

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1591 Session of  
2001

INTRODUCED BY DAILEY, HENNESSEY, RUBLEY, STEIL, M. BAKER,  
BASTIAN, BROWNE, BUNT, CALTAGIRONE, CAPPELLI, DALEY, DALLY,  
FAIRCHILD, FICHTER, GABIG, GEORGE, HARHAI, HARHART, HARPER,  
HERMAN, HERSHEY, KELLER, LAUGHLIN, LEH, LEWIS, MAITLAND,  
McILHATTAN, McILHINNEY, MELIO, R. MILLER, NAILOR, NICKOL,  
PALLONE, ROHRER, ROSS, SANTONI, SAYLOR, SCHRODER, SEMMEL,  
SOLOBAY, STAIRS, STEELMAN, R. STEVENSON, E. Z. TAYLOR,  
THOMAS, VITALI, WANSACZ, WATSON, C. WILLIAMS, WILT,  
YOUNGBLOOD, PICKETT, BARD AND SCRIMENTI, MAY 10, 2001

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND  
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED,  
OCTOBER 30, 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; AND  
8 MAKING A REPEAL. <—

## TABLE OF CONTENTS

- 9
- 10 Section 1. Short title.
- 11 Section 2. Legislative findings and declaration of purpose.
- 12 Section 3. Definitions.
- 13 Section 4. Power and duties of Environmental Quality Board.
- 14 Section 5. Power and duties of Department of Environmental  
15 Protection.
- 16 Section 6. Certification board.

1 Section 7. Powers and duties of local agencies.  
2 Section 8. Licensing of water-well contractors and permitting  
3 of water-well rigs.  
4 Section 9. Certification of water-well drillers.  
5 Section 10. Water-well registration.  
6 Section 11. Water quality analysis and well yield reports.  
7 Section 12. Interim fees and requirements.  
8 Section 13. Recordkeeping and reports.  
9 Section 14. Water-Well Construction Technical Advisory  
10 Committee.  
11 Section 15. Penalties and remedies.  
12 Section 16. Local agency hearings and appeals.  
13 Section 17. Water-Well Construction Fund.  
14 Section 18. Transfer of funds.  
15 Section 19. Status of existing licenses and permits.  
16 Section 20. Savings provision.  
17 Section 21. Severability.  
18 Section 22. Repeal.  
19 Section 23. Applicability.  
20 Section 24. Construction.  
21 Section 25. Effective date.

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

24 Section 1. Short title.

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

27 Section 2. Legislative findings and declaration of purpose.

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

1 adversely affect public health and cause groundwater  
2 contamination.

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

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

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

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

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

#### 14 Section 3. Definitions.

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

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

21 "Board." The Environmental Quality Board.

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

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

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

1 Committee.

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

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

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

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

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

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

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

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

1 affinity or adoption.

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

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

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

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

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

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

29 "Temporarily closed" or "temporary closure." In reference to  
30 a water well, this term means that the water well has been

1 closed with a sanitary cap that is removable for future  
2 operational service where the pump, piping or electrical  
3 components have not been disconnected or removed in accordance  
4 with the temporary closure standards regulations promulgated  
5 under this act.

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

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

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

20 (3) A SPRING OR WELL OTHERWISE REGULATED UNDER THE  
21 PROVISIONS OF THE ACT OF MAY 1, 1984 (P.L.206, NO.43), KNOWN  
22 AS THE PENNSYLVANIA SAFE DRINKING WATER ACT, AND THE  
23 REGULATIONS ADOPTED THEREUNDER.

24 "Water-well alteration." Any activity that physically  
25 modifies an existing water well. The term does not include  
26 opening or unsealing of the water well for the purposes of  
27 disinfecting the well, monitoring the groundwater level or the  
28 repair and replacement of the pump or pumping equipment.

29 "Water-well construction." Any activity undertaken for the  
30 purpose of creating, altering or decommissioning a water well.

1 This term includes, but is not limited to:

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

4 (2) The installation and removal of well casings,  
5 screens, liners, packers, sealants, aggregates, plugs and  
6 other appurtenances inside the hole that are necessary to  
7 either construct or decommission a water well.

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

11 (4) Activities, including, but not limited to,  
12 hydrofracturing, surging, jetting and brushing that are  
13 undertaken on or inside a water well to modify or restore the  
14 yield.

15 This term does not include the installation of pumps and pumping  
16 equipment.

17 "Water-well construction permit." A permit issued by a  
18 certified water-well enforcement officer stating that the water-  
19 well location and casing of a newly constructed water well meet  
20 the standards of this act and the regulations promulgated under  
21 this act.

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

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

28 "Water-well enforcement officer." An official of a local  
29 agency who:

30 (1) has been issued a valid water-well enforcement

officer certificate by or under the authority of the  
Department of Environmental Protection;

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

(3) conducts the investigations and inspections  
necessary to implement this act and regulations under this  
act.

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

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

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

(a) Regulations.--The board shall have the power and its  
duty shall be to adopt rules and regulations as it deems  
necessary for the implementation of this act. THE RULES AND  
REGULATIONS SHALL REFLECT THE REGIONAL HYDROGEOLOGICAL  
DIFFERENCES FOUND IN THIS COMMONWEALTH. The rules and  
regulations shall include, but not be limited to:

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

(i) Any minimum distance requirement between an  
existing on-lot sewage disposal system component  
specified in the regulations under this act or in the act  
of January 24, 1966 (1965 P.L.1535, No.537), known as the  
Pennsylvania Sewage Facilities Act, or the regulations  
promulgated thereunder, and a proposed water well on the  
same lot shall not be applicable if the local agency



1 finds, after reviewing appropriate groundwater studies  
2 submitted by an applicant, the new distance between the  
3 proposed water well and on-lot sewage disposal system  
4 component will not pose a threat of pollution to the  
5 water well.

6 (ii) Minimum distances between a proposed water well  
7 on the applicant's lot and any on-lot sewage disposal  
8 system component on any other lot must satisfy the  
9 specifications set forth in the regulations under this  
10 act.

11 (iii) No regulation may be promulgated to require  
12 decommissioning of a water well in which initial  
13 construction activity was commenced prior to the  
14 effective date of the initial regulations promulgated  
15 under this act.

16 (2) Requirements and procedures for determining and  
17 reporting on water quality and well yield for drinking water  
18 wells.

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

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

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

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

27 (b) Fees.--The board shall establish fees for water-well  
28 registrations, water-well contractor license applications,  
29 water-well rig permits, water-well driller certification and  
30 water-well enforcement officer certification. Fees shall bear a

1 reasonable relationship to the cost of administering this act.

2 Section 5. Power and duties of Department of Environmental  
3 Protection.

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

5 (1) Administer the water-well programs established under  
6 this act.

7 (2) Cooperate with local agencies and appropriate  
8 Federal, State and interstate units of government and with  
9 appropriate private organizations in carrying out its duties  
10 under this act.

11 (3) Establish procedures, forms and an appeal process  
12 for the submission, review, approval, denial, modification,  
13 suspension, revocation, reinstatement and rejection of any  
14 water-well contractor license, water-well rig permit, water-  
15 well enforcement officer certification or water-well driller  
16 certification.

17 (4) Establish procedures and formats for the water-well  
18 registration and water-well certification reports required by  
19 this act.

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

23 (6) Establish programs for educating the public about  
24 groundwater resources, the construction and operation of  
25 their water supply systems and the regulatory program enacted  
26 by this act.

27 (7) Cooperate with the organizations that represent  
28 water-well drillers, water-well enforcement officers and  
29 businesses engaged in well-drilling activities and to assist  
30 these organizations in the development of training curricula

1 that address the knowledge base, minimum skills and technical  
2 aspects which will be the subject of the department's  
3 certification examinations.

4 (8) Prescribe or establish minimum continuing education  
5 requirements, such as the number of training hours, provided  
6 that renewal of certification shall not be contingent upon  
7 passage of the initial certification examination.

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

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

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

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

25 Section 6. Certification board.

26 (a) Establishment.--

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

30 (2) The certification board shall consist of five

1 members to be appointed by the secretary. One member shall be  
2 a representative of local government; one member shall be a  
3 water-well enforcement officer certified under the provisions  
4 of this act; one member shall be a practicing registered  
5 professional geologist; one member shall be a water-well  
6 driller certified or licensed under the provisions of this  
7 act; and one shall be a water-well contractor certified or  
8 licensed under the provisions of this act.

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

12 (4) Each appointment shall be for a period of four  
13 years.

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

17 (6) The secretary may reappoint certification board  
18 members for one successive term. If vacancies occur prior to  
19 completion of a term, the secretary shall appoint another  
20 member in accordance with this section to fill the unexpired  
21 term. No individual shall serve more than eight consecutive  
22 years.

23 (7) No member of this committee may also be a member or  
24 alternate of the Water-Well Construction Technical Advisory  
25 Committee.

26 (b) Meetings.--

27 (1) Within 180 days of the effective date of this act,  
28 the secretary, or his representative, shall call the first  
29 meeting of the certification board. At the initial meeting  
30 the board shall elect a chairperson. Thereafter, the chairman

1 shall be elected annually.

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

6 (3) The members of the board shall receive no  
7 compensation for their services but shall be reimbursed for  
8 actual and necessary expenses incurred in the performance of  
9 their duties.

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

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

22 (2) Administer such examinations as prepared by the  
23 department, as may be deemed necessary to determine the  
24 qualification of candidates for certification. Such  
25 examinations shall be held no less than four times in each  
26 calendar year. The board shall determine and shall announce,  
27 in sufficient time, the location and time for such  
28 examinations except that the board shall allow the department  
29 to schedule special walk-in examinations when a local agency  
30 demonstrates an immediate need to obtain a water-well

1 enforcement officer. During the first year after the  
2 effective date of this act, no fees shall be charged for the  
3 examinations. During the second and subsequent years, the  
4 board may collect a fee of \$10 from each applicant for  
5 certification.

6 (3) Hold hearings and issue adjudications under the  
7 provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice  
8 and procedure of Commonwealth agencies) on any revocation,  
9 suspension or reinstatement of certification by the  
10 department, provided, that the filing of an appeal with the  
11 board shall not operate as an automatic supersedeas of the  
12 action of the department. Actions of the department may be  
13 appealed to the Environmental Hearing Board.

14 (4) Compile and keep current a register showing the  
15 names and addresses of water-well enforcement officers,  
16 water-well drillers and water-well contractors. Copies of  
17 this register shall be furnished on request upon payment of  
18 such reasonable fees as the department shall establish.

19 Section 7. Powers and duties of local agencies.

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

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

5 (1) To employ or contract with an adequate number of  
6 water-well enforcement officers to adequately perform the  
7 services required of water-well enforcement officers within  
8 the time periods set forth in this act and in accordance with  
9 the rules and regulations of the department. No person shall  
10 be employed or contracted as a water-well enforcement officer  
11 unless the person has been certified by the department  
12 pursuant to standards set by the Environmental Quality Board.  
13 No individual shall be employed or contracted as a water-well  
14 enforcement officer to administer the provisions of this act  
15 with respect to a water well for which the individual or an  
16 immediate relative was or is the contractor or with respect  
17 to a water well, or the property or structure which the water  
18 well is intended to serve, in which the individual or an  
19 immediate relative has a financial interest. In such a case,  
20 the local agency's alternate water-well enforcement officer  
21 shall administer the provisions of this act with respect to  
22 the particular water well.

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

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

29 (4) To adopt by resolution a list of individuals who are  
30 water-well enforcement officers employed by the local agency

1 or by companies or corporations under contract with the local  
2 agency to perform the services of water-well enforcement  
3 officers.

4 (5) To set rates of compensation, maintain offices,  
5 establish personnel policies and establish administrative  
6 rules or policies and to purchase necessary equipment and  
7 supplies.

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

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

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

26 (9) To submit such reports and data to the department as  
27 the department may by its rules and regulations or by order  
28 require.

29 (10) To adopt and maintain standards and procedures for  
30 applications and permits identical to those of the



1 department. Any other rules or regulations which the local  
2 agency deems necessary in order to administer and enforce  
3 this act may only be adopted if they are consistent with this  
4 act and the rules and regulations promulgated under this act.

5 (11) To make such inspections of and to verify  
6 measurements made by applicants on public or private  
7 properties which are determined by the local agency's  
8 authorized representative to have natural or manmade features  
9 from which specific isolation distances are required prior to  
10 the approval of water-well construction permits. The local  
11 agency's authorized representative shall have the right to  
12 enter upon lands for these purposes.

13 (c) Limitations.--

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

19 (2) The following shall apply:

20 (i) Except as set forth in subparagraph (ii), no  
21 water-well enforcement officer shall perform any  
22 consulting or design work or related services required or  
23 regulated under this act within the municipality or local  
24 agency by which the officer is employed or with which the  
25 officer has a contractual relationship.

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

27 (A) the work is for a water well which will  
28 serve the residence of the water-well enforcement  
29 officer or an immediate relative;

30 (B) the undertaking of the work is approved in

1 advance by the local agency and the department; and

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

4 (3) No water-well enforcement officer may issue a permit  
5 or participate in the official processing of an application  
6 for a water-well permit in which the water-well enforcement  
7 officer, an immediate relative of the water-well enforcement  
8 officer, a business associate of the water-well enforcement  
9 officer or an employer of the water-well enforcement officer,  
10 other than the local agency, has a financial interest.

11 (d) Existing municipal ordinances.--

12 (1) Provisions of municipal water-well construction  
13 ordinances in effect on the effective date of the regulations  
14 promulgated under this act that do not at least equal the  
15 minimum requirements of the regulations promulgated under  
16 this act shall be amended to provide for the minimum  
17 requirements.

18 (2) Provisions of municipal water-well construction  
19 ordinances in effect on the effective date of the regulations  
20 promulgated under this act that equal or exceed the minimum  
21 requirements of the regulations promulgated under this act  
22 shall remain in effect until such time as they no longer  
23 equal or exceed the minimum requirements of the regulations  
24 adopted under this act.

25 (e) Review of ordinances by department.--After the effective  
26 date of the regulations promulgated under this act, the  
27 department shall review any municipal water-well construction  
28 ordinance proposing to exceed the minimum requirements of this  
29 act based on the following standards:

30 (1) That certain clear and convincing local, geologic,

1 topographic or public health and safety circumstances or  
2 conditions justify the more stringent provision.

3 (2) That the more stringent provision shall be adequate  
4 for the purpose intended and shall meet a standard of  
5 performance equal to or greater than that prescribed by this  
6 act.

7 (3) That the more stringent provision would not diminish  
8 or threaten the health, safety and welfare of the public.

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

12 (f) Reimbursement.--Expenses for activities under this  
13 section shall be deemed eligible for reimbursement under section  
14 6(b)(1) of the act of January 24, 1966 (1965 P.L.1535, No.537),  
15 known as the Pennsylvania Sewage Facilities Act.

16 Section 8. Licensing of water-well contractors and permitting  
17 of water-well rigs.

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

29 (b) Application.--An application for a license shall be in  
30 writing on forms provided by the department and shall be

1 accompanied by the water-well contractor license fee and water-  
2 well rig registration fee, if applicable, as established under  
3 section 12, or as set by regulation of the board. The  
4 application shall contain a statement showing:

5 (1) The name of the applicant.

6 (2) The business address of the applicant.

7 (3) The registration of all water-well rigs that will be  
8 used during the license year.

9 (4) Any additional information the department may  
10 require.

11 (c) Requirements for licensee.--Until such time as the board  
12 adopts regulations on licensee qualifications, the department  
13 may issue and renew licenses and rig registrations based on  
14 satisfaction of the requirements contained in subsection (b). In  
15 accordance with regulations promulgated under this act, the  
16 applicant for a license shall meet all the following  
17 requirements:

18 (1) Demonstrate to the department that the applicant and  
19 the applicant's agents and employees are qualified to  
20 practice water-well construction, alteration and  
21 decommissioning.

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

27 (3) Pay the annual license fees.

28 (4) Register with the department any water-well rig to  
29 be operated during the license year and pay a registration  
30 fee for each water-well rig registered. The department shall

1 issue one water-well rig placard with the water-well  
2 contractor license number for each water-well rig registered.  
3 The water-well contractor shall post such placards on each  
4 rig registered under his license.

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

7 (d) Regulations.--The board shall adopt such regulations to  
8 provide proof of a licensee's qualifications and to provide for  
9 proof of financial responsibility of licensees as is necessary  
10 to insure compliance with this act.

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

16 (f) Duplicates.--The department may issue a duplicate  
17 license or rig registration to replace a lost or destroyed  
18 license or registration.

19 (g) Suspension or revocation.--Whenever the department  
20 determines that the holder of a license issued pursuant to this  
21 section has violated any provision of this act, any rule or  
22 regulation adopted under this act, any order of the department  
23 or any condition of any license issued under this act, the  
24 department may suspend or revoke that license.

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

28 (i) Reciprocal licensing.--The department, upon application  
29 for the license and payment of the fees required by the  
30 department, shall issue a water-well contractor license to a

1 person who holds a similar license in any state, territory or  
2 possession of the United States, or in any foreign country, if  
3 the requirements for licensing of a water-well contractor under  
4 which the license was issued are of a standard not lower than  
5 those specified by the provisions of this act and the rules and  
6 regulations promulgated under this act. The provisions of this  
7 subsection shall apply to those states and territories that  
8 provide similar provisions to water-well contractors of this  
9 Commonwealth.

10 (j) Equivalency.--On an annual basis, the board will  
11 identify states where a license and a water-well drillers  
12 certification are equivalent to the Commonwealth's standards. In  
13 such cases, Commonwealth licensure or certification shall be  
14 granted.

15 Section 9. Certification of water-well drillers.

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

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

24 (c) Direct supervision.--Only one water-well construction,  
25 alteration or decommissioning operation can be directly  
26 supervised by a licensed water-well driller at any given time  
27 unless all of the water-well construction, alteration or  
28 decommissioning operations being supervised simultaneously are  
29 being done for the same client, on the same site and under the  
30 same contract with that client.

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

- (1) The name of the applicant.
- (2) The business address of the applicant.
- (3) The affiliation with any water-well contractor.
- (4) Any additional information the department may require.

Section 10. Water-well registration.

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

(b) Registration required.--

(1) The information required to register newly constructed or altered 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;

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

(iii) the address of the property owner on which the

1 water well is located;

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

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

6 (vi) the exact geographic location of the water  
7 well;

8 (vii) a log of the water well containing a  
9 description of materials penetrated;

10 (viii) the size, depth, diameters and lengths of the  
11 boring, the casings and the screen installed;

12 (ix) the static water level, pumping water level and  
13 pumping rate; and

14 (x) any other information the department deems  
15 necessary.

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

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

23 (i) the water-well registration identification  
24 number, if one was previously issued for the water well;

25 (ii) the date of decommissioning;

26 (iii) the type of closure performed;

27 (iv) the name and license number of the water-well  
28 contractor responsible for the decommissioning;

29 (v) the name, certification number and signature of  
30 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 registration tag to the department whenever a water well with a registration tag is decommissioned. The water-well contractor shall not be required to obtain a registration identification number or pay a fee in connection with the decommissioning of any water well.

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

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

Section 11. Water quality analysis and well yield reports.

(a) Water quality analysis report.--The water-well contractor shall collect and submit to the department and the owner of the drinking water well a water quality analysis report. The report shall be based on a water sample obtained

1 from the drinking water well according to the procedures  
2 established by the board under section 4.

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

9 (c) Water quality information.--The department shall develop  
10 water quality information which shall include, but not be  
11 limited to, water quality standards, potential effects on human  
12 health and safety relative to the tested substances, available  
13 water treatment technologies and associated costs. The  
14 information shall be provided to all certified laboratories and  
15 water-well contractors who shall provide this information to the  
16 owner of the drinking water well.

17 (d) Notice to well users.--Where the owner of a drinking  
18 water well is not the sole user of the water from a drinking  
19 water well, the owner shall, within 48 hours of receipt of the  
20 water quality analysis report, notify all other users of the  
21 results of the water quality analysis. The notice shall be given  
22 by mail or by conspicuous posting at the place of use in a  
23 location where it will be seen by users.

24 (e) Well yield report.--In accordance with regulations  
25 adopted by the board, the water-well contractor shall submit to  
26 the department and drinking water-well owner a well yield  
27 report. The well yield report must be based on testing of the  
28 drinking water well according to the procedures established by  
29 the board under section 4.

30 Section 12. Interim fees and requirements.

1 (a) Water-well registration fee.--Until alternative fees are  
2 established by the board by regulation, a registration fee of  
3 \$35 for each water well constructed or altered after the  
4 effective date of this act shall be paid by the well contractor  
5 to the department. Each well contractor shall register with the  
6 department each water well by completing and submitting the form  
7 provided by the department, including the registration fee  
8 prescribed by the department, for each water well in accordance  
9 with section 11.

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

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

27 (d) Water-well drillers certification fee.--Until  
28 alternative annual fees are established by the board by  
29 regulation, an annual water-well driller certification fee of  
30 \$20 shall be paid to the department by each individual water-

1 well driller.

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

5 Section 13. Recordkeeping and reports.

6 The department may require any water-well contractor to  
7 establish and maintain such records and make such reports and  
8 furnish such data as the department deems necessary to  
9 demonstrate that the water-well contractor is complying with  
10 this act and the rules and regulations promulgated under this  
11 act. A copy of the written certification required by section  
12 11(d) shall be kept for ten years by the water-well contractor.

13 Section 14. Water-Well Construction Technical Advisory  
14 Committee.

15 (a) Establishment and composition.--

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

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

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

5 (ii) Two geologists with expertise in hydrogeology  
6 shall be recommended from the membership of the  
7 Pennsylvania Council of Professional Geologists and  
8 licensed under the act of May 23, 1945 (P.L.913, No.367),  
9 known as the Engineer, Land Surveyor and Geologist  
10 Registration Law.

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

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

18 (v) One member representing Pennsylvania townships  
19 of the first class shall be recommended from the  
20 membership of the Pennsylvania State Association of  
21 Township Commissioners.

22 (vi) One member representing Pennsylvania townships  
23 of the second class shall be recommended from the  
24 membership of the Pennsylvania State Association of  
25 Township Supervisors.

26 (vii) One member representing Pennsylvania boroughs  
27 shall be recommended from the membership of the  
28 Pennsylvania State Association of Boroughs.

29 (viii) One member representing Pennsylvania cities  
30 shall be recommended from the membership of the

Pennsylvania League of Cities and Municipalities.

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

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

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

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

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

(XIV) ONE MEMBER REPRESENTING MUNICIPAL AUTHORITIES SHALL BE RECOMMENDED FROM THE MEMBERSHIP OF THE PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION. <—

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

(c) Meetings, chairperson, etc.--All actions of the committee shall be by majority vote of the members assembled if a quorum is present. A quorum shall be considered as being one more than 50% of the total membership. The committee shall meet upon the call of the secretary, but not less than semiannually, to carry out its duties under this act. The committee shall select a chairperson and other officers and establish bylaws as

1 it deems appropriate. The department shall provide clerical and  
2 technical support as the committee may reasonably require.

3 (d) Regulations.--The department shall consult with the  
4 committee in the formulation, drafting and presentation stages  
5 of all regulations promulgated under this act. The committee  
6 shall be given a reasonable opportunity to review and comment on  
7 all regulations prior to their submission to the board for  
8 initial consideration. The written comments of the committee  
9 shall be presented to the board with any regulatory proposal.

10 Section 15. Penalties and remedies.

11 (a) Summary offense.--

12 (1) A person who violates any provision of this act, any  
13 regulation of the department, any order of the department, or  
14 any term or condition of a well registration or license of  
15 the department issued under this act, or who resists or  
16 interferes with an officer, agent or employee of the  
17 department in the performance of his duties commits a summary  
18 offense and shall, upon conviction, be sentenced to pay a  
19 fine of not less than \$100 nor more than \$1,000 and costs for  
20 each separate offense or, in default of payment thereof,  
21 shall be sentenced to imprisonment for a period of not more  
22 than 30 days.

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

26 (3) Employees of the department authorized to conduct  
27 inspections or investigations are hereby declared to be law  
28 enforcement officers authorized to issue or file citations  
29 for summary violations under this act and the General Counsel  
30 is hereby authorized to prosecute these offenses.

1 (b) Equitable relief.--The department may apply to the  
2 Commonwealth Court or to a court of common pleas having  
3 jurisdiction for preliminary, special or final injunction to  
4 restrain or prevent violations of this act or to compel  
5 compliance with this act or any rule, regulation, order, license  
6 or registration issued under this act.

7 (c) Civil penalties.--

8 (1) In addition to proceeding under any other remedy  
9 available at law or in equity for a violation of any  
10 provision of this act, any rule or regulation of the  
11 department or order of the department, or any term or  
12 condition of any well registration or license issued under  
13 this act, the department may assess a civil penalty upon a  
14 person for such violation. The maximum civil penalty which  
15 may be assessed under this subsection shall be \$1,000 per day  
16 for each violation. The penalty may be assessed whether the  
17 violation was willful or negligent.

18 (2) When the department assesses a civil penalty, it  
19 shall inform the person of the amount of the penalty. The  
20 person charged with the penalty shall then have 30 days to  
21 pay the penalty in full or, if the person wishes to contest  
22 either the amount of the penalty or the fact of the  
23 violation, the person shall, within the 30-day period, file  
24 an appeal of the action with the Environmental Hearing Board.  
25 Failure to appeal within 30 days shall result in a waiver of  
26 all legal rights to contest the violation or the amount of  
27 the penalty.

28 (d) Remedies cumulative.--The penalties and remedies  
29 prescribed by this act shall be deemed cumulative, and the  
30 existence of or exercise of any remedy shall not prevent the



1 department from exercising any other remedy under this act, at  
2 law or in equity.

3 (e) Separate offense.--Violations on separate days shall  
4 constitute separate offenses.

5 Section 16. Local agency hearings and appeals.

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

12 (b) Revocation of permits.--

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

14 (i) notice and opportunity for hearing have been  
15 given to the permittee; and

16 (ii) the opportunity to appeal is exhausted.

17 (2) If work has not been commenced on a property for  
18 which a water-well construction permit has been issued and  
19 for which the permittee has received notice of a permit  
20 revocation, the permittee may not commence work on the water  
21 well and the permit shall be suspended until the applicant  
22 has requested a hearing under subsection (a), the hearing has  
23 been conducted and a decision announced or the time for such  
24 request has expired. If the time has expired and no hearing  
25 request has been received by the local agency, the revocation  
26 shall be final.

27 (3) If work has commenced on a property for which a  
28 water well construction permit has been issued and for which  
29 the permittee has received notice of a permit revocation, the  
30 permittee shall cease work on the water well except such work

1 as may be needed to secure the water well to prevent  
2 contamination of the groundwater or prevent a safety hazard.  
3 The permit shall be suspended until the permittee has  
4 requested a hearing under subsection (a), the hearing has  
5 been conducted and a decision announced or until the time for  
6 such request has expired. If the time has expired and no  
7 hearing request has been received by the local agency, the  
8 revocation shall be final.

9 (c) Hearings.--Hearings under subsections (a) and (b) shall  
10 be conducted pursuant to 2 Pa.C.S. Ch. 5 Subch. B (relating to  
11 practice and procedure of local agencies).

12 (d) Appeals.--

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

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

28 Section 17. Water-Well Construction Fund.

29 (a) Establishment.--There is established in the State  
30 Treasury a restricted nonlapsing fund to be known as the Water-

1 Well Construction Fund for the deposit of all fees, fines and  
2 civil penalties authorized by this act and collected by the  
3 department. All moneys in the fund are hereby appropriated on a  
4 continuing basis to the department for the costs of  
5 administering the provisions of this act.

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

7 (1) ~~Sixty-five~~ FIFTY percent of the money contained in <—  
8 the fund each fiscal year shall be used by the department to  
9 provide grants to owners of water wells to offset costs  
10 incurred by the owner in decommissioning a water well in  
11 accordance with the standards and requirements imposed  
12 pursuant to this act.

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

15 (c) Reimbursement to local agencies.--

16 (1) Each fiscal year ~~15%~~ 40% of the moneys contained in <—  
17 the fund shall be used for reimbursing the expenses incurred  
18 by local agencies in the enforcement of section 7.

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

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

27 Section 18. Transfer of funds.

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

1 Construction Fund.

2 Section 19. Status of existing licenses and permits.

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

8 Section 20. Savings provision.

9 The provisions of this act shall not affect any suit,  
10 prosecution or other action instituted, prior to the effective  
11 date of this act, to enforce any right or abate any violation of  
12 any act or part thereof repealed by this act.

13 Section 21. Severability.

14 The provisions of this act are severable. If any provision of  
15 this act or its application to any person or circumstance is  
16 held invalid, the invalidity shall not affect other provisions  
17 or applications of this act which can be given effect without  
18 the invalid provision or application.

19 Section 22. Repeal.

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

22 Section 23. Applicability.

23 With the exception of the rules and regulations regarding  
24 standards for the inspection, alteration, temporary closure or  
25 decommissioning of water wells as established by the board under  
26 section 4, the provisions of this act shall not apply to any  
27 well in which initial construction activity was commenced prior  
28 to the effective date of the regulations promulgated under this  
29 act.

30 Section 24. Construction.

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

6 Section 25. Effective date.

7 This act shall take effect as follows:

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

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

14 (3) The remainder of this act shall take effect  
15 immediately.