

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1591 Session of
2001

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YOUNGBLOOD, MAY 10, 2001

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 10, 2001

AN ACT

1 Providing for the regulation of the location and construction of
2 water wells, for licensing water-well contractors and for the
3 collection of information on groundwater quality and
4 quantity; conferring powers and duties on the Department of
5 Environmental Protection; creating the Water-Well
6 Construction Technical Advisory Committee; establishing the
7 Water-Well Construction Fund; and imposing penalties.

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21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Short title.

24 This act shall be known and may be cited as the Water-Well
25 Construction Act.

26 Section 2. Legislative findings and declaration of purpose.

27 (a) Findings.--The General Assembly finds that a large
28 portion of this Commonwealth's citizens rely on water wells for
29 drinking water and that improperly constructed water wells can
30 adversely affect public health and cause groundwater

1 contamination.

2 (b) Purpose.--The purpose of this act is to:

3 (1) Protect public health and safety by establishing
4 location and construction standards for water wells.

5 (2) Establish a Statewide program to regulate water-well
6 construction in a manner which will protect the groundwater
7 resource for present and future use.

8 (3) Protect public health and safety and groundwater
9 resources through the licensing of water-well contractors.

10 (4) Provide information on groundwater quantity and
11 quality which will enhance the economic and efficient use of
12 this Commonwealth's groundwater resources.

13 Section 3. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Aquifer." Any geologic material, including, but not limited
18 to, sand, gravel or rock, below the land surface which has the
19 capability to transmit water.

20 "Board." The Environmental Quality Board.

21 "Casing penetration." Any hole or slot that is bored, cut,
22 ripped, burned or otherwise created through the wall of a well
23 casing at any point below the land surface. This term includes,
24 but is not limited to, any hole below the land surface that is
25 necessary to install or operate any pumping or other equipment
26 in the well.

27 "Certification board." The administrative board within the
28 Department of Environmental Protection established in section 6.

29 "Committee." The Water-Well Construction Technical Advisory
30 Committee.

1 "Decommissioned" or "decommissioning." In reference to a
2 water well, this term means that the water well is no longer
3 equipped in such a manner as to be able to draw groundwater.
4 This term also refers to a well where the pump, piping or
5 electrical components have been disconnected or removed and then
6 sealed in accordance with the decommissioning standards in the
7 regulations promulgated under this act and which is released
8 from liability under the act of June 22, 1937 (P.L.1987,
9 No.394), known as The Clean Streams Law.

10 "Department." The Department of Environmental Protection of
11 the Commonwealth.

12 "Direct supervision." Being observed and directed by a
13 licensed water-well driller who is onsite.

14 "Drinking water well." Any water well which provides or is
15 intended to provide water for human consumption if the well is
16 not regulated under the act of May 1, 1984 (P.L.206, No.43),
17 known as the Pennsylvania Safe Drinking Water Act.

18 "Fund." The Water-Well Construction Fund established in
19 section 17.

20 "Geothermal well." Any borehole in the ground constructed
21 for the purpose of extracting heat from or transferring heat to
22 the ground or groundwater. This term does not include a trench
23 necessary for installation of horizontal closed-loop heat
24 transfer systems.

25 "Groundwater." Water that is either contained in or removed
26 from an aquifer.

27 "Immediate relative." An individual's spouse, child, parent,
28 sibling, niece, nephew, grandparent, uncle, aunt or first
29 cousin, regardless of whether the relation is by consanguinity,
30 affinity or adoption.

1 "In service." A water well that is being used to locate,
2 monitor, withdraw or inject water from or into any aquifer or
3 for the purpose of transferring heat to or from the ground or
4 groundwater.

5 "Local agency." A municipality or any combination of
6 municipalities acting cooperatively or jointly under the laws of
7 this Commonwealth, county health department or joint county
8 health department.

9 "Lot." Any part of a subdivision or a parcel of land used as
10 a building site or intended to be used for building purposes,
11 whether immediate or future, which would not be further
12 subdivided.

13 "Out of service." In reference to a water well, this term
14 means that the water well is not being used to locate, monitor,
15 withdraw or inject water from or into any aquifer or for the
16 purpose of transferring heat to or from the ground or
17 groundwater and that is to be a temporarily closed water well or
18 that becomes a decommissioned water well.

19 "Person." An individual, partnership, association, company,
20 corporation, municipal authority, political subdivision or
21 agency of the Federal or State Government. The term includes the
22 officers, employees and agents of any partnership, association,
23 company, corporation, municipality, municipal authority,
24 political subdivision or any agency of Federal or State
25 Government.

26 "Secretary." The Secretary of Environmental Protection of
27 the Commonwealth.

28 "Temporarily closed" or "temporary closure." In reference to
29 a water well, this term means that the water well has been
30 closed with a sanitary cap that is removable for future

1 operational service where the pump, piping or electrical
2 components have not been disconnected or removed in accordance
3 with the temporary closure standards regulations promulgated
4 under this act.

5 "Water well." Any borehole in the ground made with the
6 intent to locate, monitor, withdraw or inject water from or into
7 any aquifer. The term includes geothermal wells. The term does
8 not include:

9 (1) A borehole made for the purpose of mining,
10 producing, extracting or injecting any gas, petroleum or
11 other liquid related to oil or gas production or storage,
12 including brine disposal.

13 (2) A ditch or other excavation such as an agricultural
14 drain, road construction drain or culvert, curtain drain,
15 tile drain or on-lot sewage disposal system that is within
16 the soil profile and within 15 feet from the soil surface and
17 that has as its purpose the diversion, storage or
18 transmission of water.

19 "Water-well alteration." Any activity that physically
20 modifies an existing water well. The term does not include
21 opening or unsealing of the water well for the purposes of
22 disinfecting the well, monitoring the groundwater level or the
23 repair and replacement of the pump or pumping equipment.

24 "Water-well construction." Any activity undertaken for the
25 purpose of creating, altering or decommissioning a water well.
26 This term includes, but is not limited to:

27 (1) The drilling, digging, boring, jetting or other
28 processes necessary to construct the hole in the ground.

29 (2) The installation and removal of well casings,
30 screens, liners, packers, sealants, aggregates, plugs and

1 other appurtenances inside the hole that are necessary to
2 either construct or decommission a water well.

3 (3) The creation and sealing of any casing penetrations
4 that are or will be located below the land surface following
5 construction of the well.

6 (4) Activities, including, but not limited to,
7 hydrofracturing, surging, jetting and brushing that are
8 undertaken on or inside a water well to modify or restore the
9 yield.

10 This term does not include the installation of pumps and pumping
11 equipment.

12 "Water-well construction permit." A permit issued by a
13 certified water-well enforcement officer stating that the water-
14 well location and casing of a newly constructed water well meet
15 the standards of this act and the regulations promulgated under
16 this act.

17 "Water-well contractor." A person that has been issued a
18 valid license by the Department of Environmental Protection to
19 construct, decommission or alter water wells.

20 "Water-well driller." An individual who has been issued a
21 valid water-well driller certificate by or under the authority
22 of the Department of Environmental Protection.

23 "Water-well enforcement officer." An official of a local
24 agency who:

25 (1) has been issued a valid water-well enforcement
26 officer certificate by or under the authority of the
27 Department of Environmental Protection;

28 (2) reviews permit applications and issues permits under
29 this act; and

30 (3) conducts the investigations and inspections

1 necessary to implement this act and regulations under this
2 act.

3 "Water-well rig." The principal drilling or excavation
4 equipment used in the construction, alteration or
5 decommissioning of a water well.

6 "Well yield." The quantity of water per unit of time which
7 may flow or be pumped from a drinking water well under specified
8 conditions.

9 Section 4. Power and duties of Environmental Quality Board.

10 (a) Regulations.--The board shall have the power and its
11 duty shall be to adopt rules and regulations as it deems
12 necessary for the implementation of this act. The rules and
13 regulations shall include, but not be limited to:

14 (1) Standards for the location, construction,
15 inspection, alteration and temporary closure or
16 decommissioning of water wells, provided that:

17 (i) Any minimum distance requirement between an
18 existing on-lot sewage disposal system component
19 specified in the regulations under this act or in the act
20 of January 24, 1966 (1965 P.L.1535, No.537), known as the
21 Pennsylvania Sewage Facilities Act, or the regulations
22 promulgated thereunder, and a proposed water well on the
23 same lot shall not be applicable if the local agency
24 finds, after reviewing appropriate groundwater studies
25 submitted by an applicant, the new distance between the
26 proposed water well and on-lot sewage disposal system
27 component will not pose a threat of pollution to the
28 water well.

29 (ii) Minimum distances between a proposed water well
30 on the applicant's lot and any on-lot sewage disposal

1 system component on any other lot must satisfy the
2 specifications set forth in the regulations under this
3 act.

4 (iii) No regulation may be promulgated to require
5 decommissioning of a water well in which initial
6 construction activity was commenced prior to the
7 effective date of the initial regulations promulgated
8 under this act.

9 (2) Requirements and procedures for determining and
10 reporting on water quality and well yield for drinking water
11 wells.

12 (3) Criteria for licensing and review of water-well
13 contractors and registration of water-well rigs.

14 (4) Criteria for the certification and review of water-
15 well drillers and water-well enforcement officers.

16 (5) Water-well registration and reporting requirements.

17 (6) Criteria for the programs administered by local
18 agencies under section 7, including criteria for issuing
19 water-well construction permits.

20 (b) Fees.--The board shall establish fees for water-well
21 registrations, water-well contractor license applications,
22 water-well rig permits, water-well driller certification and
23 water-well enforcement officer certification. Fees shall bear a
24 reasonable relationship to the cost of administering this act.

25 Section 5. Power and duties of Department of Environmental
26 Protection.

27 The department shall have the power and its duty shall be to:

28 (1) Administer the water-well programs established under
29 this act.

30 (2) Cooperate with local agencies and appropriate

1 Federal, State and interstate units of government and with
2 appropriate private organizations in carrying out its duties
3 under this act.

4 (3) Establish procedures, forms and an appeal process
5 for the submission, review, approval, denial, modification,
6 suspension, revocation, reinstatement and rejection of any
7 water-well contractor license, water-well rig permit, water-
8 well enforcement officer certification or water-well driller
9 certification.

10 (4) Establish procedures and formats for the water-well
11 registration and water-well certification reports required by
12 this act.

13 (5) Require water-well contractors to submit geological
14 and groundwater data and any other papers, books and records
15 to the department for the purposes set forth in this act.

16 (6) Establish programs for educating the public about
17 groundwater resources, the construction and operation of
18 their water supply systems and the regulatory program enacted
19 by this act.

20 (7) Cooperate with the organizations that represent
21 water-well drillers, water-well enforcement officers and
22 businesses engaged in well-drilling activities and to assist
23 these organizations in the development of training curricula
24 that address the knowledge base, minimum skills and technical
25 aspects which will be the subject of the department's
26 certification examinations.

27 (8) Prescribe or establish minimum continuing education
28 requirements, such as the number of training hours, provided
29 that renewal of certification shall not be contingent upon
30 passage of the initial certification examination.

1 (9) Review the performance of local agencies in the
2 administration of this act.

3 (10) Order a local agency to take actions deemed by the
4 department as necessary to effectively administer this act in
5 conformance with the rules and regulations of the department.

6 (11) Make inspections and require the submission of
7 papers, books and records by local agencies for the purposes
8 set forth in this act.

9 (12) Make available all water-well registration reports,
10 water-well certification reports, water-well decommissioning
11 reports and other reports related to well construction or
12 decommissioning, to the Bureau of Topographic and Geologic
13 Survey in the Department of Conservation and Natural
14 Resources. These reports, facsimiles of these reports or
15 access to the information contained in these reports shall be
16 provided in a timely manner and in an electronic format such
17 as a computer data base.

18 Section 6. Certification board.

19 (a) Establishment.--

20 (1) There is hereby created within the department a
21 State Board for Certification of Water-Well Enforcement
22 Officers, Water-Well Drillers and Water-Well Contractors.

23 (2) The certification board shall consist of five
24 members to be appointed by the secretary. One member shall be
25 a representative of local government; one member shall be a
26 water-well enforcement officer certified under the provisions
27 of this act; one member shall be a practicing registered
28 professional geologist; one member shall be a water-well
29 driller certified or licensed under the provisions of this
30 act; and one shall be a water-well contractor certified or

1 licensed under the provisions of this act.

2 (3) Nominees shall be submitted to the secretary by the
3 Water-Well Construction Technical Advisory Committee which
4 shall designate a minimum of two nominees for each position.

5 (4) Each appointment shall be for a period of four
6 years.

7 (5) Until such time that a licensing and certification
8 procedure is in place, the requirement that members of the
9 board be certified or licensed shall not apply.

10 (6) The secretary may reappoint certification board
11 members for one successive term. If vacancies occur prior to
12 completion of a term, the secretary shall appoint another
13 member in accordance with this section to fill the unexpired
14 term. No individual shall serve more than eight consecutive
15 years.

16 (7) No member of this committee may also be a member or
17 alternate of the Water-Well Construction Technical Advisory
18 Committee.

19 (b) Meetings.--

20 (1) Within 180 days of the effective date of this act,
21 the secretary, or his representative, shall call the first
22 meeting of the certification board. At the initial meeting
23 the board shall elect a chairperson. Thereafter, the chairman
24 shall be elected annually.

25 (2) The board shall meet at least twice annually and
26 other meetings may be called by the chairman as needed to
27 conduct the business of the board. Three members of the board
28 shall constitute a quorum.

29 (3) The members of the board shall receive no
30 compensation for their services but shall be reimbursed for

1 actual and necessary expenses incurred in the performance of
2 their duties.

3 (c) Powers and duties.--The certification board shall have
4 the power and its duty shall be, in accordance with the rules
5 and regulations of the department, to:

6 (1) Review and approve or deny applications for
7 certification of water-well enforcement officers and water-
8 well drillers within 30 days of the receipt of the test
9 results from the testing contractor. If the board does not
10 meet within this time period, the applicants who have
11 achieved the necessary passing score on the certification
12 examination and who are not in violation or restrained by any
13 department regulation from certification shall be deemed to
14 be certified.

15 (2) Administer such examinations as prepared by the
16 department, as may be deemed necessary to determine the
17 qualification of candidates for certification. Such
18 examinations shall be held no less than four times in each
19 calendar year. The board shall determine and shall announce,
20 in sufficient time, the location and time for such
21 examinations except that the board shall allow the department
22 to schedule special walk-in examinations when a local agency
23 demonstrates an immediate need to obtain a water-well
24 enforcement officer. During the first year after the
25 effective date of this act, no fees shall be charged for the
26 examinations. During the second and subsequent years, the
27 board may collect a fee of \$10 from each applicant for
28 certification.

29 (3) Hold hearings and issue adjudications under the
30 provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice

1 and procedure of Commonwealth agencies) on any revocation,
2 suspension or reinstatement of certification by the
3 department, provided, that the filing of an appeal with the
4 board shall not operate as an automatic supersedeas of the
5 action of the department. Actions of the department may be
6 appealed to the Environmental Hearing Board.

7 (4) Compile and keep current a register showing the
8 names and addresses of water-well enforcement officers,
9 water-well drillers and water-well contractors. Copies of
10 this register shall be furnished on request upon payment of
11 such reasonable fees as the department shall establish.

12 Section 7. Powers and duties of local agencies.

13 (a) General rule.--County or joint county departments of
14 health shall administer this act in the territorial area subject
15 to their jurisdiction. In all other areas this act shall be
16 administered by each municipality unless the municipality has
17 transferred or delegated the administration of this act to
18 another local agency or is cooperating in the administration, in
19 conformance with 53 Pa.C.S. Ch. 23 Subch. A (relating to
20 intergovernmental cooperation), and the other local agency has
21 accepted administration of this act. No local agency shall
22 voluntarily surrender administration of the provisions of this
23 act except to another local agency pursuant to this section.

24 (b) Specific powers and duties.--Each local agency, county
25 or joint county department of health, in addition to the powers
26 and duties conferred upon it by existing law, shall have the
27 power and the duty:

28 (1) To employ or contract with an adequate number of
29 water-well enforcement officers to adequately perform the
30 services required of water-well enforcement officers within

1 the time periods set forth in this act and in accordance with
2 the rules and regulations of the department. No person shall
3 be employed or contracted as a water-well enforcement officer
4 unless the person has been certified by the department
5 pursuant to standards set by the Environmental Quality Board.
6 No individual shall be employed or contracted as a water-well
7 enforcement officer to administer the provisions of this act
8 with respect to a water well for which the individual or an
9 immediate relative was or is the contractor or with respect
10 to a water well, or the property or structure which the water
11 well is intended to serve, in which the individual or an
12 immediate relative has a financial interest. In such a case,
13 the local agency's alternate water-well enforcement officer
14 shall administer the provisions of this act with respect to
15 the particular water well.

16 (2) To have at least one alternate water-well
17 enforcement officer as authorized by the local agency to work
18 in the municipality or municipalities of the local agency.

19 (3) To employ or contract with other technical and
20 administrative personnel necessary to support the activities
21 of the water-well enforcement officer and the local agency.

22 (4) To adopt by resolution a list of individuals who are
23 water-well enforcement officers employed by the local agency
24 or by companies or corporations under contract with the local
25 agency to perform the services of water-well enforcement
26 officers.

27 (5) To set rates of compensation, maintain offices,
28 establish personnel policies and establish administrative
29 rules or policies and to purchase necessary equipment and
30 supplies.

1 (6) To set and collect fees necessary to support the
2 administrative and personnel costs of implementing the
3 requirements of this act. When engineering or consulting
4 services are required by the local agency to complete their
5 review of a permit application, the application or review
6 fees charged for such services shall be reasonable and in
7 accordance with the ordinary and customary charges by the
8 engineer or consultant for similar service in the community,
9 and in no event shall the fees exceed the rate or cost
10 charged by the engineer or consultant to the local agency
11 when fees are not reimbursed by or otherwise imposed on
12 applicants.

13 (7) To make or cause to be made such inspections and
14 tests as may be necessary to carry out the provisions of this
15 act, and the local agency's authorized representatives shall
16 have the right to enter upon lands for said purpose.

17 (8) To proceed to restrain violations of this act and
18 the rules and regulations promulgated under this act.

19 (9) To submit such reports and data to the department as
20 the department may by its rules and regulations or by order
21 require.

22 (10) To adopt and maintain standards and procedures for
23 applications and permits identical to those of the
24 department. Any other rules or regulations which the local
25 agency deems necessary in order to administer and enforce
26 this act may only be adopted if they are consistent with this
27 act and the rules and regulations promulgated under this act.

28 (11) To make such inspections of and to verify
29 measurements made by applicants on public or private
30 properties which are determined by the local agency's

1 authorized representative to have natural or manmade features
2 from which specific isolation distances are required prior to
3 the approval of water-well construction permits. The local
4 agency's authorized representative shall have the right to
5 enter upon lands for these purposes.

6 (c) Limitations.--

7 (1) No municipality, local agency or water-well
8 enforcement officer may, orally or in writing, suggest,
9 recommend or require the use of any individual or firm
10 providing services which may be required or are subject to
11 review pursuant to this act or the regulations hereunder.

12 (2) The following shall apply:

13 (i) Except as set forth in subparagraph (ii), no
14 water-well enforcement officer shall perform any
15 consulting or design work or related services required or
16 regulated under this act within the municipality or local
17 agency by which the officer is employed or with which the
18 officer has a contractual relationship.

19 (ii) Subparagraph (i) shall not apply if:

20 (A) the work is for a water well which will
21 serve the residence of the water-well enforcement
22 officer or an immediate relative;

23 (B) the undertaking of the work is approved in
24 advance by the local agency and the department; and

25 (C) the work is permitted and inspected by an
26 alternate well-water officer.

27 (3) No water-well enforcement officer may issue a permit
28 or participate in the official processing of an application
29 for a water-well permit in which the water-well enforcement
30 officer, an immediate relative of the water-well enforcement

1 officer, a business associate of the water-well enforcement
2 officer or an employer of the water-well enforcement officer,
3 other than the local agency, has a financial interest.

4 (d) Existing municipal ordinances.--

5 (1) Provisions of municipal water-well construction
6 ordinances in effect on the effective date of the regulations
7 promulgated under this act that do not at least equal the
8 minimum requirements of the regulations promulgated under
9 this act shall be amended to provide for the minimum
10 requirements.

11 (2) Provisions of municipal water-well construction
12 ordinances in effect on the effective date of the regulations
13 promulgated under this act that equal or exceed the minimum
14 requirements of the regulations promulgated under this act
15 shall remain in effect until such time as they no longer
16 equal or exceed the minimum requirements of the regulations
17 adopted under this act.

18 (e) Review of ordinances by department.--After the effective
19 date of the regulations promulgated under this act, the
20 department shall review any municipal water-well construction
21 ordinance proposing to exceed the minimum requirements of this
22 act based on the following standards:

23 (1) That certain clear and convincing local, geologic,
24 topographic or public health and safety circumstances or
25 conditions justify the more stringent provision.

26 (2) That the more stringent provision shall be adequate
27 for the purpose intended and shall meet a standard of
28 performance equal to or greater than that prescribed by this
29 act.

30 (3) That the more stringent provision would not diminish

1 or threaten the health, safety and welfare of the public.

2 (4) That the more stringent provision shall be generally
3 consistent with the legislative findings and purpose
4 described in section 2.

5 (f) Reimbursement.--Expenses for activities under this
6 section shall be deemed eligible for reimbursement under section
7 6(b)(1) of the act of January 24, 1966 (1965 P.L.1535, No.537),
8 known as the Pennsylvania Sewage Facilities Act.

9 Section 8. Licensing of water-well contractors and permitting
10 of water-well rigs.

11 (a) License requirement.--It shall be a violation of this
12 act for any person to undertake the construction, alteration or
13 decommissioning of a water well unless it is under the authority
14 of a valid water-well contractor license. All water-well
15 contractors shall register annually with the department. The
16 contractor shall insure that certified water-well drillers are
17 responsible for the construction, alteration and decommissioning
18 of all water wells for which the contractor has been retained.
19 The contractor shall also obtain a yearly permit for all water-
20 well rigs employed in the construction, alteration or
21 decommissioning of water wells.

22 (b) Application.--An application for a license shall be in
23 writing on forms provided by the department and shall be
24 accompanied by the water-well contractor license fee and water-
25 well rig registration fee, if applicable, as established under
26 section 12, or as set by regulation of the board. The
27 application shall contain a statement showing:

28 (1) The name of the applicant.

29 (2) The business address of the applicant.

30 (3) The registration of all water-well rigs that will be

1 used during the license year.

2 (4) Any additional information the department may
3 require.

4 (c) Requirements for licensee.--Until such time as the board
5 adopts regulations on licensee qualifications, the department
6 may issue and renew licenses and rig registrations based on
7 satisfaction of the requirements contained in subsection (b). In
8 accordance with regulations promulgated under this act, the
9 applicant for a license shall meet all the following
10 requirements:

11 (1) Demonstrate to the department that the applicant and
12 the applicant's agents and employees are qualified to
13 practice water-well construction, alteration and
14 decommissioning.

15 (2) File with the department evidence of financial
16 responsibility, which shall include, but not be limited to, a
17 commercial liability insurance policy or self-insurance in an
18 amount to be prescribed by rules and regulations promulgated
19 under this act.

20 (3) Pay the annual license fees.

21 (4) Register with the department any water-well rig to
22 be operated during the license year and pay a registration
23 fee for each water-well rig registered. The department shall
24 issue one water-well rig placard with the water-well
25 contractor license number for each water-well rig registered.
26 The water-well contractor shall post such placards on each
27 rig registered under his license.

28 (5) Provide any other information the department deems
29 necessary.

30 (d) Regulations.--The board shall adopt such regulations to

1 provide proof of a licensee's qualifications and to provide for
2 proof of financial responsibility of licensees as is necessary
3 to insure compliance with this act.

4 (e) Renewal.--Any license issued under this section is not
5 transferable and must be renewed annually. The board by
6 regulation may require individuals licensed under this section
7 to attend continuing education programs as a prerequisite for
8 the renewal of a license.

9 (f) Duplicates.--The department may issue a duplicate
10 license or rig registration to replace a lost or destroyed
11 license or registration.

12 (g) Suspension or revocation.--Whenever the department
13 determines that the holder of a license issued pursuant to this
14 section has violated any provision of this act, any rule or
15 regulation adopted under this act, any order of the department
16 or any condition of any license issued under this act, the
17 department may suspend or revoke that license.

18 (h) Limitation on reissuance.--The department may not issue
19 a new license to a water-well contractor within one year after
20 revocation of the contractor's previous license.

21 (i) Reciprocal licensing.--The department, upon application
22 for the license and payment of the fees required by the
23 department, shall issue a water-well contractor license to a
24 person who holds a similar license in any state, territory or
25 possession of the United States, or in any foreign country, if
26 the requirements for licensing of a water-well contractor under
27 which the license was issued are of a standard not lower than
28 those specified by the provisions of this act and the rules and
29 regulations promulgated under this act. The provisions of this
30 subsection shall apply to those states and territories that

1 provide similar provisions to water-well contractors of this
2 Commonwealth.

3 (j) Equivalency.--On an annual basis, the board will
4 identify states where a license and a water-well drillers
5 certification are equivalent to the Commonwealth's standards. In
6 such cases, Commonwealth licensure or certification shall be
7 granted.

8 Section 9. Certification of water-well drillers.

9 (a) General rule.--Except as provided in subsections (b) and
10 (c), it shall be a violation of this act for any individual to
11 construct, decommission or alter a water well without first
12 obtaining, through processes approved by the department, a
13 water-well driller certificate.

14 (b) Exemption.--Any individual operating under the direct
15 supervision of a certified water-well driller is exempt from the
16 requirements of subsection (a).

17 (c) Direct supervision.--Only one water-well construction,
18 alteration or decommissioning operation can be directly
19 supervised by a licensed water-well driller at any given time
20 unless all of the water-well construction, alteration or
21 decommissioning operations being supervised simultaneously are
22 being done for the same client, on the same site and under the
23 same contract with that client.

24 (d) Interim certification.--Until such time as the board
25 promulgates regulations regarding the certification requirements
26 for water-well drillers, the department shall issue interim
27 certificates to individuals that provide the department with the
28 following information:

29 (1) The name of the applicant.

30 (2) The business address of the applicant.

1 (3) The affiliation with any water-well contractor.

2 (4) Any additional information the department may
3 require.

4 Section 10. Water-well registration.

5 (a) Registration identification number.--In advance of
6 constructing or altering any water well and upon the payment of
7 the registration fee established by section 12 or as may be
8 required by regulation of the board, the water-well contractor
9 shall obtain from the department a water-well registration
10 identification number, in the form of a tag, label or other
11 device, which shall be permanently affixed to the water well
12 upon completion of the work and in a manner specified by the
13 department.

14 (b) Registration required.--

15 (1) The information required to register newly
16 constructed or altered water wells shall be provided by the
17 water-well contractor and be on a form prescribed by the
18 department. The required information shall at a minimum
19 include:

20 (i) the water-well registration identification
21 number;

22 (ii) the name of the water-well owner;

23 (iii) the address of the property owner on which the
24 water well is located;

25 (iv) the name and license number of the water-well
26 contractor responsible for the work;

27 (v) the name, certification number and signature of
28 the water-well driller that supervised the work;

29 (vi) the exact geographic location of the water
30 well;

- (vii) a log of the water well containing a description of materials penetrated;
- (viii) the size, depth, diameters and lengths of the boring, the casings and the screen installed;
- (ix) the static water level, pumping water level and pumping rate; and
- (x) any other information the department deems necessary.

The water quality analysis and well yield reports, as required by section 11, shall be submitted to the department at the time of registration of each drinking water well.

(2) The information required to register decommissioned water wells shall be provided by the water-well contractor and be on a form prescribed by the department. The required information shall at a minimum include:

- (i) the water-well registration identification number, if one was previously issued for the water well;
- (ii) the date of decommissioning;
- (iii) the type of closure performed;
- (iv) the name and license number of the water-well contractor responsible for the decommissioning;
- (v) the name, certification number and signature of the water-well driller that supervised the decommissioning;
- (vi) the exact geographic location of the water well;
- (vii) the materials used; and
- (viii) any other information the department deems necessary.

The water-well contractor shall return the water-well

1 registration tag to the department whenever a water well with
2 a registration tag is decommissioned. The water-well
3 contractor shall not be required to obtain a registration
4 identification number or pay a fee in connection with the
5 decommissioning of any water well.

6 (c) Certification by water-well contractor.--Within 30 days
7 of completing the construction, alteration or decommissioning of
8 a water well, the water-well contractor performing the work
9 shall provide written certification to the owner of the water
10 well that the work was performed in accordance with this act and
11 with all applicable standards, rules and regulations. This
12 certification shall be accomplished on a form prescribed by the
13 department containing the information required by this
14 subsection or as may be established by regulation of the board.

15 (d) Duty to notify local agency and department.--A licensed
16 driller shall notify the local agency and the department within
17 30 days of any action to temporarily close or decommission a
18 water well.

19 Section 11. Water quality analysis and well yield reports.

20 (a) Water quality analysis report.--The water-well
21 contractor shall collect and submit to the department and the
22 owner of the drinking water well a water quality analysis
23 report. The report shall be based on a water sample obtained
24 from the drinking water well according to the procedures
25 established by the board under section 4.

26 (b) Content.--The report shall include water quality
27 analyses performed by a laboratory certified under the act of
28 May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe
29 Drinking Water Act, of the contaminants specified by regulation
30 and any other substances which the drinking water-well owner may

1 request.

2 (c) Water quality information.--The department shall develop
3 water quality information which shall include, but not be
4 limited to, water quality standards, potential effects on human
5 health and safety relative to the tested substances, available
6 water treatment technologies and associated costs. The
7 information shall be provided to all certified laboratories and
8 water-well contractors who shall provide this information to the
9 owner of the drinking water well.

10 (d) Notice to well users.--Where the owner of a drinking
11 water well is not the sole user of the water from a drinking
12 water well, the owner shall, within 48 hours of receipt of the
13 water quality analysis report, notify all other users of the
14 results of the water quality analysis. The notice shall be given
15 by mail or by conspicuous posting at the place of use in a
16 location where it will be seen by users.

17 (e) Well yield report.--In accordance with regulations
18 adopted by the board, the water-well contractor shall submit to
19 the department and drinking water-well owner a well yield
20 report. The well yield report must be based on testing of the
21 drinking water well according to the procedures established by
22 the board under section 4.

23 Section 12. Interim fees and requirements.

24 (a) Water-well registration fee.--Until alternative fees are
25 established by the board by regulation, a registration fee of
26 \$35 for each water well constructed or altered after the
27 effective date of this act shall be paid by the well contractor
28 to the department. Each well contractor shall register with the
29 department each water well by completing and submitting the form
30 provided by the department, including the registration fee

1 prescribed by the department, for each water well in accordance
2 with section 11.

3 (b) Water-well contractor license fee.--Until alternative
4 annual license fees are established by the board by regulation,
5 an annual license fee of \$80 shall be paid to the department by
6 any person prior to constructing or altering a water well. Each
7 water-well contractor shall apply to the department by
8 completing and submitting the application form provided by the
9 department, including the license fee, in accordance with
10 section 8.

11 (c) Water-well rig registration fee.--Until alternative
12 annual fees are established by the board by regulation, an
13 annual water-well rig registration fee \$30 shall be paid to the
14 department by the water-well contractor for each water-well rig
15 which is to be owned or operated during the registration year.
16 Each water-well contractor shall register each water-well rig
17 with the department by completing and submitting the form
18 provided by the department, including the registration fee, in
19 accordance with section 8.

20 (d) Water-well drillers certification fee.--Until
21 alternative annual fees are established by the board by
22 regulation, an annual water-well driller certification fee of
23 \$20 shall be paid to the department by each individual water-
24 well driller.

25 (e) Use of registration fees.--All fees collected by the
26 department shall be deposited in the Water-Well Construction
27 Fund established under section 17.

28 Section 13. Recordkeeping and reports.

29 The department may require any water-well contractor to
30 establish and maintain such records and make such reports and

furnish such data as the department deems necessary to demonstrate that the water-well contractor is complying with this act and the rules and regulations promulgated under this act. A copy of the written certification required by section 11(d) shall be kept for ten years by the water-well contractor.

Section 14. Water-Well Construction Technical Advisory Committee.

(a) Establishment and composition.--

(1) There is hereby established the Water-Well Construction Technical Advisory Committee. The committee shall consist of 20 members, all of whom shall be appointed by the secretary within three months of the effective date of this act and all of whom must be residents of this Commonwealth with five years of experience in this Commonwealth in their respective fields. In addition, one alternate member shall be appointed for each member. The alternate member shall take the place of the respective member whenever that member is unable to attend an official meeting. The committee shall encourage alternate members to attend all meetings even when not taking the place of the member.

(2) The committee shall be composed of the following members:

(i) Four members shall be water-well contractors recommended from the membership of the Pennsylvania Ground Water Association, at least one shall be a cable tool driller and at least one shall be a rotary driller.

(ii) Two geologists with expertise in hydrogeology shall be recommended from the membership of the Pennsylvania Council of Professional Geologists and

1 licensed under the act of May 23, 1945 (P.L.913, No.367),
2 known as the Engineer, Land Surveyor and Geologist
3 Registration Law.

4 (iii) One member shall be a public health official,
5 chosen from a list of at least four names submitted by
6 the department's Citizens Advisory Council to the
7 secretary.

8 (iv) Three members shall be water-well owners,
9 chosen from a list of six names submitted by the
10 department's Citizens Advisory Council to the secretary.

11 (v) One member representing Pennsylvania townships
12 of the first class shall be recommended from the
13 membership of the Pennsylvania State Association of
14 Township Commissioners.

15 (vi) One member representing Pennsylvania townships
16 of the second class shall be recommended from the
17 membership of the Pennsylvania State Association of
18 Township Supervisors.

19 (vii) One member representing Pennsylvania boroughs
20 shall be recommended from the membership of the
21 Pennsylvania State Association of Boroughs.

22 (viii) One member representing Pennsylvania cities
23 shall be recommended from the membership of the
24 Pennsylvania League of Cities and Municipalities.

25 (ix) One member representing Pennsylvania counties
26 shall be recommended from the membership of the County
27 Commissioners Association of Pennsylvania.

28 (x) One member representing the home building
29 industry shall be recommended from the membership of
30 Pennsylvania Home Builders Association.

1 (xi) Two members representing agriculture shall be
2 recommended from the membership of the Pennsylvania Farm
3 Bureau.

4 (xii) One member representing sewage enforcement
5 officers shall be recommended from the membership of the
6 Pennsylvania Association of Sewage Enforcement Officers.

7 (xiii) One member representing county health
8 departments with a water-well ordinance in effect upon
9 the effective date of this act.

10 (b) Expenses.--Committee members shall not receive a salary
11 but shall be reimbursed for all necessary expenses incurred in
12 the performance of their duties. An alternate may not be
13 reimbursed unless serving in place of the appointed member.

14 (c) Meetings, chairperson, etc.--All actions of the
15 committee shall be by majority vote of the members assembled if
16 a quorum is present. A quorum shall be considered as being one
17 more than 50% of the total membership. The committee shall meet
18 upon the call of the secretary, but not less than semiannually,
19 to carry out its duties under this act. The committee shall
20 select a chairperson and other officers and establish bylaws as
21 it deems appropriate. The department shall provide clerical and
22 technical support as the committee may reasonably require.

23 (d) Regulations.--The department shall consult with the
24 committee in the formulation, drafting and presentation stages
25 of all regulations promulgated under this act. The committee
26 shall be given a reasonable opportunity to review and comment on
27 all regulations prior to their submission to the board for
28 initial consideration. The written comments of the committee
29 shall be presented to the board with any regulatory proposal.

30 Section 15. Penalties and remedies.

1 (a) Summary offense.--

2 (1) A person who violates any provision of this act, any
3 regulation of the department, any order of the department, or
4 any term or condition of a well registration or license of
5 the department issued under this act, or who resists or
6 interferes with an officer, agent or employee of the
7 department in the performance of his duties commits a summary
8 offense and shall, upon conviction, be sentenced to pay a
9 fine of not less than \$100 nor more than \$1,000 and costs for
10 each separate offense or, in default of payment thereof,
11 shall be sentenced to imprisonment for a period of not more
12 than 30 days.

13 (2) For purposes of this subsection, a summary offense
14 may be prosecuted before the district justice with
15 jurisdiction over the area where the offense occurred.

16 (3) Employees of the department authorized to conduct
17 inspections or investigations are hereby declared to be law
18 enforcement officers authorized to issue or file citations
19 for summary violations under this act and the General Counsel
20 is hereby authorized to prosecute these offenses.

21 (b) Equitable relief.--The department may apply to the
22 Commonwealth Court or to a court of common pleas having
23 jurisdiction for preliminary, special or final injunction to
24 restrain or prevent violations of this act or to compel
25 compliance with this act or any rule, regulation, order, license
26 or registration issued under this act.

27 (c) Civil penalties.--

28 (1) In addition to proceeding under any other remedy
29 available at law or in equity for a violation of any
30 provision of this act, any rule or regulation of the

1 department or order of the department, or any term or
2 condition of any well registration or license issued under
3 this act, the department may assess a civil penalty upon a
4 person for such violation. The maximum civil penalty which
5 may be assessed under this subsection shall be \$1,000 per day
6 for each violation. The penalty may be assessed whether the
7 violation was willful or negligent.

8 (2) When the department assesses a civil penalty, it
9 shall inform the person of the amount of the penalty. The
10 person charged with the penalty shall then have 30 days to
11 pay the penalty in full or, if the person wishes to contest
12 either the amount of the penalty or the fact of the
13 violation, the person shall, within the 30-day period, file
14 an appeal of the action with the Environmental Hearing Board.
15 Failure to appeal within 30 days shall result in a waiver of
16 all legal rights to contest the violation or the amount of
17 the penalty.

18 (d) Remedies cumulative.--The penalties and remedies
19 prescribed by this act shall be deemed cumulative, and the
20 existence of or exercise of any remedy shall not prevent the
21 department from exercising any other remedy under this act, at
22 law or in equity.

23 (e) Separate offense.--Violations on separate days shall
24 constitute separate offenses.

25 Section 16. Local agency hearings and appeals.

26 (a) Right to hearing.--Any person aggrieved by an action of
27 a local agency or water-well enforcement officer in granting or
28 denying a permit, issuing an order or other actions taken under
29 this act shall have the right within 30 days after receipt of
30 notice of the action to request a hearing before the local

1 agency.

2 (b) Revocation of permits.--

3 (1) Revocation of permits shall occur only after:

4 (i) notice and opportunity for hearing have been
5 given to the permittee; and

6 (ii) the opportunity to appeal is exhausted.

7 (2) If work has not been commenced on a property for
8 which a water-well construction permit has been issued and
9 for which the permittee has received notice of a permit
10 revocation, the permittee may not commence work on the water
11 well and the permit shall be suspended until the applicant
12 has requested a hearing under subsection (a), the hearing has
13 been conducted and a decision announced or the time for such
14 request has expired. If the time has expired and no hearing
15 request has been received by the local agency, the revocation
16 shall be final.

17 (3) If work has commenced on a property for which a
18 water well construction permit has been issued and for which
19 the permittee has received notice of a permit revocation, the
20 permittee shall cease work on the water well except such work
21 as may be needed to secure the water well to prevent
22 contamination of the groundwater or prevent a safety hazard.
23 The permit shall be suspended until the permittee has
24 requested a hearing under subsection (a), the hearing has
25 been conducted and a decision announced or until the time for
26 such request has expired. If the time has expired and no
27 hearing request has been received by the local agency, the
28 revocation shall be final.

29 (c) Hearings.--Hearings under subsections (a) and (b) shall
30 be conducted pursuant to 2 Pa.C.S. Ch. 5 Subch. B (relating to

practice and procedure of local agencies).

(d) Appeals.--

(1) Any subsequent appeal shall be to the court of common pleas of the county where the land to which the permit pertains is located. The Attorney General shall be notified in writing by the appellant of any appeal challenging the constitutionality of any provision of this act or the validity of any rule or regulation promulgated under this act.

(2) Any order, permit or decision of the department under this act, except as otherwise provided by sections 5 and 6(c), shall be taken, subject to the right of notice and appeal to the Environmental Hearing Board, pursuant to section 1921-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929 and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

Section 17. Water-Well Construction Fund.

(a) Establishment.--There is established in the State Treasury a restricted nonlapsing fund to be known as the Water-Well Construction Fund for the deposit of all fees, fines and civil penalties authorized by this act and collected by the department. All moneys in the fund are hereby appropriated on a continuing basis to the department for the costs of administering the provisions of this act.

(b) Grants to owners of water wells.--

(1) Sixty-five percent of the money contained in the fund each fiscal year shall be used by the department to provide grants to owners of water wells to offset costs incurred by the owner in decommissioning a water well in

1 accordance with the standards and requirements imposed
2 pursuant to this act.

3 (2) During a fiscal year, an owner may not make more
4 than one application for a grant under this subsection.

5 (c) Reimbursement to local agencies.--

6 (1) Each fiscal year 15% of the moneys contained in the
7 fund shall be used for reimbursing the expenses incurred by
8 local agencies in the enforcement of section 7.

9 (2) Reimbursement requests under this subsection may be
10 submitted simultaneously with, and on the same forms used
11 for, reimbursement requests under section 6(b)(1) of the act
12 of January 24, 1966 (1965 P.L.1535, No.537), known as the
13 Pennsylvania Sewage Facilities Act.

14 (d) Other sources.--The fund may be supplemented by
15 appropriations from the General Assembly, the Federal, State or
16 a local government or from any private source.

17 Section 18. Transfer of funds.

18 All moneys currently collected under the act of May 29, 1956
19 (1955 P.L.1840, No.610), known as the Water Well Drillers
20 License Act, shall be immediately transferred to the Water-Well
21 Construction Fund.

22 Section 19. Status of existing licenses and permits.

23 Water-well driller licenses and water-well rig permits issued
24 under the act of May 29, 1956 (1955 P.L.1840, No.610), known as
25 the Water Well Drillers License Act, shall remain in full force
26 and effect for six months after the effective date of the
27 regulations adopted under this act.

28 Section 20. Savings provision.

29 The provisions of this act shall not affect any suit,
30 prosecution or other action instituted, prior to the effective

1 date of this act, to enforce any right or abate any violation of
2 any act or part thereof repealed by this act.

3 Section 21. Severability.

4 The provisions of this act are severable. If any provision of
5 this act or its application to any person or circumstance is
6 held invalid, the invalidity shall not affect other provisions
7 or applications of this act which can be given effect without
8 the invalid provision or application.

9 Section 22. Repeal.

10 The act of May 29, 1956 (1955 P.L.1840, No.610), known as the
11 Water Well Drillers License Act, is repealed.

12 Section 23. Applicability.

13 With the exception of the rules and regulations regarding
14 standards for the inspection, alteration, temporary closure or
15 decommissioning of water wells as established by the board under
16 section 4, the provisions of this act shall not apply to any
17 well in which initial construction activity was commenced prior
18 to the effective date of the regulations promulgated under this
19 act.

20 Section 24. Construction.

21 Unless where specifically authorized, nothing in this act
22 shall be construed to alter the requirements contained in the
23 act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania
24 Safe Drinking Water Act, and applicable regulations or the
25 requirements contained in other environmental statutes.

26 Section 25. Effective date.

27 This act shall take effect as follows:

28 (1) Section 7 shall take effect 180 days after
29 promulgation of regulations established by the Environmental
30 Quality Board under section 4.

1 (2) Section 11 shall take effect upon promulgation of
2 regulations established by the Environmental Quality Board
3 under section 4.

4 (3) The remainder of this act shall take effect
5 immediately.