) If a well is not in use, or if a well is found by
 26 the department to endanger or threaten the subsurface or
 27 percolating waters by the intrusion of salt water or from any
 28 other cause, or if it endangers life, or if an abandoned borehole
 29 exists, and the responsible party cannot be found or refuses to
 30 seal the borehole or well as directed by the department pursuant
 31 to section 3 of P.L.1951, c.193 (C.58:4A-4.2), the department
 32 may, in its discretion, act to seal the borehole or well. A
 33 responsible party who fails to comply with a directive to seal a
 34 borehole or well shall be liable to the department in an amount
 35 equal to three times the cost of sealing the borehole or well. The
 36 amount shall be assessed and recovered in accordance with
 37 section 20 of P.L.1947, c.377 (C.58:4A-24), and the amount
 38 collected shall be deposited in the "well sealing fund" established
 39 pursuant to section 5 of P.L. , c. (C.)(pending in the
 40 Legislature as this bill).

41 5. (New section) There is established in the Department of
 42 Environmental Protection a nonlapsing, revolving fund, to be
 43 known as the "well sealing fund." All penalties collected by the
 44 department for violations of sections 2 and 3 of P.L.1951, c.193
 45 (C.58:4A-4.1 and C.58:4A-4.2), and all monies recovered by the
 46 department pursuant to section 4 of P.L. , c. ,
 47 (C.)(pending in the Legislature as this bill), shall be deposited
 48 into the "well sealing fund." The fund shall be utilized solely for
 49 the purpose of administering and conducting a well sealing
 50 program as provided in section 4 of P.L. , c. (C.)(now
 51 before the Legislature as this bill).

52 6. Section 1 of P.L.1947, c.377 (C.58:4A-5) is amended to read
 53 as follows:

54 1. The [Commissioner of the Department of Environmental

1 Protection, hereinafter called] commissioner [, in furtherance of
 2 his general powers of supervision over the natural resources of
 3 the State and their conservation for public use, is hereby
 4 authorized, empowered and directed to make effective the
 5 provisions of this act and to adopt and effectuate, such] shall
 6 adopt rules and regulations pursuant to the "Administrative
 7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), [rules and
 8 regulations as may be proper for this purpose and for the
 9 administration of the provisions of this act. The commissioner
 10 may adopt rules and regulations to carry out the purposes of this
 11 act] as may be necessary to effectuate the provisions of
 12 P.L.1947, c.377 (C.58:4A-5 et seq.), including construction and
 13 other standards applicable to engaging in well drilling and pump
 14 installing.

15 (cf: P.L.1979, c.398, s.2)

16 7. Section 2 of P.L.1947, c.377 (C.58:4A-6) is amended to read
 17 as follows:

18 2. ¹a. ¹No person, partnership or corporation shall [hereafter]
 19 engage in well drilling or pump installation in this State , except
 20 as provided in section 20 [hereof unless he, if an individual, or a
 21 member of the firm, if a partnership, or an executive officer, if a
 22 corporation, shall be licensed as a well driller or pump installer]
 23 of P.L.1947, c.377 (C.58:4A-24) ²[¹:

24 ⁽¹⁾¹ , ² unless that ¹[person, if an individual, or a member of a
 25 firm, if a partnership, or an] individual, if a person, or member of
 26 the firm, if a partnership, or ¹ executive officer, if a corporation
 27 ²[,] :

28 ⁽¹⁾² possesses a valid New Jersey license of the proper class
 29 ¹[,] ; ¹ or

30 ¹(²)¹ ²[without securing] secures² the services of a person
 31 possessing a valid New Jersey license of the proper class [, as
 32 provided in this act].

33 The department shall establish, by regulation, classes of
 34 licenses required for all well drilling and pump installing
 35 activities.

36 ¹b. ¹No person, partnership, or corporation shall employ more
 37 than three other well drillers in well drilling in this State unless
 38 [said] the well drillers' supervisor is qualified as a master well
 39 driller pursuant to the criteria established therefor under the
 40 rules and regulations of the [commissioner] department.

41 ¹c. ¹No other agency or [civil division] political subdivision of
 42 the State [shall be empowered] is authorized to license or to
 43 establish standards, requirements, or specifications for [engaging
 44 in the trade, business or calling of] well drilling or pump
 45 installation [which shall be applicable to any person licensed
 46 under this act] regulated pursuant to P.L.1947, c.377 (C.58:4A-5
 47 et seq.).

48 (cf: P.L.1979, c.398, s.3)

49 8. Section 3 of P.L.1947, c.377 (C.58:4A-7) is amended to read
 50 as follows:

51 3. A board of [9] nine well driller and pump installer examiners
 52 is [hereby] created, to be appointed by the [Commissioner of
 53 Environmental Protection] commissioner, which shall function as
 54 an examining board of well drillers and pump installers, and as an

1 advisory board to the [commissioner and shall be hereinafter
2 referred to as the board] department. [Three] The board shall be
3 constituted as follows: three members of the board shall be
4 employees of the department; one member shall be a person not
5 employed by the State or pecuniarily involved in well drilling or
6 pump installing [shall be appointed by the commissioner] ²; one
7 member shall be licensed as a well driller in any classification
8 established by the department² ; one member shall [have the
9 qualification to qualify] be licensed as a pump installer; and the
10 remaining [4] ²[four] three² members shall [have the
11 qualifications to qualify] be licensed as master well drillers.
12 Members of the board shall be appointed for terms of [3] three
13 years. A quorum of the board shall consist of [7] five members ,
14 except that a quorum shall not exist unless at least three of the
15 members present are the licensed well driller or pump installer
16 members. No action may be approved by the board except upon
17 the approval of a majority of the members present. All persons
18 appointed to [said] the board shall be citizens of the United
19 States and residents of the State of New Jersey. The
20 commissioner may remove any member of the board, after
21 hearing, for misconduct, incompetence, neglect of duty or for any
22 other sufficient cause.

23 (cf: P.L.1979, c.398, s.4)

24 9. Section 4 of P.L.1947, c.377 (C.58:4A-8) is amended to read
25 as follows:

26 4. [Said] The board so appointed shall be designated and known
27 as the "State Well Drillers and Pump Installers Examining and
28 Advisory Board."

29 Each member of the board, except those who are employees of
30 the department, shall receive actual and necessary expenses, such
31 charges to be approved by the commissioner and paid from
32 [general funds of the State within the limits of appropriations to
33 the department.] monies in the "Environmental Services Fund"
34 established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33),
35 as are appropriated to the department for this purpose.

36 (cf: P.L.1979, c.398, s.5)

37 10. Section 6 of P.L.1947, c.377 (C.58:4A-10) is amended to
38 read as follow:

39 6. The board shall be vested with the following powers and
40 duties:

41 [(a)] a. It shall be the duty of the board to [examine as to their
42 experience and qualifications all persons applying for licenses as
43 well drillers or pump installers, and to certify the results thereof
44 within 10 days to the commissioner of the department. Such
45 examinations] recommend and consent to examination questions,
46 review applications to ascertain the experience and qualifications
47 of persons applying for a license, review examination results, and
48 recommmend to the department when licenses should be issued or
49 denied. A board recommendation that a license be issued or
50 denied shall be adopted at the next scheduled meeting following
51 completion of the examination therefor. Examinations may be
52 oral or written, and [shall be of a practical nature.] may include
53 observation of applicants for any license in the field, or any
54 combination thereof, and shall cover the proper methods and

1 regulatory procedures of well drilling and pump installation.

2 [(b)] b. It shall, by a majority of all its members, formulate
3 and recommend to the [commissioner] department rules,
4 regulations, and standards, including construction standards for
5 engaging in [the trade, business or calling of] well drilling or
6 pump installing which shall be applicable to any person licensed
7 under this act.

8 (cf: P.L.1979, c.398, s.6)

9 11. Section 7 of P.L.1947, c.377 (C.58:4A-11) is amended to
10 read as follows:

11 7. ²a.² The [commissioner] department shall, upon
12 recommendation of the board and payment of the required fee,
13 issue licenses to [such] persons [as have by said examination
14 shown themselves competent and qualified] to engage in [the
15 business, trade or calling of] well [driller] drilling or pump
16 [installer] installing.

17 ²b. The department shall adopt various classifications of well
18 driller licenses to reflect the different well drilling disciplines.
19 Beginning eighteen months after the effective date of P.L. ,
20 c. (C.) (pending in the Legislature as this bill), the
21 department:

22 (1) Shall issue a new well driller license only for the
23 classification of well driller for which an applicant qualifies,
24 based upon passing a licensing examination for that classification;
25 and

26 (2) Shall issue a new master well driller license only to an
27 applicant who has passed the examination for each classification
28 of well driller established by the department pursuant to section
29 1 of P.L.1947, c.377 (C.58:4A-5).²

30 (cf: P.L.1979, c.398, s.7)

31 12. Section 8 of P.L.1947, c.377 (C.58:4A-12) is amended to
32 read as follows:

33 8. The board may, after [public] conducting a hearing,
34 recommend [to the commissioner that he] that the commissioner
35 revoke[,] indefinitely or suspend [for any period less than 1 year]
36 for a period of less than one year the license of any well driller or
37 pump installer, if the [same] license was obtained through error
38 or fraud, or if the board shall find [him] the well driller or pump
39 installer guilty of gross neglect, incompetency, or misconduct in
40 the practice of well drilling or pump installing or if the holder
41 thereof has [a second time] willfully violated any [of the
42 provisions of this law] provision of P.L.1947, c.377 (C.58:4A-5 et
43 seq.) or of P.L.1951, c.193 (C.58:4A-4.1 et seq.), or any [of the
44 rules and regulations prescribed by the commissioner] rule or
45 regulation adopted ¹[in accordance therewith] pursuant thereto¹

46 . The recommendation of the board shall be made in writing and
47 shall be accompanied by all documentation resulting from the
48 hearing held by the board. Any person whose license has been
49 revoked may, after the expiration of ¹[1] one¹ year from the date
50 of [such] revocation, apply for a new license. Any person whose
51 license has been suspended may, after expiration of the period of
52 suspension, be reinstated upon review and approval by the board.

53 The charges against any well driller or pump installer [of]
54 against whom complaint is made shall be in writing and sworn to

1 by the complainant, and filed with the board.

2 Such charges, unless dismissed by the board as unfounded or
3 trivial, shall be heard and determined by the board within [3]
4 three months after the date on which they are preferred unless
5 the board shall determine that good cause exists for further
6 delay. The board shall have the power at any such proceeding to
7 require the attendance of witnesses before it, and the production
8 of such books, papers and documents as it may require, and to
9 issue or authorize the issuance of subpoena therefor.

10 The time and place of the hearing, which may be adjourned
11 from time to time, shall be fixed by the board. A copy of the
12 charges, together with a notice of the time and place of hearing,
13 shall be served on the accused by the board personally or by
14 certified mail, addressed to his last known place of residence [in
15 this State.] at least 30 days before the day fixed for the hearing.
16 At [such] the hearing the accused shall have the right to appear
17 personally or by counsel and to cross-examine witnesses against
18 him and to produce evidence in his defense.

19 The commissioner may accept, reject, or modify the
20 recommendation of the board. A decision of the commissioner
21 shall represent final agency action for the purposes of the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.).

24 (cf: P.L.1979, c.398, s.8)

25 13. Section 9 of P.L.1947, c.377 (C.58:4A-13) is amended to
26 read as follows:

27 9. a. Any operation on the drilling, boring, coring, driving,
28 jetting, digging, sealing or other construction or repair of wells
29 shall be under the immediate on-site supervision of a licensed
30 well driller of the proper class, and the name of the [owner] well
31 drilling contractor shall be displayed on the equipment used by
32 such driller.

33 b. Any installation, removal, alteration, or repair of well
34 pumping equipment or appurtenances shall be under the
35 immediate on-site supervision of a licensed pump installer or a
36 licensed well driller, and the name of the pump installing
37 contractor or well drilling contractor shall be displayed on the
38 equipment used in the installation, removal, alteration or repair.

39 c. Nothing in [this act] P.L.1947, c.377 (C.58:4A-5 et seq.)
40 shall be construed as applying to the drilling of blast holes in
41 quarries or mines[, or any operation on the installation,
42 construction, or repair of a water system, including water pumps,
43 water tanks, and water conditioners under the direct
44 responsibility of a licensed professional engineer]; or to persons
45 licensed pursuant to, and acting in accordance with, P.L.1968,
46 c.362 (C.45:14C-1 et seq.); or to excavations that do not
47 endanger or threaten subsurface or percolating waters or
48 endanger life and that are not defined as a well pursuant to
49 section 19 of P.L.1947, c.377 (C.58:4A-23), including, but not
50 limited to, septic system installations, wetlands determinations,
51 and site suitability studies.

52 (cf: P.L.1979, c.398, s.9)

53 14. Section 10 of P.L.1947 c.377 (C.58:4A-14) is amended to
54 read as follows:

1 10. a. ²(1)² Except in the case of an emergency ²or a general²
2 permit, [No] no well requiring a permit shall be [drilled]
3 constructed until a permit [therefor where required by the
4 provisions of this act.] has been [secured from the said] issued
5 therefor by the department. Application for [each such] a permit
6 shall be made upon forms prescribed and supplied by the
7 department, and the applicant [for a permit] shall give such
8 information pertaining to the proposed well as the [commissioner]
9 department shall require. [Each permit application under 70
10 gallons per minute shall be accompanied by a fee of \$10.00. Each
11 permit application of over 70 gallons per minute shall be
12 accompanied by a fee of \$25.00.] ²The department may issue a
13 site-wide permit for the construction of multiple wells at a site,
14 subject to standards adopted by the department by regulation.

15 (2) The department shall adopt, by regulation, a general permit
16 for the construction of certain categories of wells up to a depth
17 of 50 feet and a maximum diameter to be set by the department
18 to protect public health and safety.²

19 b. The department shall adopt and periodically revise, by
20 regulation, well permit requirements, including emergency
21 permits, and regulations establishing a fee schedule setting forth
22 reasonable application and permit fees to cover the costs of
23 administering permit and permit enforcement programs. Permit
24 fees shall not include the cost to the department of operating
25 well drilling equipment, except when the department seals a
26 well. The department may allocate a portion of the permit fees
27 to local health agencies certified pursuant to P.L.1977, c.443
28 (C.26:3A2-21 et seq.) for administration and enforcement of
29 permits issued pursuant to this act. Upon adoption of a fee
30 schedule pursuant to this subsection, the fees set forth in the fee
31 schedule shall supercede the fees set forth in subsection d. of this
32 section.

33 c. As a further condition to the issuance of [such] a permit,
34 the [commissioner] department may require that accurate
35 samples of the materials encountered in [sinking] constructing the
36 proposed well shall be preserved and delivered to the
37 department. Within [60] 90 days of the completion of the
38 [drilling] construction of any permitted well, a [report] well
39 record, on forms prescribed and supplied by the department,
40 shall be filed by the driller with the department giving the [lot]
41 log (i.e. description of materials penetrated), the size and depth
42 of the well, the diameters and lengths of casing and screen
43 installed therein, the static and pumping levels and the yield of
44 the well, and such other information pertaining to the
45 construction or operation of the well as the department may
46 require.

47 d. Pending adoption by regulation of a permit fee schedule by
48 the department in accordance with subsection b. of this section,
49 the following permit fees shall be required: (1) a fee of \$50 for
50 each permit for a well with a pumping capacity of under 70
51 gallons per minute; ²[and]² (2) a fee of \$125 for each permit for
52 a well with a pumping capacity of 70 gallons or more per minute
53 ²; and (3) a fee of \$100 for each site-wide permit². Payment of
54 the fee shall accompany each permit application.

55 (cf: P.L.1979, c.398, s.10)

1 215. (New section) a. The department shall establish an
2 expedited permit processing service for well permit applications.
3 This service shall accept properly completed permit applications
4 by electronic media, including but not limited to telefax
5 machines. The department may establish, by regulation, an
6 additional fee not to exceed the cost of maintaining this
7 expedited service.

8 b. There is established within the department a special
9 dedicated non-lapsing account into which any person licensed
10 pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.) may deposit and
11 maintain such funds as shall be sufficient to cover permit or
12 license renewal fees that the licensee may accrue from permit or
13 license renewal applications. Upon authorization of the licensee,
14 the department may withdraw from this account permit
15 application or license renewal fees for any well permit or license
16 renewal application.²

17 ²16. Section 12 of P.L.1947, c.377 (C.58:4A-16) is amended to
18 read as follows:

19 12. The department may license without examination, upon
20 payment of the required license fee, applicants who are duly
21 licensed under the laws of any other state having requirements
22 deemed by the [said board] department to be at least equivalent
23 to those of this State.²

24 (cf: P.L.1979, c.398, s.11)

25 ²[15.] ²17. Section 14 of P.L.1947, c.377 (C.58:4A-18) is
26 amended to read as follows:

27 14. A license once issued, unless revoked or suspended, may be
28 renewed at any time within ¹[1] one¹ year ¹[from]¹ before
29 [effective] expiration date on application therefor and payment
30 of the required renewal fee, and any such renewal shall become
31 effective on and after July 1 next following the date of [such]
32 renewal [, and shall expire on June 30 next following such
33 effective date]. [Any] A license [which shall not have been] not
34 renewed prior to its expiration date may be reinstated within
35 [3 years] ¹[6] six¹ months of [its said] the expiration date by
36 payment of the [cumulative] license renewal [fees for each year,
37 or fraction thereof, during which the license has lapsed] fee.

38 After the [said 3-year] six- month period, renewal shall require
39 [prior certification by the board or] the [taking and] passing of [a
40 re-examination in the form and manner] an examination
41 prescribed by the [board] department ²pursuant to section 7 of
42 P.L.1947, c.377 (C.58:4A-11)² for applicants for new licenses.

43 (cf: P.L.1968, c.308, s.10)

44 ²[16.] ²18. Section 15 of P.L.1947, c.377 (C.58:4A-19) is
45 amended to read as follows:

46 15. [The] a. Pending adoption by regulation of a fee schedule
47 by the department pursuant to subsection b. of this section, the
48 following fees shall be required for licenses and renewals:

49	Master well driller's license	[\$25.00]	<u>\$75</u>
50	Journeyman well driller's license	[\$10.00]	<u>\$30</u>
51	Renewal of master well driller's license	[\$25.00]	<u>\$75</u>
52	Renewal of journeyman well driller's license.....	[\$10.00]	<u>\$30</u>
53	Pump installer's license	[\$10.00]	<u>\$30</u>
54	Renewal of pump installer's license	[\$10.00]	<u>\$30</u>

1 b. The department shall adopt, and may periodically amend, by
 2 regulation, a fee schedule setting forth reasonable fees for
 3 license applications and examinations, and for issuance and
 4 renewal of any license in amounts adequate to cover the costs of
 5 administering all licensing and license enforcement programs.
 6 Upon adoption of a fee schedule pursuant to this subsection, the
 7 fees set forth in the fee schedule shall supersede the fees set
 8 forth in subsection a. of this section.

9 All revenues derived from [such fees or from fees contained in]
 10 this section ²[and] ²section 10 [hereof] of P.L.1947, c.377
 11 (C.58:4A-14) ², and section 15 of P.L. . c. (C.) (now
 12 before the Legislature as this bill)² shall be deposited in the
 13 ["environmental services fund"] "Environmental Services Fund"
 14 established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33),
 15 and shall be used for the administration of well [water] programs
 16 pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.).

17 (cf: P.L.1979, c.398, s.12)

18 ²[17.] 19.² Section 16 of P.L.1947, c.377 (C.58:4A-20) is
 19 amended to read as follows:

20 16. The [said commissioner, or any authorized representative
 21 of the commissioner,] department shall have the power to make
 22 such inspections and take such samples as may be deemed
 23 necessary for the investigation of the construction, sealing, and
 24 repair of wells throughout the State. ¹[They] The department¹
 25 shall also have the right to enter upon any and all property for
 26 the purpose of obtaining information about wells, whether idle, in
 27 use or abandoned.

28 (cf: P.L.1979, c.398, s.13)

29 ²[18.] 20.² Section 16 of P.L.1979, c.398 (C.58:4A-20.1) is
 30 amended to read as follows:

31 16. A master well driller shall have the authority to certify
 32 that the well, including well pumping equipment and
 33 appurtenances thereto, has been constructed to meet the
 34 standards promulgated pursuant to P.L.1954, c.199 (C.58:11-23 et
 35 seq.) [concerning well drilling and pump installation. Before any
 36 master well drillers license is granted, the applicant shall file a
 37 bond in an amount fixed by the commissioner, but not less than
 38 \$5,000.00, with good and sufficient surety, and conditioned for
 39 the faithful performance by the applicant of the provisions of the
 40 act to which this act is supplementary and any and all rules and
 41 regulations adopted pursuant thereto.

42 Any master well driller licensed under the provisions of the act
 43 to which this act is supplementary who violates any rule or
 44 regulation of the department or any provision of this act, may, in
 45 addition to any other penalty prescribed by law, be deprived of
 46 his license for a period not to exceed 1 year], P.L.1977, c.224
 47 (C.58:12A-1 et seq.), and P.L.1947, c.377 (C.58:4A-5 et seq.).

48 (cf: P.L.1979, c.398, s.16)

49 ²[19.] 21.² Section 19 of P.L.1947, c.377 (C.58:4A-23) is
 50 amended to read as follows:

51 19. As used in this act:

52 ²"Commissioner" means the Commissioner of Environmental
 53 Protection.²

54 [A "well" is any] "Well" means a hole or excavation [whether]

1 larger than a minimum diameter and depth established by
2 department regulations pursuant to section 1 of P.L.1947, c.377
3 (C.58:4A-5) that is drilled, bored [or] , cored, [for water, oil or
4 gas, or in exploration for water, oil or gas, or for the storage or
5 disposal thereof. Any excavation that is less in its diameter than
6 its depth is a well] driven, jetted, dug, or otherwise constructed
7 for the purpose of removal or emplacement of, or investigation
8 of, or exploration for, fluids, water, oil, gas, minerals, soil, or
9 rock, or for the installation of an elevator shaft.

10 "Well drilling" means the drilling, digging, driving, boring,
11 coring, sealing, jetting, or other construction or repair of any
12 well.

13 [A "well driller" is any] "Well driller" means a person
14 possessing a New Jersey license as a well driller of the proper
15 class ², including but not limited to test borers and such other
16 classifications as the department establishes by regulation,² who
17 engages in [drilling, digging, driving, boring, coring, constructing,
18 altering or repairing any well or engages in the installation and
19 repair of pumps and appurtenances] well drilling or pump
20 installing.

21 [A "master well driller" is any person] "Master well driller"
22 means a well driller possessing a New Jersey master well driller's
23 license who has at least five years experience in the trade,
24 business, or calling of well drilling, including at least two years of
25 experience as a licensed journeyman well driller in this State,
26 ¹and is¹ skilled in the planning, superintending, and practical
27 construction of wells, and the installation and repair of well
28 pumping equipment [, who has been engaged in well drilling for at
29 least 5 years, and who has been licensed as such by the board] and
30 appurtenances thereto.

31 [A "journeyman well driller" is any person, other than a master
32 well driller, skilled in the practical construction of wells, or who
33 engages in the installation and repair of pumps and
34 appurtenances, who has had at least 3 years' experience in such
35 work, and who has been licensed as such by the board]
36 "Journeyman well driller" means a well driller possessing a New
37 Jersey journeyman well driller's license who has at least three
38 years of experience under the supervision of a New Jersey
39 licensed well driller in the trade, business, or calling of well
40 drilling, with concentration in the practical construction of wells,
41 and the installation and repair of well pumping equipment and
42 appurtenances thereto, or who satisfies equivalent experience and
43 other requirements as prescribed by the department.

44 [A "pump" is] "Pump" means a mechanical [equipment or a]
45 device used to remove or emplace gases, water or fluids from or
46 into a well.

47 [A "pump installer" is any] "Pump installer" means a person
48 possessing a New Jersey license as a pump installer who has at
49 least one year ¹of¹ experience under the supervision of a New
50 Jersey licensed well driller or a New Jersey licensed pump
51 installer, and is qualified to engage in [the installation, removal,
52 alteration or repair of water pumps and appurtenances in
53 connection with any water well including water lines between
54 well and storage tank and licensed as such by the board] pump

1 installing.

2 "Pump installing" means the installation, removal, alteration,
3 or repair of well pumping equipment and appurtenances thereto in
4 connection with any well including connecting lines between a
5 well and storage tank or appurtenance thereto.

6 [The "examining board", the board of examiners, the advisory
7 board or the board of advisors] "Board" means the "State Well
8 Drillers and Pump Installers Examining and Advisory Board."

9 [The "department" is] "Department" means the Department of
10 Environmental Protection.

11 "License of the proper class" or "license" means a document
12 issued to a person pursuant to section 7 of P.L.1947, c.377
13 (C.58:4A-11) authorizing the individual to engage and perform
14 work in the trade, business, or calling of well drilling, or pump
15 installing.

16 (cf: P.L.1979, c.398, s.14)

17 ²[20.] ²22. Section 20 of P.L.1947, c.377 (C.58:4A-24) is
18 amended to read as follows:

19 20. a. Any person who shall engage in the trade, business, or
20 calling of a well driller, or who shall operate a well drilling
21 machine without having a New Jersey license, except in the
22 presence and under the immediate on-site supervision of a New
23 Jersey licensed [master or journeyman] well driller of the proper
24 class, or any person, partnership, or corporation ²[who, or which,
25 shall engage] that engages² in the trade, business, or calling of
26 well drilling without employing a New Jersey licensed well driller
27 to operate [his, their or its] a well drilling machine, or ²[who shall
28 engage] that engages² in the trade, business, or calling of pump
29 installing without employing a New Jersey licensed pump installer
30 or New Jersey licensed well driller, for the work or the
31 immediate on-site supervision of the actual work, or ²[who shall
32 operate] that operates² without a permit as provided in this act,
33 or ²[who shall] that² negligently² [aid or abet] aids or abets²
34 in the commission of [such] any violation, [or who shall refuse to
35 perform any duty or obey any direction lawfully enjoined upon
36 him by this act or by the department or said commissioner shall
37 be liable to a penalty of not less than \$100.00 nor more than
38 \$250.00 for each and every such violation, which may be
39 collected and enforced in an action by the State or any
40 subdivision thereof in the name of the State in a court of
41 competent jurisdiction in summary proceedings pursuant to the
42 Penalty Enforcement Law N.J.S.2A:58-1 et seq. All penalties
43 and costs collected in such actions shall be payable to the
44 municipality in which the offense occurred. Each day such
45 violation shall continue shall constitute a separate offense. The
46 acceptance by any person, partnership or corporation of any
47 money or other consideration for the construction of any well by
48 anyone other than a licensed driller of the proper class as
49 provided by this act, shall be deemed prima facie evidence of the
50 violation of this act.] or ²[who shall violate] that violates² any
51 provision of P.L.1947, c.377 (C.58:4A-5 et seq.), any rule or
52 regulation adopted, or order or directive issued, pursuant thereto,
53 shall be subject to, as applicable, any or all of the following:

54 (1) A civil administrative penalty imposed pursuant to

1 subsection c. of this section;

2 (2) A civil penalty collected, as provided in subsection d. of
3 this section, in an action by the department, or a political
4 subdivision of the State, in a court of competent jurisdiction in a
5 summary proceeding pursuant to "the penalty enforcement law,"
6 (N.J.S.2A:58-1 et seq.);

7 (3) A civil action in accordance with subsection b. of this
8 section; or

9 (4) An order by the department requiring a violator to comply
10 with the provisions of this act or any rules or regulations adopted
11 pursuant thereto in accordance with subsection e. of this section.

12 Use of any remedy available pursuant to this subsection shall
13 not preclude the use of any other remedy available thereunder,
14 except that not more than one monetary penalty may be assessed
15 for any single violation. Any penalties or costs collected in an
16 action brought by a political subdivision pursuant to paragraph (2)
17 of this subsection shall be payable to that political subdivision.

18 Acceptance by any person, partnership, or corporation of any
19 money or other consideration of value for the construction of any
20 well or installation or repair of a pump by anyone other than a
21 licensed well driller of the proper class or licensed pump
22 installer, shall be deemed prima facie evidence of the violation of
23 this act.

24 b. The department may institute an action or proceeding in the
25 Superior Court for injunctive and other relief for any violation of
26 P.L.1947, c.377 or of any rule, regulation, order, or directive
27 issued pursuant thereto, and the court may proceed in the action
28 in a summary manner. Such relief may include, singly or in
29 combination:

30 (1) Assessment of the reasonable costs of any investigation,
31 inspection or monitoring survey that led to the establishment of
32 the violation, and for the reasonable costs of preparing and
33 litigating the case under this subsection;

34 (2) Assessment of the reasonable cost incurred by the State in
35 terminating any adverse effects of a violation on water quality or
36 other elements of the environment;

37 (3) Assessment of compensatory damages for any loss or
38 destruction of wildlife, fish or other aquatic life, or other natural
39 resources, and for any other actual damages;

40 (4) The recovery of the costs of sealing a well as may be
41 required pursuant to section 4 of P.L. , c. (C.)(now before
42 the Legislature as this bill; and

43 (5) A temporary or permanent injunction.

44 Compensatory damages collected pursuant to paragraph (3) of
45 this subsection shall be paid to the General Fund, except that
46 compensatory damages shall be paid by specific order of the
47 court to any persons who have been aggrieved by the violation.
48 Recovery of assessments pursuant to paragraph (4) of this
49 subsection shall be paid into the "well sealing fund" established
50 pursuant to section 5 of P.L. , c. (C.)(now pending
51 before the Legislature as this bill).

52 c. The department may assess, in accordance with a uniform
53 policy adopted therefor, a civil administrative penalty of not
54 more than \$5,000 for each violation ²directly related to the

1 construction of a well, and a civil administrative penalty of not
2 more than \$1,000 for each violation that is not
3 construction-related,² and each day during which a violation
4 continues shall constitute an additional, separate and distinct
5 offense.

6 Any amount assessed under this subsection shall fall within a
7 range established by regulation by the department for violations
8 of a similar type, seriousness, and duration.

9 In adopting rules for a uniform civil administrative penalty
10 policy for determining the amount of a civil administrative
11 penalty to be assessed, the department shall take into account
12 the type, seriousness, extent and frequency of a violation, the
13 harm to the public health or the environment resulting from the
14 violation, the economic benefits from the violation gained by the
15 violation, the degree of cooperation or recalcitrance of the
16 violation in remedying the violation, any measures taken by the
17 violation to avoid a repetition of the violation, and any other
18 pertinent factors that the department determines measure the
19 seriousness or frequency of the violation, or conduct of the
20 violation.

21 No civil administrative penalty shall be levied pursuant to this
22 subsection until after the violator has been notified by certified
23 mail or personal service. The notice shall include a reference to
24 the section of the statute, rule, regulation, or order or directive
25 violated; a concise statement of the facts alleged to constitute a
26 violation; a statement of the amount of the civil administrative
27 penalties to be imposed; and a statement of the party's right to a
28 hearing. The party shall have twenty days from the receipt of
29 the notice within which to deliver to the commissioner a written
30 request for a hearing. After the hearing and upon finding that a
31 violation has occurred, the department may issue a final order
32 assessing a penalty up to the amount of the penalty specified in
33 the order. If no hearing is requested, the notice shall become a
34 final order on the twenty-first day after receipt of the notice.
35 Payment of the assessment is due when a final order is issued, or
36 the notice becomes a final order.

37 d. Any person who violates the provisions of P.L.1947, c.377,
38 or any rule or regulation adopted, or order or directive issued
39 pursuant thereto, or a court order issued pursuant to subsection b.
40 of this section, or who fails to pay a civil administrative penalty
41 in full pursuant to subsection c. of this section, shall be subject,
42 upon order of a court, to a civil penalty of not more than \$5,000
43 for each violation² directly related to the construction of a well,
44 and a civil administrative penalty of not more than \$1,000 for
45 each violation that is not construction-related², and each day
46 the violation continues shall constitute an additional, separate,
47 and district offense.

48 Any civil action to impose a penalty pursuant to this subsection
49 may be commenced in the Superior Court or in the municipal
50 court and that penalty may be enforced and collected with costs
51 in a summary proceeding pursuant to "the penalty enforcement
52 law," N.J.S.2A:58-1 et seq.

53 e. Whenever the department finds that a person has violated
54 any provision of P.L.1947, c.377, or any rule or regulation

1 adopted, or order or directive issued pursuant thereto, the
 2 department, may issue an order specifying the provision or
 3 provisions of P.L.1947, c.377, or the rule, regulation, or order or
 4 directive issued, pursuant thereto, of which the person is in
 5 violation, citing the action which constituted the violation,
 6 ordering abatement of the violation, and giving notice to the
 7 person of the right to a hearing on the matters contained in the
 8 order. The ordered party shall have 20 calendar days from
 9 receipt of the order within which to deliver to the department a
 10 written request for a hearing. Such order shall be effective upon
 11 receipt and any person to whom such order is directed shall
 12 comply with the order immediately. A request for hearing shall
 13 not automatically stay the effect of the order.

14 f. The department may compromise any remedy and settle any
 15 claim for a penalty under this section in the amount in the
 16 discretion of the department as may appear appropriate and
 17 equitable under all of the circumstances.

18 (cf: P.L.1979, c.398, s.15)

19 ²[21.] ²23. Section 13 of P.L.1947, c.377 (C.58:4A-17) is
 20 amended to read as follows:

21 13. Every license issued under the authority of ²[this act]
 22 P.L.1947, c.377 (C.58:4A-5 et seq.)², unless sooner revoked, shall
 23 expire [in] on the thirtieth day of June three years following the
 24 date of issuance of such license, except that any license issued
 25 prior to the effective date of P.L. , c. (C.)(now before the
 26 Legislature as this bill) shall expire on the thirtieth day of June
 27 next following the date of issuance of such license.

28 (cf: P.L.1947, c.377, s.13)

29 ²[22.] ²24. (New section) Within 18 months of the effective
 30 date of ²[this act] P.L. , c. (C.) (now before the
 31 Legislature as this bill)², the department shall adopt, in
 32 accordance with the "Administrative Procedure Act," P.L.1968,
 33 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to
 34 implement the provisions of this act.

35 ²[23.] ²25. Section 4 of P.L.1951, c.193 (C.58:4A-4.3), and
 36 sections ²[12,]² 17 and 18 of P.L.1947, c.377 (²[C.58:4A-16,
 37 58:4A-21] C.58:4A-21² and 58:4A-22), are repealed.

38 ²[24.] ²26. This act shall take effect immediately ², except
 39 that section 8 shall take effect upon the first expiration after the
 40 effective date of a term of one of the master well driller
 41 members².

42
 43
 44
 45
 46 Revises the laws on well drilling, construction and sealing, and
 47 the licensing of well drillers and pump installers; establishes a
 48 well sealing fund.

1 21. Section 13 of P.L.1947, c.377 (C.58:4A-17) is amended to
2 read as follows:

3 13. Every license issued under the authority of this act, unless
4 sooner revoked, shall expire [in] on the thirtieth day of June three
5 years following the date of issuance of such license , except that
6 any license issued prior to the effective date of P.L. , c.
7 (C.) [now before the Legislature as this bill] shall expire on the
8 thirtieth day of June next following the date of issuance of such
9 license.

10 (cf: P.L.1947, c.377, s.13)

11 22. (New section) Within 18 months of the effective date of
12 this act, the department shall adopt, in accordance with the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), rules and regulations necessary to implement the provisions
15 of this act.

16 23. Section 4 of P.L.1951, c.193 (C.58:4A-4.3), and sections
17 12, 17 and 18 of P.L.1947, c.377 (C.58:4A-16, 58:4A-21 and
18 58:4A-22), are repealed.

19 24. This act shall take effect immediately.

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STATEMENT

23

24 This bill would expand and clarify the Department of
25 Environmental Protection and Energy's authority to regulate well
26 drilling and well pumping installation. The bill also would expand
27 the department's authority to order an abandoned borehole or a
28 well sealed if a threat to groundwater or public health exists,
29 hold the drilling contractor liable for borehole or well closures in
30 certain situations, and authorize the department to seal a well
31 and recover treble damages where necessary. The bill also
32 establishes a well closure fund which the department may use to
33 pay for well closures.

34 Other major provisions of the bill would allow the department
35 to increase fees for well permits and for licenses, clarify the
36 department's authority to regulate construction and standards
37 for well drilling and pump installation, increase the penalties for
38 noncompliance to penalties of not more than \$5,000 for each
39 violation, and clarify that well sealing activities are only to be
40 conducted by licensed well drillers. The bill also makes various
41 technical amendments to clarify and update the law.

42 The bill clarifies that both the owner of a well and the drilling
43 contractor are liable for well closures in certain situations,
44 provides that licenses are to be issued for terms of three years
45 rather than one year, and allows the department to adopt
46 regulations for well construction and pumping standards.

47 More specifically, the bill provides as follows:

48 Section 2 of the bill provides that an owner of a well is
49 responsible to have it sealed, not only when it is abandoned, but
50 also when it poses an environmental or health threat. The bill
51 makes the drilling contractor additionally and primarily to seal an
52 abandoned borehole or incomplete well. The owner of the well
53 maintains all other civil options that may exist to bring an action
54 against the contractor. Penalties are provided for noncompliance.

1 Section 3 of the bill provides that the department may direct a
2 borehole or well be sealed by the responsible party. Penalties are
3 provided for noncompliance.

4 Section 4 provides that if the responsible party does not act to
5 seal a borehole or well when directed, the department may seal
6 the well or borehole and collect treble damages from the
7 responsible parties.

8 Section 5 establishes a well sealing fund to support the
9 department's well and borehole sealing activities. The fund is to
10 be funded with cost recoveries and penalties collected from
11 sections 2 and 3 above.

12 Section 6 clarifies the department's authority to adopt
13 regulations concerning well construction standards and well
14 drilling and pump installation standards and licenses.

15 Section 7 clarifies that only licensed persons can engage in well
16 drilling and pump installing.

17 Section 8 provides that the master well drillers and pump
18 installers on the "State Well Drillers and Pump Installers
19 Examining and Advisory Board" must be licensed. The section
20 also lowers the number of a quorum of the board from seven to
21 five and specifies that at least three licensed members are
22 needed for a quorum.

23 Section 9 provides that board members are to be paid from
24 monies in the "Environmental Services Fund" rather than from
25 the General Fund. Permit and license fees for well drilling and
26 licenses are deposited into the "Environmental Services Fund"
27 pursuant to existing law.

28 Section 10 clarifies the role the board has in examining and
29 recommending persons to be licensed well drillers or pump
30 installers. The board is also authorized to make
31 recommendations on well construction standards.

32 Section 11 clarifies that the department is to issue a license
33 upon recommendation of the board and the payment of the
34 applicable fee.

35 Section 12 clarifies the procedure in which the board is to hear
36 complaints of misconduct or incompetence by licensed persons,
37 the process for recommending if those persons should have their
38 licenses suspended or revoked, and the powers of the
39 Commissioner of Environmental Protection to act on those
40 recommendations.

41 Section 13 describes those activities that must be performed by
42 licensed well drillers or pump installers. Well sealing is added to
43 the list of activities that must be performed by licensed well
44 drillers. This section also provides that licensed plumbers may
45 still perform any of the work that their license entitles them to
46 without the necessity of obtaining an additional license.
47 Additionally, certain excavations are specifically excluded from
48 the provisions of the bill.

49 Section 14 allows the department to revise by regulation the
50 statutorily prescribed fees for obtaining well drilling permits.
51 This section also extends the time period from 60 to 90 days in
52 which a person drilling a well must submit the written well
53 record. Also, the section clarifies the department's authority to
54 issue emergency permits.

1 Sections 15 and 21 provide that licenses are to be issued for
2 three year terms rather than the current one year term.

3 Section 16 triples the current license fees to reflect the
4 increase in the length of the license term. This section also
5 authorizes the department to increase the statutorily provided
6 license fees by regulation. The license fees are to be set at
7 levels sufficient to cover the costs of the licensing and
8 enforcement programs.

9 Section 17 makes a technical correction to the law.

10 Section 18 provides that a master well driller may certify that
11 wells and pumping equipment have been constructed in
12 accordance with this act and the "Safe Drinking Water Act," in
13 addition to "The Realty Improvement Sewerage and Facilities
14 Act (1954)." This section also removes the current requirement
15 that a master well driller post bond as a condition of the license.

16 Section 19 clarifies the definitions used in the act and adds
17 several new definitions for purposes of clarity.

18 Section 20 clarifies the actions that would constitute a
19 violation of the act and increases penalties from an amount not
20 exceeding \$250 to an amount not exceeding \$5,000. This section
21 also authorizes the department to take certain civil and
22 administrative action to stop violations, impose penalties, and
23 recover costs. These powers are identical to those given the
24 department in numerous other environmental statutes.

25 Section 22 provides that the department is to adopt any
26 necessary regulations to implement this bill within 18 months of
27 its enactment.

28 Section 23 repeals now unnecessary and conflicting provisions
29 of law. This section also repeals a law that currently allows
30 certain persons licensed in other states to obtain licenses in this
31 State without an examination.

32 Section 24 provides that the act is to take effect immediately.

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36
37 Revises the laws on well drilling, construction and sealing, and
38 the licensing of well drillers and pump installers; establishes a
39 well sealing fund.

ASSEMBLY ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE, No. 743

STATE OF NEW JERSEY

DATED: MAY 8, 1995

The Assembly Environment and Energy Committee favorably reports Senate Bill No. 743 (2R).

This bill expands and clarifies the authority of the Department of Environmental Protection (DEP) to regulate well drilling and well pumping installations. The bill provides for the full funding of the well drilling and pump installer license and permit programs, as administered by the DEP, by increasing existing permit fee levels and authorizing the increase of license fees. (The bill triples current license fees but only to reflect the increase in the length of the license term from one to three years). The DEP may increase permit and license fees in the future so that revenues will be sufficient to cover the costs of the licensing and enforcement programs. These permit and license fees are currently deposited into the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33).

The bill also increases current maximum penalties for failure to properly install a well, seal a well or comply with reporting and other DEP requirements. Penalties for violations of provisions concerning abandoned or dangerous wells are to be deposited in a "well sealing fund" established in the bill for use by the DEP for its well and borehole sealing activities.

Other provisions of the bill allow the department to revise by regulation the statutorily prescribed fees for obtaining well drilling permits; expand the DEP's authority to order a borehole or a well sealed and hold a drilling contractor liable for borehole or well closures under certain circumstances; authorize the DEP to seal a well and recover treble damages when necessary; clarify the DEP's authority to regulate the construction and standards for well drilling and pump installation; and clarify that well sealing activities are to be conducted only by licensed well drillers. It is the express intent of the Assembly Environment and Energy Committee and of the sponsor of this bill that the DEP shall justify any increase in fees authorized pursuant to this legislation through a showing of a comparable increase in costs incurred by the department in connection with administering this legislation.

As reported by the committee, this bill is identical to the Assembly committee substitute for Assembly Bill No. 1692 of 1994 as also reported by the committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO
[SECOND REPRINT]
SENATE, No. 743

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1995

The Assembly Appropriations Committee reports favorably Senate Bill No. 743 [2R].

Senate Bill No. 743 [2R] expands and clarifies the authority of the Department of Environmental Protection (DEP) to regulate well drilling and well pumping installations. The bill provides for the full funding of the well drilling and pump installer license and permit programs, as administered by the DEP, by increasing existing permit fee levels and authorizing the increase of license fees. (The bill triples current license fees but only to reflect the increase in the length of the license term from one to three years). The DEP may increase permit and license fees in the future so that revenues will be sufficient to cover the costs of the licensing and enforcement programs. These permit and license fees are currently deposited into the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33).

The bill also increases current maximum penalties for failure to properly install a well, seal a well or comply with reporting and other DEP requirements. Penalties for violations of provisions concerning abandoned or dangerous wells are to be deposited in a "well sealing fund" established in the bill for use by the DEP for its well and borehole sealing activities.

Other provisions allow the DEP to revise by regulation the statutorily prescribed fees for obtaining well drilling permits; expand the DEP's authority to order a borehole or a well sealed and hold a drilling contractor liable for borehole or well closures under certain circumstances; authorize the DEP to seal a well and recover treble damages when necessary; clarify the DEP's authority to regulate the construction and standards for well drilling and pump installation; and clarify that well sealing activities are to be conducted only by licensed well drillers.

It is also the Legislature intent that pursuant to this bill the DEP will develop regulations which recognize the distinct differences between the work of test borers and well drillers.

This bill as reported is identical to Assembly Bill No. 1692 (Acs) also as reported by this committee.

FISCAL IMPACT:

According to the Department of Environmental Protection, the permit and license fee amounts set forth in this bill will generate sufficient revenues to meet the operating costs of DEP's well drilling regulatory and enforcement program. It is anticipated that revenues from well permits for Fiscal Year 1995 would be \$240,000; this bill will increase those revenues to approximately \$1.2 million annually.

The bill increases permit fees, but does not increase license fees. The DEP is authorized to increase both these fees in the future to fully support program and enforcement activities. The DEP estimates that the bill would not significantly affect existing program costs and that permit and license fees may not have to be increased beyond the amounts set in the bill during the next two to three fiscal years.

In addition, the bill establishes a "well sealing fund" into which will be deposited all penalties collected by DEP for failures to seal boreholes or wells, and all costs and assessments collected from responsible parties after DEP acts to seal boreholes and wells. The fund will be used by DEP for the well sealing program. Amounts to be deposited into the fund cannot be ascertained at this time.

**SENATE NATURAL RESOURCES, TRADE AND
ECONOMIC DEVELOPMENT COMMITTEE**

STATEMENT TO

SENATE, No. 743

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 21, 1994

The Senate Natural Resources, Trade and Economic Development Committee favorably reports Senate Bill No. 743, with Senate committee amendments.

Senate Bill No. 743, as amended, expands and clarifies the authority of the Department of Environmental Protection (DEP) to regulate well drilling and well pumping installations. The bill provides for the full funding of the well drilling and pump installer license and permit programs, as administered by the DEP, by increasing existing permit fee levels and authorizing the increase of license fees. (The bill triples current license fees but only to reflect the increase in the length of the license term from one to three years). The DEP may increase permit and license fees in the future so that revenues will be sufficient to cover the costs of the licensing and enforcement programs. These permit and license fees are currently deposited into the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33).

The bill also increases current maximum penalties for failure to properly install a well, seal a well or comply with reporting and other DEP requirements. Penalties for violations of provisions concerning abandoned or dangerous wells are to be deposited in a "Well Sealing Fund" established in the bill for use by the DEP for its well and borehole sealing activities.

Other provisions of the bill allow the department to revise by regulation the statutorily prescribed fees for obtaining well drilling permits; expand the DEP's authority to order an abandoned borehole or a well sealed and hold a drilling contractor liable for borehole or well closures under certain circumstances; authorize the DEP to seal a well and recover treble damages when necessary; clarify the DEP's authority to regulate the construction and standards for well drilling and pump installation; and clarify that well sealing activities are to be conducted only by licensed well drillers.

In developing the regulations that will determine those activities that are to be regulated as wells, the DEP will maximize those activities that do not require a well permit. These activities are to include activities routinely performed on construction sites for various purposes including, but not limited to: soil logs and profile pits used for site evaluation for use of septic systems; soil borings for determinations of wetlands and of the depth of seasonal high water table excavations for septic tanks; excavations for utility lines and poles, and excavations and drilling for building foundation piles. The DEP will also identify additional activities that pose a minimal risk to the State's

groundwaters and public safety and that can qualify for a permit by rule for which an application form and fee will not be required, provided the applicant complies with certain criteria.

The committee amendments are technical in nature and clarify the intent of the sponsor.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 743

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 743 (1R), with committee amendments.

Senate Bill No. 743 (1R), as amended, expands and clarifies the authority of the Department of Environmental Protection (DEP) to regulate well drilling and well pumping installations. The bill provides for the full funding of the well drilling and pump installer license and permit programs, as administered by the DEP, by increasing existing permit fee levels and authorizing the increase of license fees. (The bill triples current license fees but only to reflect the increase in the length of the license term from one to three years). The DEP may increase permit and license fees in the future so that revenues will be sufficient to cover the costs of the licensing and enforcement programs. These permit and license fees are currently deposited into the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33).

The bill also increases current maximum penalties for failure to properly install a well, seal a well or comply with reporting and other DEP requirements. Penalties for violations of provisions concerning abandoned or dangerous wells are to be deposited in a "Well Sealing Fund" established in the bill for use by the DEP for its well and borehole sealing activities.

Other provisions of the bill allow the department to revise by regulation the statutorily prescribed fees for obtaining well drilling permits; expand the DEP's authority to order a borehole or a well sealed and hold a drilling contractor liable for borehole or well closures under certain circumstances; authorize the DEP to seal a well and recover treble damages when necessary; clarify the DEP's authority to regulate the construction and standards for well drilling and pump installation; and clarify that well sealing activities are to be conducted only by licensed well drillers.

It is also the Legislature intent that pursuant to this bill the DEP will develop regulations which recognize the distinct differences between the work of test borers and well drillers.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- * Require the sealing of any borehole or well abandoned during construction;
- * Add a licensed well driller, other than a master well driller, to the well driller and pump installer board of examiners;
- * Require DEP to adopt various classifications of well driller licenses;
- * Permit DEP to issue one permit for the construction of multiple wells at one site for a fee of \$100 or a general State-wide permit for the construction of certain wells, including test borings, no deeper than 50 feet and with certain maximum diameters;

- * Require DEP to establish an expedited permit processing service for an additional fee; and
- * Designate separate monetary penalties for violations directly related to the construction of a well and for violations not construction-related.

Additional amendments are technical or clarifying in nature.

FISCAL IMPACT

According to the Department of Environmental Protection, the permit and license fee amounts set forth in this bill will generate sufficient revenues to meet the operating costs of DEP's well drilling regulatory and enforcement program. It is anticipated that revenues from well permits for Fiscal Year 1995 will be \$240,000; this bill will increase those revenues to approximately \$1.2 million annually.

The bill increases permit fees, but does not increase license fees. The DEP is authorized to increase both these fees in the future to fully support program and enforcement activities. The DEP estimates that the bill would not significantly affect existing program costs and that permit and license fees may not have to be increased beyond the amounts set in the bill during the next two to three fiscal years.

In addition, the bill establishes a "well sealing fund" into which will be deposited all penalties collected by DEP for failures to seal boreholes or wells, and all costs and assessments collected from responsible parties after DEP acts to seal boreholes and wells. The fund will be used by DEP for the well sealing program. Amounts to be deposited into the fund cannot be ascertained at this time.

SENATE SNT COMMITTEE

AMENDMENTS

to

SENATE, No 743

(Sponsored by Senator Bennett)

ADMITTED
MAR 21 1994

REPLACE THE TITLE TO READ:

AN ACT concerning well drillers and pump installers, establishing a "well sealing fund," ¹amending the title and amending and supplementing the body of P.L.1947, c.377, ¹amending P.L.1979, c.398, amending and supplementing ¹[P.L.1947, c.377 and] ¹P.L.1951, c.193, and repealing parts of the statutory law.

REPLACE SECTION 2 TO READ:

2. Section 2 of P.L.1951 c.193 (C.58:4A-4.1) is amended to read as follows:

2. The owner of any well shall [, upon abandonment of any existing well or test hole. so notify the department and shall effectively seal and fill such wells and test holes] be responsible for having the well sealed in accordance with the rules and regulations of the department if the well is not in use or if it endangers or threatens the subsurface or percolating waters by the intrusion of salt water or from any other cause. or if it endangers life. Notwithstanding the well owner's responsibility to seal a well. the drilling contractor is also and primarily responsible for sealing an abandoned borehole or any incomplete well if the borehole or well presents an imminent danger to the environment or to public safety as provided by rules and regulations of the department. [A well not in operation for 3 or more years or improperly maintained to prevent contamination may be deemed to have been abandoned.] Any person who ¹[shall violate] violates¹ the provisions of this section shall be guilty of a [misdemeanor] disorderly persons offense and shall be subject to the penalty provisions and other remedies set forth in section 20 of P.L.1947, c.377 (C.58:4A-24). Nothing in this section shall be construed to limit the ability of the owner of a well ¹[from seeking] to seek¹ indemnification, contribution, or other civil damages from the drilling contractor as may be authorized pursuant to any other statutory or common law.

(cf: P.L.1979, c.398, s.21)

REPLACE SECTION 3 TO READ:

3. Section 3 of P.L.1951, c.193 (C.58:4A-4.2) is amended to read as follows:

3. The department shall have the power to [order] direct the sealing of any [such abandoned] abandoned borehole or well not in use, or any well when, in its judgment, the condition of the well endangers or threatens [to endanger] the subsurface or percolating waters by the intrusion of salt water or from any other [causes] cause, or if it endangers life. The department may, when it determines that an emergency condition exists, direct the prompt sealing of an abandoned borehole or well.

1[The] An¹ owner or drilling contractor of any abandoned borehole or well 1[,]¹ who is responsible 1[to have] for having¹ that borehole or well sealed pursuant to section 2 of P.L. 1951, c.193 (C.58:4A-4.1) 1[, who shall fail or refuse] but fails or refuses¹ to seal it in the time and manner [ordered] 1[as]¹ directed by the department shall be subject to [a penalty of five hundred dollars (\$500.00) for each and every violation, and further penalty of fifty dollars (\$50.00) for each day during which such violation shall continue] the penalty provisions and other remedies set forth in section 20 of P.L.1947, c.377 (C.58:4A-24).

(cf: P.L.1979, c.398, s.22)

REPLACE SECTION 7 TO READ:

7. Section 2 of P.L.1947, c.377 (C.58:4A-6) is amended to read as follows:

2. 1a.¹ No person, partnership or corporation shall [hereafter] engage in well drilling or pump installation in this State , except as provided in section 20 [hereof unless he, if an individual, or a member of the firm, if a partnership, or an executive officer, if a corporation, shall be licensed as a well driller or pump installer] of P.L.1947, c.377 (C.58:4A-24) 1:

1[1] unless that 1[person, if an individual, or a member of a firm, if a partnership, or an] individual, if a person, or member of the firm, if a partnership, or 1 executive officer, if a corporation, possesses a valid New Jersey license of the proper class 1[,]¹ or

1[2] without securing the services of a person possessing a valid New Jersey license of the proper class [as provided in this act].

The department shall establish, by regulation, classes of licenses required for all well drilling and pump installing activities.

1b.¹ No person, partnership, or corporation shall employ more than three other well drillers in well drilling in this State unless [said] the well drillers' supervisor is qualified as a master well driller pursuant to the criteria established therefor under the rules and regulations of the [commissioner] department.

1c.¹ No other agency or [civil division] political subdivision of the State [shall be empowered] is authorized to license or to establish standards, requirements, or specifications for [engaging in the trade, business or calling of] well drilling or pump installation [which shall be applicable to any person licensed under this act] regulated pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.).

(cf: P.L.1979, c.398, s.3)

REPLACE SECTION 12 TO READ:

12. Section 8 of P.L.1947, c.377 (C.58:4A-12) is amended to read as follows:

8. The board may, after [public] conducting a hearing, recommend [to the commissioner that he] that the commissioner revoke[,] indefinitely or suspend [for any period less than 1 year] for a period of less than one year the license of any well driller or pump installer, if the [same] license was obtained through error or fraud, or if the board shall find [him] the well driller or pump installer guilty of gross neglect, incompetency, or misconduct in the practice of well drilling or pump installing or if the holder thereof has [a second time] willfully violated any [of the provisions of this law] provision of P.L.1947, c.377 (C.58:4A-5 et seq.) or of P.L. 1951, c.193 (C.58:4A-4.1 et seq.), or any [of the rules and regulations prescribed by the commissioner] rule or regulation adopted [in accordance therewith]. The recommendation of the board shall be made in writing and shall be accompanied by all documentation resulting from the hearing held by the board. Any person whose license has been revoked may, after the expiration of ¹[1] ¹one¹ year from the date of [such] revocation, apply for a new license. Any person whose license has been suspended may, after expiration of the period of suspension, be reinstated upon review and approval by the board.

pursuant thereto

The charges against any well driller or pump installer [of] against whom complaint is made shall be in writing and sworn to by the complainant, and filed with the board.

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

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

The commissioner may accept, reject, or modify the recommendation of the board. A decision of the commissioner shall represent final agency action for the purposes of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.1979, c.398, s.8)

REPLACE SECTION 15 TO READ:

15. Section 14 of P.L.1947, c.377 (C.58:4A-18) is amended to read as follows:

14. A license once issued, unless revoked or suspended, may be renewed at any time within ¹[1] one¹ year ¹[from]¹ before its [effective] expiration date on application therefor and payment of the required renewal fee, and any such renewal shall become effective on and after July 1 next following the date of [such] renewal [, and shall expire on June 30 next following ~~(such)~~ the effective date]. [Any] A license [which shall not have been] not renewed prior to its expiration date may be reinstated within [3 years] ¹[6] six¹ months of [its said] the expiration date by payment of the [cumulative] license renewal [fees for each year, or fraction thereof, during which the license has lapsed] fee.

After the [said 3-year] six-month period, renewal shall require [prior certification by the board or] the [taking and] passing of [a re-examination in the form and manner] an examination prescribed by the [board] department for applicants for new licenses.

(cf: P.L.1968, c.308, s.10)

REPLACE SECTION 17 TO READ:

17. Section 16 of P.L.1947, c.377 (C.58:4A-20) is amended to read as follows:

16. The [said commissioner, or any authorized representative of the commissioner.] department shall have the power to make such inspections and take such samples as may be deemed necessary for the investigation of the construction, sealing, and repair of wells throughout the State. ¹[They] The department¹ shall also have the right to enter upon any and all property for the purpose of obtaining information about wells, whether idle, in use or abandoned.

(cf: P.L.1979, c.398, s.13)

REPLACE SECTION 19 TO READ:

19. Section 19 of P.L.1947, c.377 (C.58:4A-23) is amended to read as follows:

19. As used in this act:

[A "well" is any] "Well" means a hole or excavation [whether] larger than a minimum diameter and depth established by department regulations pursuant to section 1 of P.L. 1947, c.377 (C.58:4A-5) that is drilled, bored [or] , cored, [for water, oil or gas, or in exploration for water, oil or gas, or for the storage or disposal thereof. Any excavation that is less in its diameter than its depth is a well] driven, jetted, dug, or otherwise constructed for the purpose of removal or emplacement of, or investigation of, or exploration for, fluids, water, oil, gas, minerals, soil, or rock, or for the installation of an elevator shaft.

"Well drilling" means the drilling, digging, driving, boring, coring, sealing, jetting, or other construction or repair of any well.

[A "well driller" is any] "Well driller" means a person possessing a New Jersey license as a well driller of the proper class who engages in [drilling, digging, driving, boring, coring, constructing, altering or repairing any well or engages in the installation and repair of pumps and appurtenances] well drilling or pump installing.

[A "master well driller" is any person] "Master well driller" means a well driller possessing a New Jersey master well driller's license who has at least five years experience in the trade, business, or calling of well drilling, including at least two years of experience as a licensed journeyman well driller in this State, and is skilled in the planning, superintending, and practical construction of wells, and the installation and repair of well pumping equipment [, who has been engaged in well drilling for at least 5 years, and who has been licensed as such by the board] and appurtenances thereto.

[A "journeyman well driller" is any person, other than a master well driller, skilled in the practical construction of wells, or who engages in the installation and repair of pumps and appurtenances, who has had at least 3 years' experience in such work, and who has been licensed as such by the board] "Journeyman well driller" means a well driller possessing a New Jersey journeyman well driller's license who has at least three years of experience under the supervision of a New Jersey licensed well driller in the trade, business, or calling of well drilling, with concentration in the practical construction of wells, and the installation and repair of well pumping equipment and appurtenances thereto, or who satisfies equivalent experience and other requirements as prescribed by the department.

[A "pump" is] "Pump" means a mechanical [equipment or a] device used to remove or emplace gases, water or fluids from or into a well.

[A "pump installer" is any] "Pump installer" means a person possessing a New Jersey license as a pump installer who has at least one year ¹of¹ experience under the supervision of a New Jersey licensed well driller or a New Jersey licensed pump installer, and is qualified to engage in [the installation, removal, alteration or repair of water pumps and appurtenances in connection with any water well including water lines between well and storage tank and licensed as such by the board] pump installing.

"Pump installing" means the installation, removal, alteration, or repair of well pumping equipment and appurtenances thereto in connection with any well including connecting lines between a well and storage tank or appurtenance thereto.

[The "examining board", the board of examiners, the advisory board or the board of advisors] "Board" means the "State Well Drillers and Pump Installers Examining and Advisory Board."

[The "department" is] "Department" means the Department of Environmental Protection.

"License of the proper class" or "license" means a document issued to a person pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11) authorizing the individual to engage and perform work in the trade, business, or calling of well drilling, or pump installing.

(cf: P.L.1979, c.398, s.14)

ADOPTED
NOV 21 1994

~~Bill No. 743~~
Senate SBA Committee

AMENDMENTS

to

SENATE NO. 743

(Sponsored by Senator Bennett)

REPLACE SECTION 2 TO READ:

2. Section 2 of P.L.1951 c.193 (C.58:4A-4.1) is amended to read as follows:

2. The owner of any well shall [, upon abandonment of any existing well or test hole, so notify the department and shall effectively seal and fill such wells and test holes] be responsible for having the well sealed in accordance with the rules and regulations of the department if the well is not in use or if it endangers or threatens the subsurface or percolating waters by the intrusion of salt water or from any other cause, or if it endangers life. Notwithstanding the well owner's responsibility to seal a well, the drilling contractor is also and primarily responsible for sealing ²[an abandoned] a² borehole or ²[any incomplete]² well ²[if the borehole or well presents an imminent danger to the environment or to public safety as provided by rules and regulations of the department] that is abandoned during construction or is not completed or constructed in accordance with rules and regulations in effect at the time of construction²

. [A well not in operation for 3 or more years or improperly maintained to prevent contamination may be deemed to have been abandoned.] Any person who ¹[shall violate] violates¹ the provisions of this section shall be guilty of a [misdemeanor] disorderly persons offense and shall be subject to the penalty provisions and other remedies set forth in section 20 of P.L.1947, c.377 (C.58:4A-24). Nothing in this section shall be construed to limit the ability of the owner of a well ¹[from seeking] to seek¹ indemnification, contribution, or other civil damages from the drilling contractor as may be authorized pursuant to any other statutory or common law.

(cf: P.L.1979, c.398, s.21)

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

Matter underlined thus is new matter.

REPLACE SECTION 7 TO READ:

7. Section 2 of P.L.1947, c.377 (C.58:4A-6) is amended to read as follows:

2. ¹a.¹ No person, partnership or corporation shall [hereafter] engage in well drilling or pump installation in this State, except as provided in section 20 [hereof unless he, if an individual, or a member of the firm, if a partnership, or an executive officer, if a corporation, shall be licensed as a well driller or pump installer] of P.L.1947, c.377 (C.58:4A-24) ²[¹;

¹]² unless that ¹[person, if an individual, or a member of a firm, if a partnership, or an] individual, if a person, or member of the firm, if a partnership, or ¹ executive officer, if a corporation ²[,];

¹]² possesses a valid New Jersey license of the proper class ¹[,]; ¹ or

¹]² [without securing] secures² the services of a person possessing a valid New Jersey license of the proper class [, as provided in this act].

The department shall establish, by regulation, classes of licenses required for all well drilling and pump installing activities.

¹b.¹ No person, partnership, or corporation shall employ more than three other well drillers in well drilling in this State unless [said] the well drillers' supervisor is qualified as a master well driller pursuant to the criteria established therefor under the rules and regulations of the [commissioner] department.

¹c.¹ No other agency or [civil division] political subdivision of the State [shall be empowered] is authorized to license or to establish standards, requirements, or specifications for [engaging in the trade, business or calling of] well drilling or pump installation [which shall be applicable to any person licensed under this act] regulated pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.).

(cf: P.L.1979, c.398, s.3)

REPLACE SECTION 8 TO READ:

8. Section 3 of P.L.1947, c.377 (C.58:4A-7) is amended to read as follows:

3. A board of [9] nine well driller and pump installer examiners is [hereby] created, to be appointed by the [Commissioner of Environmental Protection] commissioner, which shall function as an examining board of well drillers and pump installers, and as an advisory board to the [commissioner and shall be hereinafter referred to as the board] department. [Three] The board shall be constituted as follows: three members of the board shall be employees of the department; one member shall be a person not employed by the State or pecuniarily involved in well drilling or pump installing [shall be appointed by the commissioner] ²; one member shall be licensed as a well driller in any classification established by the department²; one member shall [have the qualification to qualify] be licensed as a pump installer; and the remaining [4] ²[four] three² members shall [have the qualifications to qualify] be licensed as master well drillers. Members of the board shall be appointed for terms of [3] three years. A quorum of the board shall consist of [7] five members, except that a quorum shall not exist unless at least three of the members present are the licensed well driller or pump installer

members. No action may be approved by the board except upon the approval of a majority of the members present. All persons appointed to [said] the 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.

(cf: P.L.1979, c.398, s.4)

REPLACE SECTION 11 TO READ:

11. Section 7 of P.L.1947, c.377 (C.58:4A-11) is amended to read as follows:

7. ²a. ²The [commissioner] department shall, upon recommendation of the board and payment of the required fee, issue licenses to [such] persons [as have by said examination shown themselves competent and qualified] to engage in [the business, trade or calling of] well [driller] drilling or pump [installer] installing.

²b. The department shall adopt various classifications of well driller licenses to reflect the different well drilling disciplines. Beginning eighteen months after the effective date of P.L. . c. (C.) (pending in the Legislature as this bill), the department:

(1) Shall issue a new well driller license only for the classification of well driller for which an applicant qualifies, based upon passing a licensing examination for that classification; and

(2) Shall issue a new master well driller license only to an applicant who has passed the examination for each classification of well driller established by the department pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5).²

(cf: P.L.1979, c.398, s.7)

REPLACE SECTION 14 TO READ:

14. Section 10 of P.L.1947 c.377 (C.58:4A-14) is amended to read as follows:

10. a. ²(1)² Except in the case of an emergency² or a general² permit, [No] no well requiring a permit shall be [drilled] constructed until a permit [therefor where required by the provisions of this act.] has been [secured from the said] issued therefor by the department. Application for [each such] a permit shall be made upon forms prescribed and supplied by the department, and the applicant [for a permit] shall give such information pertaining to the proposed well as the [commissioner] department shall require. [Each permit application under 70 gallons per minute shall be accompanied by a fee of \$10.00. Each permit application of over 70 gallons per minute shall be accompanied by a fee of \$25.00.] ²The department may issue a site-wide permit for the construction of multiple wells at a site, subject to standards adopted by the department by regulation.

(2) The department shall adopt, by regulation, a general permit for the construction of certain categories of wells up to a depth of 50 feet and a maximum diameter to be set by the department to protect public health and safety.²

b. The department shall adopt and periodically revise, by regulation, well permit requirements, including emergency permits, and regulations establishing a fee schedule setting forth reasonable application and permit fees to cover the costs of

administering permit and permit enforcement programs. Permit fees shall not include the cost to the department of operating well drilling equipment, except when the department seals a well. The department may allocate a portion of the permit fees to local health agencies certified pursuant to P.L.1977, c.443 (C.26:3A2-21 et seq.) for administration and enforcement of permits issued pursuant to this act. Upon adoption of a fee schedule pursuant to this subsection, the fees set forth in the fee schedule shall supercede the fees set forth in subsection d. of this section.

c. As a further condition to the issuance of [such] a permit, the [commissioner] department may require that accurate samples of the materials encountered in [sinking] constructing the proposed well shall be preserved and delivered to the department. Within [60] 90 days of the completion of the [drilling] construction of any permitted well, a [report] well record , on forms prescribed and supplied by the department, shall be filed by the driller with the department giving the [lot] log (i.e. description of materials penetrated), the size and depth of the well, the diameters and lengths of casing and screen installed therein, the static and pumping levels and the yield of the well, and such other information pertaining to the construction or operation of the well as the department may require.

d. Pending adoption by regulation of a permit fee schedule by the department in accordance with subsection b. of this section, the following permit fees shall be required: (1) a fee of \$50 for each permit for a well with a pumping capacity of under 70 gallons per minute: ²[and]² (2) a fee of \$125 for each permit for a well with a pumping capacity of 70 gallons or more per minute ²; and (3) a fee of \$100 for each site-wide permit² . Payment of the fee shall accompany each permit application.

(cf: P.L.1979. c.398. s.10)

INSERT NEW SECTION 15 TO READ:

²15. (New section) a. The department shall establish an expedited permit processing service for well permit applications. This service shall accept properly completed permit applications by electronic media, including but not limited to telefax machines. The department may establish, by regulation, an additional fee not to exceed the cost of maintaining this expedited service.

b. There is established within the department a special dedicated non-lapsing account into which any person licensed pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.) may deposit and maintain such funds as shall be sufficient to cover permit or license renewal fees that the licensee may accrue from permit or license renewal applications. Upon authorization of the licensee, the department may withdraw from this account permit application or license renewal fees for any well permit or license renewal application.²

INSERT NEW SECTION 16 TO READ:

²16. Section 12 of P.L.1947, c.377 (C.58:4A-16) is amended to read as follows:

12. The department may license without examination, upon payment of the required license fee, applicants who are duly

licensed under the laws of any other state having requirements deemed by the [said board] department to be at least equivalent to those of this State.²

(cf: P.L.1979, c. 398, s.11)

REPLACE SECTION 15 TO READ:

²[15.] ¹17.² Section 14 of P.L.1947, c.377 (C.58:4A-18) is amended to read as follows:

14. A license once issued, unless revoked or suspended, may be renewed at any time within ¹[1] ¹one¹ year ¹[from]¹ before its [effective] expiration date on application therefor and payment of the required renewal fee, and any such renewal shall become effective on and after July 1 next following the date of [such] renewal [, and shall expire on June 30 next following such effective date]. [Any] A license [which shall not have been] not renewed prior to its expiration date may be reinstated within [3 years] ¹[6] ¹six¹ months of [its said] the expiration date by payment of the [cumulative] license renewal [fees for each year, or fraction thereof, during which the license has lapsed] fee.

After the [said 3-year] six- month period, renewal shall require [prior certification by the board or] the [taking and] passing of [a re-examination in the form and manner] an examination prescribed by the [board] department ²pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11)² for applicants for new licenses.

(cf: P.L.1968, c.308, s.10)

REPLACE SECTION 16 TO READ:

²[16.] ¹18.² Section 15 of P.L.1947, c.377 (C.58:4A-19) is amended to read as follows:

15. [The] a. Pending adoption by regulation of a fee schedule by the department pursuant to subsection b. of this section, the following fees shall be required for licenses and renewals:

Master well driller's license	[\$25.00]	\$75
Journeyman well driller's license	[\$10.00]	\$30
Renewal of master well driller's license	[\$25.00]	\$75
Renewal of journeyman well driller's license	[\$10.00]	\$30
Pump installer's license	[\$10.00]	\$30
Renewal of pump installer's license	[\$10.00]	\$30

b. The department shall adopt, and may periodically amend, by regulation, a fee schedule setting forth reasonable fees for license applications and examinations, and for issuance and renewal of any license in amounts adequate to cover the costs of administering all licensing and license enforcement programs. Upon adoption of a fee schedule pursuant to this subsection, the fees set forth in the fee schedule shall supersede the fees set forth in subsection a. of this section.

All revenues derived from [such fees or from fees contained in] this section ²[and] ² section 10 [hereof] of P.L.1947, c.377 (C.58:4A-14) ², and section 15 of P.L. . c. (C.) (now before the Legislature as this bill)² shall be deposited in the ["environmental services fund"] "Environmental Services Fund" established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and shall be used for the administration of well [water] programs pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.).

(cf: P.L.1979, c.398, s.12)

**RENUMBER SECTIONS 17 AND 18 AS SECTIONS 19 AND 20
REPLACE SECTION 19 TO READ:**

²[19.] 21.² Section 19 of P.L.1947, c.377 (C.58:4A-23) is amended to read as follows:

19. As used in this act:

²"Commissioner" means the Commissioner of Environmental Protection.²

[A "well" is any] "Well" means a hole or excavation [whether] larger than a minimum diameter and depth established by department regulations pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5) that is drilled, bored [or] , cored, [for water, oil or gas, or in exploration for water, oil or gas, or for the storage or disposal thereof. Any excavation that is less in its diameter than its depth is a well] driven, jetted, dug, or otherwise constructed for the purpose of removal or emplacement of, or investigation of, or exploration for, fluids, water, oil, gas, minerals, soil, or rock, or for the installation of an elevator shaft.

"Well drilling" means the drilling, digging, driving, boring, coring, sealing, jetting, or other construction or repair of any well.

[A "well driller" is any] "Well driller" means a person possessing a New Jersey license as a well driller of the proper class ², including but not limited to test borers and such other classifications as the department establishes by regulation,² who engages in [drilling, digging, driving, boring, coring, constructing, altering or repairing any well or engages in the installation and repair of pumps and appurtenances] well drilling or pump installing.

[A "master well driller" is any person] "Master well driller" means a well driller possessing a New Jersey master well driller's license who has at least five years experience in the trade, business, or calling of well drilling, including at least two years of experience as a licensed journeyman well driller in this State, ¹and is¹ skilled in the planning, superintending, and practical construction of wells, and the installation and repair of well pumping equipment [who has been engaged in well drilling for at least 5 years, and who has been licensed as such by the board] and appurtenances thereto.

[A "journeyman well driller" is any person, other than a master well driller, skilled in the practical construction of wells, or who engages in the installation and repair of pumps and appurtenances, who has had at least 3 years' experience in such work, and who has been licensed as such by the board] "Journeyman well driller" means a well driller possessing a New Jersey journeyman well driller's license who has at least three years of experience under the supervision of a New Jersey licensed well driller in the trade, business, or calling of well drilling, with concentration in the practical construction of wells, and the installation and repair of well pumping equipment and appurtenances thereto, or who satisfies equivalent experience and other requirements as prescribed by the department.

[A "pump" is] "Pump" means a mechanical [equipment or a] device used to remove or emplace gases, water or fluids from or into a well.

[A "pump installer" is any] "Pump installer" means a person possessing a New Jersey license as a pump installer who has at least one year ¹of¹ experience under the supervision of a New Jersey licensed well driller or a New Jersey licensed pump installer, and is qualified to engage in [the installation, removal, alteration or repair of water pumps and appurtenances in connection with any water well including water lines between well and storage tank and licensed as such by the board] pump installing.

"Pump installing" means the installation, removal, alteration, or repair of well pumping equipment and appurtenances thereto in connection with any well including connecting lines between a well and storage tank or appurtenance thereto.

[The "examining board", the board of examiners, the advisory board or the board of advisors] "Board" means the "State Well Drillers and Pump Installers Examining and Advisory Board."

[The "department" is] "Department" means the Department of Environmental Protection.

"License of the proper class" or "license" means a document issued to a person pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11) authorizing the individual to engage and perform work in the trade, business, or calling of well drilling, or pump installing.

(cf: P.L.1979, c.398, s.14)

REPLACE SECTION 20 TO READ:

²[20.] 22.² Section 20 of P.L.1947, c.377 (C.58:4A-24) is amended to read as follows:

20. a. Any person who shall engage in the trade, business, or calling of a well driller, or who shall operate a well drilling machine without having a New Jersey license, except in the presence and under the immediate on-site supervision of a New Jersey licensed [master or journeyman] well driller of the proper class, or any person, partnership, or corporation ²[who, or which, shall engage] that engages² in the trade, business, or calling of well drilling without employing a New Jersey licensed well driller to operate [his, their or its] a well drilling machine, or ²[who shall engage] that engages² in the trade, business, or calling of pump installing without employing a New Jersey licensed pump installer or New Jersey licensed well driller, for the work or the immediate on-site supervision of the actual work, or ²[who shall operate] that operates² without a permit as provided in this act, or ²[who shall] that² negligently ²[aid or abet] aids or abets² in the commission of [such] any violation, [or who shall refuse to perform any duty or obey any direction lawfully enjoined upon him by this act or by the department or said commissioner shall be liable to a penalty of not less than \$100.00 nor more than \$250.00 for each and every such violation, which may be collected and enforced in an action by the State or any subdivision thereof 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. Each day such violation shall continue shall constitute a separate offense. The acceptance
by any

person, partnership or corporation of any money or other consideration for the construction of any well by anyone other than a licensed driller of the proper class as provided by this act, shall be deemed prima facie evidence of the violation of this act.] or ²[who shall violate] that violates² any provision of P.L.1947, c.377 (C.58:4A-5 et seq.), any rule or regulation (dop' d. or order or directive issued pursuant thereto, shall be subject to, as applicable, any or all of the following:

(1) A civil administrative penalty imposed pursuant to subsection c. of this section;

(2) A civil penalty collected, as provided in subsection d. of this section, in an action by the department, or a political subdivision of the State, in a court of competent jurisdiction in a summary proceeding pursuant to "the penalty enforcement law," (N.J.S.2A:58-1 et seq.);

(3) A civil action in accordance with subsection b. of this section; or

(4) An order by the department requiring a violator to comply with the provisions of this act or any rules or regulations adopted pursuant thereto in accordance with subsection e. of this section.

Use of any remedy available pursuant to this subsection shall not preclude the use of any other remedy available thereunder, except that not more than one monetary penalty may be assessed for any single violation. Any penalties or costs collected in an action brought by a political subdivision pursuant to paragraph (2) of this subsection shall be payable to that political subdivision.

Acceptance by any person, partnership, or corporation of any money or other consideration of value for the construction of any well or installation or repair of a pump by anyone other than a licensed well driller of the proper class or licensed pump installer, shall be deemed prima facie evidence of the violation of this act.

b. The department may institute an action or proceeding in the Superior Court for injunctive and other relief for any violation of P.L.1947, c.377 or of any rule, regulation, order, or directive issued pursuant thereto, and the court may proceed in the action in a summary manner. Such relief may include, singly or in combination:

(1) Assessment of the reasonable costs of any investigation, inspection or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection;

(2) Assessment of the reasonable cost incurred by the State in terminating any adverse effects of a violation on water quality or other elements of the environment;

(3) Assessment of compensatory damages for any loss or destruction of wildlife, fish or other aquatic life, or other natural resources, and for any other actual damages;

(4) The recovery of the costs of sealing a well as may be required pursuant to section 4 of P.L. . c. (C.)(now before the Legislature as this bill; and

(5) A temporary or permanent injunction.

Compensatory damages collected pursuant to paragraph (3) of this subsection shall be paid to the General Fund, except that compensatory damages shall be paid by specific order of the court to any persons who have been

aggrieved by the violation. Recovery of assessments pursuant to paragraph (4) of this subsection shall be paid into the "well sealing fund" established pursuant to section 5 of P.L. . . . c. (C.) (now pending before the Legislature as this bill).

c. The department may assess, in accordance with a uniform policy adopted therefor, a civil administrative penalty of not more than \$5,000 for each violation ²directly related to the construction of a well, and a civil administrative penalty of not more than \$1,000 for each violation that is not construction-related,² and each day during which a violation continues shall constitute an additional, separate and distinct offense.

Any amount assessed under this subsection shall fall within a range established by regulation by the department for violations of a similar type, seriousness, and duration.

In adopting rules for a uniform civil administrative penalty policy for determining the amount of a civil administrative penalty to be assessed, the department shall take into account the type, seriousness, extent and frequency of a violation, the harm to the public health or the environment resulting from the violation, the economic benefits from the violation gained by the violator, the degree of cooperation or recalcitrance of the violator in remedying the violation, any measures taken by the violator to avoid a repetition of the violation, and any other pertinent factors that the department determines measure the seriousness or frequency of the violation, or conduct of the violator.

No civil administrative penalty shall be levied pursuant to this subsection until after the violator has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute, rule, regulation, or order or directive violated; a concise statement of the facts alleged to constitute a violation; a statement of the amount of the civil administrative penalties to be imposed; and a statement of the party's right to a hearing. The party shall have twenty days from the receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the department may issue a final order assessing a penalty up to the amount of the penalty specified in the order. If no hearing is requested, the notice shall become a final order on the twenty-first day after receipt of the notice. Payment of the assessment is due when a final order is issued, or the notice becomes a final order.

d. Any person who violates the provisions of P.L.1947, c.377, or any rule or regulation adopted, or order or directive issued pursuant thereto, or a court order issued pursuant to subsection b. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection c. of this section, shall be subject, upon order of a court, to a civil penalty of not more than \$5,000 for each violation ²directly related to the construction of a well, and a civil administrative penalty of not more than \$1,000 for each violation that is not construction-related², and each day the violation continues shall constitute an additional, separate, and distinct offense.

Any civil action to impose a penalty pursuant to this subsection may be commenced in the Superior Court or in the municipal court and that penalty may be enforced and collected with costs in a summary proceeding pursuant to "the penalty enforcement law." N.J.S.2A:58-1 et seq.

e. Whenever the department finds that a person has violated any provision of P.L.1947, c.377, or any rule or regulation adopted, or order or directive issued pursuant thereto, the department, may issue an order specifying the provision or provisions of P.L.1947, c.377, or the rule, regulation, or order or directive issued, pursuant thereto, of which the person is in violation, citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of the right to a hearing on the matters contained in the order. The ordered party shall have 20 calendar days from receipt of the order within which to deliver to the department a written request for a hearing. Such order shall be effective upon receipt and any person to whom such order is directed shall comply with the order immediately. A request for hearing shall not automatically stay the effect of the order.

f. The department may compromise any remedy and settle any claim for a penalty under this section in the amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

(cf: P.L.1979, c.398, s.15)

REPLACE SECTION 21 TO READ:

²[21.] 23.² Section 13 of P.L.1947, c.377 (C.58:4A-17) is amended to read as follows:

13. Every license issued under the authority of ²[this act] P.L.1947, c.377 (C.58:4A-5 et seq.)², unless sooner revoked, shall expire (in) on the thirtieth day of June three years following the date of issuance of such license, except that any license issued prior to the effective date of P.L. . c. (C.) (now before the Legislature as this bill) shall expire on the thirtieth day of June next following the date of issuance of such license.

(cf: P.L.1947, c.377, s.13)

REPLACE SECTION 22 TO READ:

²[22.] 24.² (New section) Within 18 months of the effective date of ²[this act] P.L. . c. (C.) (now before the Legislature as this bill)², the department shall adopt, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act.

REPLACE SECTION 23 TO READ:

²[23.] 25.² Section 4 of P.L.1951, c.193 (C.58:4A-4.3), and sections ²[12,]² 17 and 18 of P.L.1947, c.377 (²[C.58:4A-16, 58:4A-21] C.58:4A-21² and 58:4A-22), are repealed.

REPLACE SECTION 24 TO READ:

²[24.] 28.² This act shall take effect immediately ², except that section 8 shall take effect upon the first expiration after the effective date of a term of one of the master well driller members².