



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

TO: SENATOR NEAL KEDZIE

FROM: Mark C. Patronsky, Senior Staff Attorney

RE: Contents of a Bill Draft Regarding Wells and Well Drillers

DATE: September 29, 2003

This memorandum is in response to your request for a brief summary of the contents of a bill regarding wells and well drillers, 2003 Senate Bill 244.

The regulation of wells and well drillers is not new. The basic statutory authority to regulate wells and well drillers was created in 1919, and was assigned to the State Board of Health. That agency continued to have charge of this program until 1967, when responsibility to regulate wells and well drillers was transferred to the Department of Natural Resources (DNR), upon the recommendation of the Kellett Commission.

Like a number of other public health and environmental regulatory programs, the current regulation of wells and well drillers is accomplished by a relatively simple grant of statutory authority, and comprehensive administrative rules. The primary statutory authority is ch. 280, Stats., and the administrative rules are found in ch. NR 812, Wis. Adm. Code. Senate Bill 244 substantially expands ch. 280, Stats., but in general the bill modifies or expands on matters that are already the subject of regulation.

The following are some of the key provisions in Senate Bill 244 that modify current law. There are other provisions in the bill that are similar to current law, but are not described below.

- The bill creates a Council on Well Drilling and Pump Installing to advise the DNR concerning the well and drill hole regulatory program. (p. 3, line 1 to p. 4 line 25.)
- Under current law, counties are authorized to adopt an ordinance that regulates construction of private wells and installation of pumps. These ordinances must comply strictly with statutes and rules administered by the DNR. The bill makes the county authority consistent with changes to DNR authority in ch. 280, Stats. (p. 7, line 3 to p. 8 line 10.)

- The bill requires a city, village, town, county or certain special purpose districts to enact and enforce a well abandonment ordinance, if the local governmental unit is served by a community water system. This provision is substantially similar to current statutes and rules that authorize these ordinances. [See s. 281.45, Stats., and s. NR 811.10, Wis. Adm. Code.] The principal change from current law is in certain constraints on enforcement of the ordinance. (p. 9, line 6 to p. 10, line 14.)
- A DNR employee may not conduct site evaluations or inspections and may not grant variances related to wells and well drilling unless the employee passes the examination required for those who are licensed and meets continuing education requirements. (p. 20, lines 16-21.)
- The bill sets time limits (90 days, with exceptions) for the DNR to approve applications for a community water system. Failure to comply with the applicable time limit is deemed approval of the application. (p. 24, lines 3-18.)
- The bill contains a list of substances that may not be applied to water systems or introduced into water systems. (p. 25, line 12 to p. 26, line 4.)
- The bill prohibits the installation of pitless adapters unless certain conditions are met. A pitless adapter is a method of connecting a water pipe to a well casing, which is permitted under current rules in s. NR 812.09 (4) (o). (p. 26, lines 5-12.)
- The bill requires certification of water system operators. This is substantially similar to current rules which require such certification in s. NR 812.11 (3). (p. 26, line 16 to p. 27, line 11.)
- The bill has an extensive provision regarding the licensing and registration of various classes of individuals involved in the drilling and construction of wells. This portion of the bill builds on statutory requirements in current s. 280.15, which now requires registration of well drillers and pump installers. The bill creates classes of licenses, specifies in detail the qualifications for licenses, and includes extensive provisions regarding denial, nonrenewal, suspension, and revocation of licenses. (p. 27, line 12 to p. 40, line 20.)
- The bill prohibits the abandonment of a well by any person other than one who has a designated type of license. (p. 36, lines 6-13.)
- The bill contains a comprehensive provision regarding enforcement, including procedures, time frames, emergencies, inspections, and sampling requirements. (p. 43, line 19 to p. 49, line 14.)
- The current statutory penalty for violation of requirements related to well drillers and pump installers is a fine of not less than \$10 nor more than \$100 or imprisonment for not more than 30 days, or both. The bill contains a structured set of penalties for various violations. (p. 49, line 15 to p. 50, line 17.)

- In nonstatutory provisions, the bill “grandfathers” all well driller and pump installer licensees, without requiring an examination. (p. 63, lines 17-22.)
- The bill authorizes 3.0 program revenue positions for the DNR, to be funded by the fees received under ch. 280, Stats. (p. 63, line 23 to p. 64, line 2.)
- The bill takes effect, if passed, on January 1, 2005. (p. 64, line 24.)

If I can provide further information on this subject, please feel free to contact me.

MCP:rv:jal:tlu;rv