

2003 SENATE BILL 244

September 10, 2003 – Introduced by Senators KEDZIE, BROWN, STEPP, SCHULTZ and PLALE, cosponsored by Representatives VAN ROY, LEMAHIEU, KRAWCZYK, GUNDERSON, JESKEWITZ, OTT, KERKMAN, MUSSER, OLSEN, NASS, VRAKAS, HAHN, HEBL, HUBER and GRONEMUS. Referred to Committee on Environment and Natural Resources.

1 **AN ACT** *to repeal* 59.70 (6) (a) 2. and 3., 59.70 (6) (e), 167.27 (4), 281.01 (20),
2 281.13 (1) (b), 281.17 (8), subchapter VI (title) of chapter 281 [precedes s.
3 281.75], 281.75 (1) (c) and 289.01 (44); *to renumber* 281.13 (3), 281.75 (title)
4 and (1) (intro.), (a) and (b), 281.75 (1) (d) to (g), 281.75 (2) and (3), 281.75 (4),
5 281.75 (4m) to (11), 281.75 (12) (intro.) and (a) and 281.75 (13) to (17); *to*
6 *renumber and amend* 281.13 (1) (a), 281.17 (9), 281.53, 281.75 (1) (h), 281.75
7 (12) (b), 281.75 (18), 281.75 (19), 281.77 and 281.99; *to consolidate, renumber*
8 *and amend* 59.70 (6) (a) (intro.) and 1.; *to amend* 20.370 (4) (bL), 20.370 (6)
9 (cr), 20.370 (7) (cd), 20.865 (2) (em), 20.866 (2) (tb), 25.46 (5e), 59.07 (1), 59.64
10 (1) (a), 59.70 (1), 59.70 (6) (title), 60.44 (1) (a), 60.44 (3), 62.25 (1), 66.0803 (1)
11 (a), 88.145, 97.34 (2) (b), 101.143 (1) (c), 118.26, 119.68 (2), 145.06 (4) (b), 145.10
12 (1) (intro.) and (a) to (b), 160.09 (1) (intro.), 160.257 (1) (e), 160.257 (2), 167.27
13 (title), (2) and (3), 167.27 (5), 167.27 (6), 198.12 (2), chapter 281 (title), 281.01
14 (8), 281.01 (15), 281.01 (16), 281.12 (3), 281.17 (3), 281.19 (2) (a), 281.35 (1) (a)

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1 and (b) 2., 281.35 (4) (a) 3. and (b) (intro.), 281.41 (1) (c), 281.45, 281.97, 281.98
2 (1), 281.98 (2), 285.01 (40), 289.01 (33), 292.65 (1) (g), 295.11 (10), 299.07 (1) (a)
3 1., 299.07 (1) (a) 2., 299.08 (1) (a) 1., 299.08 (1) (a) 2., 299.11 (1) (d) 4. and 6.,
4 443.14 (12m), 470.025 (9) and 893.80 (8); **to repeal and recreate** 59.70 (6) (b),
5 59.70 (6) (c), 62.69 (2) (k), chapter 280 and 281.13 (title); and **to create** 15.347
6 (3), 20.370 (4) (ai), 66.0437 and 167.27 (9) of the statutes; **relating to:** the
7 regulation of drill holes, water quality, and water systems, related licensing and
8 certification, creating the Council on Well Drilling and Pump Installing,
9 granting rule-making authority, making appropriations, and providing
10 penalties.

Analysis by the Legislative Reference Bureau

This bill restructures and makes numerous changes in the laws relating to water systems, drinking water, withdrawal of groundwater, and wells and other similar excavations (drill holes).

Under current law, the Department of Natural Resources (DNR) is required to promulgate rules for obtaining pure drinking water for human consumption and DNR has control over all methods of obtaining groundwater for human consumption, including the construction and reconstruction of wells used to provide drinking water. Under current law, DNR also has general supervision and control over the waters of the state and may promulgate rules to prevent the pollution of the waters of the state. Under the bill, DNR has control over ensuring the sanitary provision of water for all purposes and over all wells and other drill holes, water systems, and methods of withdrawing groundwater. The bill authorizes DNR to promulgate rules concerning the location of potential contamination sources relative to existing or proposed wells.

The bill prohibits the discharge into wells, other drill holes, sinkholes, and mine shafts of substances that may decrease the quality of groundwater, except as authorized by DNR by rule. The bill generally prohibits the use of pipe or solder that is not lead free in water systems. The bill prohibits a person from introducing or threatening to introduce a contaminant into a water system with the intention of harming another. The bill prohibits the use of chemicals, paints, or conditioning or treatment processes in community water systems without the approval of DNR.

Under current law, DNR registers individuals and businesses who engage in the business of drilling wells to obtain water for human consumption and who engage in the business of installing pumps to withdraw water from wells.

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Under the bill, DNR issues licenses for individuals who engage in the following activities: well drilling (of wells to obtain groundwater for human consumption), well point driving, drilling of environmental (monitoring) wells, pump installation, and constructing specified types of drill holes (other than wells to obtain groundwater for human consumption), and inspection of water systems. Generally, an individual may not engage in one of those activities unless he or she is licensed or is supervised by another individual who is licensed. The bill prohibits a person from filling or sealing a well or other drill hole unless the person is licensed to install a pump in that kind of well or other drill hole or has a license for constructing that kind of well or other drill hole. The bill requires drilling rig operators and pump installer helpers to register with DNR. The bill creates the Council on Well Drilling and Pump Installing and requires DNR to consult with the council on matters including rule making.

Under current law, the Department of Justice (DOJ) generally takes the actions needed to enforce environmental protection laws. This bill authorizes a district attorney to enforce the laws related to water systems and drinking water. Under the bill, if DNR determines that a person has violated one of these laws, it may refer the matter to DOJ for enforcement, as under current law, or to a district attorney.

The bill also requires a local governmental unit that is served by a community water system to require the abandonment of any well that is located on property adjacent to a water main if the well is unused, is unsafe because of bacteria in the water, or does not comply with statutes and rules concerning wells.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 15.347 (3) of the statutes is created to read:
- 2 15.347 (3) COUNCIL ON WELL DRILLING AND PUMP INSTALLING. (a) There is created
- 3 in the department of natural resources a council on well drilling and pump installing.
- 4 The council consists of the following members, who shall serve 3-year terms:
- 5 1. Three active, licensed, water well drillers who are members of a statewide
- 6 association of licensed well drillers, pump installers, and other drill hole contractors,
- 7 appointed by the board of directors of the association.

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1 2. Two active, licensed, water well drillers who are not members of a statewide
2 association of licensed well drillers, pump installers, and other drill hole contractors,
3 appointed by the secretary of natural resources.

4 3. Two active, licensed, pump installers who are members of a statewide
5 association of licensed well drillers, pump installers, and other drill hole contractors,
6 appointed by the board of directors of the association.

7 4. Two active, licensed, pump installers who are not members of a statewide
8 association of licensed well drillers, pump installers, and other drill hole contractors,
9 appointed by the secretary of natural resources.

10 5. One monitoring well contractor appointed by a national association of
11 drilling contractors.

12 6. One employee of the geological and natural history survey, appointed by the
13 state geologist.

14 7. Two members of a statewide association of suppliers of pumps and products
15 used in the construction of wells, appointed by the president of the association.

16 8. One employee of the department of natural resources, appointed by the
17 secretary of natural resources.

18 (b) No member of the council on well drilling and pump installing may serve
19 more than 2 consecutive terms, except that the member under par. (a) 6. may serve
20 longer at the discretion of the state geologist.

21 (c) The council on well drilling and pump installing shall be cochaired by the
22 member under par. (a) 8. and by another member of the council elected by the
23 members of the council. The member under par. (a) 8. shall be a nonvoting member
24 except that he or she may vote in case of a tie. The council shall meet 3 times each
25 year and may meet at other times on the call of the cochairs.

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1 **SECTION 2.** 20.370 (4) (ai) of the statutes is created to read:

2 20.370 **(4)** (ai) *Water supply management — fees.* All moneys received as fees
3 under ch. 280 for the purpose of administering the activities for which the fees are
4 imposed.

5 **SECTION 3.** 20.370 (4) (bL) of the statutes is amended to read:

6 20.370 **(4)** (bL) *Wastewater management — fees.* From the general fund, all
7 moneys received under s. 281.17 (3) for the certification of operators of water
8 systems, wastewater treatment plants and septage servicing vehicles and under s.
9 281.48 (4s) (a) and (b) for wastewater management activities.

10 **SECTION 4.** 20.370 (6) (cr) of the statutes is amended to read:

11 20.370 **(6)** (cr) *Environmental aids — compensation for well contamination.*
12 As a continuing appropriation, from the environmental fund, the amounts in the
13 schedule to pay compensation under s. ~~281.75~~ 280.52.

14 **SECTION 5.** 20.370 (7) (cd) of the statutes is amended to read:

15 20.370 **(7)** (cd) *Principal repayment and interest — municipal clean drinking*
16 *water grants.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of
17 principal and interest costs incurred in making municipal clean drinking water
18 grants under s. ~~281.53~~ 280.54.

19 **SECTION 6.** 20.865 (2) (em) of the statutes is amended to read:

20 20.865 **(2)** (em) *Groundwater survey and analysis.* The amounts in the
21 schedule for the survey and analysis of groundwater conditions and problems under
22 ss. 16.968, 36.25 (6) and ~~280.13~~ and subch. II of ch. ~~281~~ 280.03.

23 **SECTION 7.** 20.866 (2) (tb) of the statutes is amended to read:

24 20.866 **(2)** (tb) *Natural resources; municipal clean drinking water grants.* From
25 the capital improvement fund, a sum sufficient to the department of natural

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1 resources to provide funds for municipal clean drinking water grants under s. ~~281.53~~
2 280.54. The state may contract public debt in an amount not to exceed \$9,800,000
3 for this purpose.

4 **SECTION 8.** 25.46 (5e) of the statutes is amended to read:

5 25.46 (5e) All moneys received under s. ~~281.75~~ 280.52 (16) (d) for
6 environmental management.

7 **SECTION 9.** 59.07 (1) of the statutes is amended to read:

8 59.07 (1) No action may be brought or maintained against a county upon a
9 claim or upon a cause of action unless the claimant complies with s. 893.80. This
10 subsection does not apply to actions commenced under s. 19.37, 19.97 or ~~281.99~~
11 280.50.

12 **SECTION 10.** 59.64 (1) (a) of the statutes is amended to read:

13 59.64 (1) (a) *In general.* Every person, except jurors, witnesses and
14 interpreters, and except physicians or other persons who are entitled to receive from
15 the county fees for reporting to the register of deeds births or deaths, which have
16 occurred under their care, having any claim against any county shall comply with
17 s. 893.80. This paragraph does not apply to actions commenced under s. 19.37, 19.97
18 or ~~281.99~~ 280.50.

19 **SECTION 11.** 59.70 (1) of the statutes is amended to read:

20 59.70 (1) BUILDING AND SANITARY CODES. The board may enact building and
21 sanitary codes, make necessary rules and regulations in relation thereto and provide
22 for enforcement of the codes, rules and regulations by forfeiture or otherwise. The
23 codes, rules and regulations do not apply within municipalities which have enacted
24 ordinances or codes concerning the same subject matter. "Sanitary code" does not

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1 include a private sewage system ordinance enacted under sub. (5). “Building and
2 sanitary codes” does not include well-code ordinances enacted under sub. (6).

3 **SECTION 12.** 59.70 (6) (title) of the statutes is amended to read:

4 59.70 (6) (title) OPTIONAL PRIVATE WELL CODE AND PUMP INSTALLATION ORDINANCES.

5 **SECTION 13.** 59.70 (6) (a) (intro.) and 1. of the statutes are consolidated,
6 renumbered 59.70 (6) (a) and amended to read:

7 59.70 (6) (a) *Definitions* Definition. In this subsection: ~~1.~~ “Department”,
8 “department” means the department of natural resources.

9 **SECTION 14.** 59.70 (6) (a) 2. and 3. of the statutes are repealed.

10 **SECTION 15.** 59.70 (6) (b) of the statutes is repealed and recreated to read:

11 59.70 (6) (b) *Contents*. 1. If authorized by the department under s. 280.30 (2),
12 a county may enact and enforce an ordinance regulating any of the following:

13 a. The location of private wells.

14 b. The abandonment of private wells and other drill holes that are unused or
15 unsafe because of the presence of bacteria or do not comply with ch. 280 or rules
16 promulgated under that chapter.

17 c. The construction and reconstruction of private wells.

18 d. The installation of pumps in private wells.

19 e. The modification of existing pump installations in private wells.

20 f. The inspection of private water systems, as defined in s. 280.01 (10).

21 2. The county may require that a permit be obtained before a person engages
22 in an activity regulated by the ordinance under subd. 1. The county may establish
23 a schedule of fees for the issuance of permits required by the ordinance and for
24 related inspections.

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1 3. The provisions of an ordinance enacted under this paragraph that regulate
2 the abandonment of private wells and drill holes do not apply in any portion of a local
3 governmental unit that is covered by an ordinance enacted under s. 66.0437.

4 **SECTION 16.** 59.70 (6) (c) of the statutes is repealed and recreated to read:

5 59.70 **(6)** (c) *Revocation.* If the department, under s. 280.30 (4), revokes all or
6 part of the authority of a county to enforce an ordinance under par. (b), the county
7 shall immediately cease all activities under the ordinance or part of the ordinance
8 with respect to which authority is revoked and may not resume any of those activities
9 unless notified by the department to do so at the conclusion of all administrative and
10 judicial proceedings arising out of the revocation.

11 **SECTION 17.** 59.70 (6) (e) of the statutes is repealed.

12 **SECTION 18.** 60.44 (1) (a) of the statutes is amended to read:

13 60.44 **(1)** (a) Claims for money against a town or against officers, officials,
14 agents or employees of the town arising out of acts done in their official capacity shall
15 be filed with the town clerk as provided under s. 893.80 (1) (b). This paragraph does
16 not apply to actions commenced under s. 19.37, 19.97 or ~~281.99~~ 280.50.

17 **SECTION 19.** 60.44 (3) of the statutes is amended to read:

18 60.44 **(3)** COURT ACTIONS TO RECOVER CLAIMS. Subsection (2), or an ordinance
19 adopted under that subsection, does not affect the applicability of s. 893.80. No
20 action may be brought or maintained against a town upon a claim unless the
21 claimant complies with s. 893.80. This subsection does not apply to actions
22 commenced under s. 19.37, 19.97 or ~~281.99~~ 280.50.

23 **SECTION 20.** 62.25 (1) of the statutes is amended to read:

24 62.25 **(1)** CLAIMS. No action may be brought or maintained against a city upon
25 a claim or cause of action unless the claimant complies with s. 893.80. This

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1 subsection does not apply to actions commenced under s. 19.37, 19.97 or ~~281.99~~
2 280.50.

3 **SECTION 21.** 62.69 (2) (k) of the statutes is repealed and recreated to read:

4 62.69 (2) (k) Rules, regulations, and ordinances concerning plumbing shall
5 conform to ss. 59.70 (5) and 145.13.

6 **SECTION 22.** 66.0437 of the statutes is created to read:

7 **66.0437 Well abandonment ordinances. (1)** In this section, “local
8 governmental unit” has the meaning given in s. 280.01 (7).

9 **(2) (a)** Each local governmental unit that is served by a community water
10 system, as defined in s. 280.01 (1), shall enact and enforce an ordinance requiring the
11 abandonment of any well or drill hole that is on property adjacent to a water main
12 and that is unused or is unsafe because of the continued presence of bacteria or that
13 does not comply with ch. 280 or rules promulgated under that chapter. The ordinance
14 shall require abandonment to be done in accordance with rules promulgated under
15 ch. 280. The ordinance may allow a well that is on property adjacent to a water main
16 to remain in existence only if the well is used, is bacteriologically safe, and complies
17 with ch. 280 and rules promulgated under that chapter. The local governmental unit
18 may require the owner of a well to obtain a permit and may charge a permit fee that
19 is based on the local governmental unit’s costs under this paragraph. The ordinance
20 shall also require the elimination of cross-connections within the community water
21 system and plumbing systems.

22 (am) Before enacting or modifying an ordinance under par. (a), a local
23 governmental unit shall submit its proposed ordinance to the department of natural
24 resources. The local governmental unit may not enact or modify the ordinance
25 without the approval of the department of natural resources.

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1 **(3)** The local governmental unit shall notify any person who is in violation of
2 an ordinance enacted under sub. (2) and order the person to correct the violation
3 within 30 days. If the person fails to comply with the order, the local governmental
4 unit may impose a forfeiture of not more than \$100 for each day of continued violation
5 after the expiration of the 30 days. In addition, the local governmental unit may take
6 any action necessary to correct the violation and charge the cost as a special
7 assessment against the property on which the violation occurs. Except in a 1st class
8 city, if the property owner, within 30 days after completion of the work required to
9 correct the violation, files a written request with the clerk of the local governmental
10 unit for installment payments, the local governmental unit shall assess the costs in
11 5 equal annual installments with interest at a rate not to exceed 15% per year from
12 the date of completion of the work. If the property owner does not file such a request,
13 or if the property is located in a 1st class city, the property owner shall pay the entire
14 amount due in the following year.

15 **SECTION 23.** 66.0803 (1) (a) of the statutes is amended to read:

16 66.0803 **(1)** (a) A town, village or city may construct, acquire or lease any plant
17 and equipment located in or outside the municipality, including interest in or lease
18 of land, for furnishing water, light, heat or power, to the municipality or its
19 inhabitants; may acquire a controlling portion of the stock of any privately owned
20 corporation owning ~~private waterworks~~ a public water system, as defined in s. 280.01
21 (12), or a lighting plant and equipment; and may purchase the equity of redemption
22 in a mortgaged or bonded ~~waterworks~~ public water system, as defined in s. 280.01
23 (12), or lighting system, including cases where the municipality in the franchise has
24 reserved right to purchase. The character or duration of the franchise, permit or
25 grant under which any public utility is operated does not affect the power to acquire

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1 the public utility under this subsection. Two or more public utilities owned by the
2 same person or corporation, or 2 or more public utilities subject to the same lien or
3 charge, may be acquired as a single enterprise. The board or council may agree with
4 the owner or owners of any public utility or utilities on the value of the utility or
5 utilities and may contract to purchase or acquire at that value, upon those terms and
6 conditions mutually agreed upon between the board or council and the owner or
7 owners.

8 **SECTION 24.** 88.145 of the statutes is amended to read:

9 **88.145 Limitation of damages and suits.** In any action against a drainage
10 district, drainage board, drainage board member, drainage board employee or an
11 owner of land within the district who undertakes work approved by the drainage
12 board, s. 893.80 is applicable and the limit on the amount recoverable by any person
13 under s. 893.80 (3) applies to the drainage board, the members and employees of the
14 drainage board, the drainage district and any owner of land within the district who
15 undertakes work approved by the drainage board. This section does not apply to
16 actions commenced under s. 19.37, 19.97 or ~~281.99~~ 280.50.

17 **SECTION 25.** 97.34 (2) (b) of the statutes is amended to read:

18 97.34 (2) (b) No person may manufacture or bottle bottled drinking water for
19 sale or distribution in this state unless the bottled drinking water complies with
20 state drinking water standards adopted by the department of natural resources
21 under s. ~~280.11, 281.15 or 281.17~~ (8) 280.05 (1) (f) and with health-related
22 groundwater enforcement standards adopted by the department of natural
23 resources under ch. 160.

24 **SECTION 26.** 101.143 (1) (c) of the statutes is amended to read:

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1 101.143 (1) (c) “Groundwater” has the meaning designated ~~under~~ given in s.
2 ~~281.75 (1) (c)~~ 160.01 (4).

3 **SECTION 27.** 118.26 of the statutes is amended to read:

4 **118.26 Claim against school district.** No action may be brought or
5 maintained against a school district upon a claim or cause of action unless the
6 claimant complies with s. 893.80. This section does not apply to actions commenced
7 under s. 19.37, 19.97 or ~~281.99~~ 280.50.

8 **SECTION 28.** 119.68 (2) of the statutes is amended to read:

9 119.68 (2) No action may be brought or maintained against the school upon a
10 claim or cause of action unless the claimant complies with s. 893.80. This subsection
11 does not apply to actions commenced under s. 19.37, 19.97 or ~~281.99~~ 280.50.

12 **SECTION 29.** 145.06 (4) (b) of the statutes is amended to read:

13 145.06 (4) (b) Plumbing from the private water supply pump to and including
14 the ~~initial~~ pressure tank or building control valve, water service piping from the
15 pump to one or more buildings and connection to an existing water distribution
16 system, when installed by persons licensed as pump installers under ~~ch. 280 s.~~
17 280.24.

18 **SECTION 30.** 145.10 (1) (intro.) and (a) to (b) of the statutes are amended to read:

19 145.10 (1) (intro.) The department may make investigations and conduct
20 hearings and may, on its own or upon complaint in writing duly signed and verified
21 by the complainant, and after providing not less than 10 days’ notice to the licensee,
22 suspend any master or journeyman plumber’s license, cross-connection control
23 tester’s registration, utility contractor’s license or temporary permit if it has reason
24 to believe, and may revoke such license, registration or permit in the manner

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1 provided under this section if it finds, that the holder of such license, registration or
2 permit has done any of the following:

3 (a) Made a material misstatement in the application for a license or
4 registration or renewal thereof or for a temporary permit;

5 (am) Committed gross negligence or misconduct or is incompetent in the
6 practice covered by the person's license, registration or permit;

7 (b) Failed to correct an installation for which he or she is responsible, at his or
8 her own expense, within 30 days following notification by the department of a
9 violation of any rule adopted under this chapter; or.

10 **SECTION 31.** 160.09 (1) (intro.) of the statutes is amended to read:

11 160.09 (1) (intro.) Notwithstanding the authority of the department under ss.
12 ~~280.11, 281.15 and 281.17 (8)~~ s. 280.03 (1) to establish standards for pure a safe
13 drinking water program, the department shall establish enforcement standards for
14 substances of public welfare concern as follows:

15 **SECTION 32.** 160.257 (1) (e) of the statutes is amended to read:

16 160.257 (1) (e) "Treated drinking water" means potable water that has been
17 treated so that it complies with the primary drinking water standards promulgated
18 under ~~ss. 280.11 and 281.17 (8)~~ s. 280.05 (1) (f).

19 **SECTION 33.** 160.257 (2) of the statutes is amended to read:

20 160.257 (2) Notwithstanding s. 160.19 (1) and (2), the department is not
21 required to promulgate or amend rules that define design or management criteria
22 for aquifer storage and recovery systems to minimize the amount of a specified
23 substance in groundwater or to maintain compliance with the preventive action limit
24 for a specified substance, however, the department shall promulgate rules that
25 define design or management criteria for aquifer storage and recovery systems to

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1 maintain compliance with drinking water standards promulgated under ss. 280.11
2 and 281.17 (8) s. 280.05 (1) (f).

3 **SECTION 34.** 167.27 (title), (2) and (3) of the statutes are amended to read:

4 **167.27 (title) Capping and filling wells or similar certain structures.**

5 **(2)** The owner of any real estate shall securely protect any well, seepage pit,
6 cistern, cesspool, septic tank, or other similar structures in active use with a cover
7 of concrete, metal or wood covered with sheet metal, securely fastened and of
8 sufficient weight so it cannot be removed by small children and so as to make it free
9 from danger to persons going upon such real estate.

10 **(3)** Whenever any ~~shallow dug well~~, seepage pit, cistern, cesspool or septic tank
11 is abandoned or its use discontinued, the owner of the real estate upon which it is
12 located shall promptly fill the ~~same~~ it to grade.

13 **SECTION 35.** 167.27 (4) of the statutes is repealed.

14 **SECTION 36.** 167.27 (5) of the statutes is amended to read:

15 **167.27 (5)** Whenever any mine shaft, or exploration shaft ~~or test well~~ is
16 abandoned or its use discontinued, the operator or contractor shall promptly fill
17 ~~same~~ it to grade or enclose ~~the same~~ it with a fence of strong woven wire not less than
18 46 inches wide with one barbwire above or cap ~~same~~ it with a reinforced concrete slab
19 at least 6 inches thick or with a native boulder at least 3 times the diameter of the
20 top of the shaft ~~or test well bore~~. The strands of the woven wire shall not be smaller
21 than No. 12 wire and the cross wires and meshes shall not be smaller than No. 16
22 wire; the strands shall not be more than 12 inches apart, and the meshes shall not
23 exceed 8 inches square. All wires must be tightly stretched and securely fastened to
24 sufficient posts firmly set not more than 8 feet apart. ~~In case~~ If any person shall
25 neglect fails to repair or rebuild such a fence which the person is so required to build

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1 and maintain under this subsection, any person may complain to the department of
2 commerce or to the local governing body, which shall give notice in writing to the
3 person who is required to build and maintain such the fence. The department of
4 commerce or the local governing body shall then proceed to examine the fence, and
5 if it ~~shall determine~~ determines that such the fence is insufficient, it shall notify the
6 person responsible for its erection and maintenance and direct the person to repair
7 or rebuild the fence within such the time as ~~it shall deem that the department of~~
8 commerce or the local governing body determines to be reasonable. Any person
9 refusing to comply with such an order ~~shall be issued under this subsection~~ is subject
10 to the penalties provided in sub. (7).

11 **SECTION 37.** 167.27 (6) of the statutes is amended to read:

12 167.27 (6) Existing An existing abandoned mine shafts, shaft or exploration
13 ~~shafts or test wells~~ shaft shall be securely protected by the owner of the real estate
14 upon which it is located.

15 **SECTION 38.** 167.27 (9) of the statutes is created to read:

16 167.27 (9) The use and abandonment of wells is governed by ch. 280.

17 **SECTION 39.** 198.12 (2) of the statutes is amended to read:

18 198.12 (2) SERVICE OF PROCESS ON, PERSONAL INJURY CLAIMS, VENUE. The district
19 shall sue or be sued in its corporate name and service of process upon the district
20 shall be by service upon the chairperson of the board and the clerk of the district, but
21 no action shall be brought or maintained against a district upon a claim or cause of
22 action unless the claimant complies with s. 893.80. Compliance with s. 893.80 is not
23 required under this subsection in actions commenced under s. 19.37, 19.97 or ~~281.99~~
24 280.50. All actions by or against the district, except condemnation proceedings and
25 actions to which the state or any officer or commission thereof is a party, shall be

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1 brought in the circuit court for the county in which its principal administrative office
2 is located.

3 **SECTION 40.** Chapter 280 of the statutes is repealed and recreated to read:

4 **CHAPTER 280**

5 **WELLS, DRILL HOLES,**

6 **AND WATER SYSTEMS**

7 **SUBCHAPTER I**

8 **GENERAL PROVISIONS**

9 **280.01 Definitions.** In this chapter:

10 **(1)** “Community water system” means a public water system that has at least
11 15 service connections used by year-round residents or that regularly serves at least
12 25 year-round residents. “Community water system” does not include piping and
13 fixtures inside a building served by the water system, service pipes from a
14 distribution main to a building, or private distribution mains located entirely on
15 private property.

16 **(2)** “Contaminant” means any physical, chemical, biological, or radiological
17 substance or matter in water.

18 **(2m)** “Council” means the council on well drilling and pump installing.

19 **(3)** “Department” means the department of natural resources.

20 **(3m)** “Dewatering well” means a well that is used only to lower groundwater
21 levels to permit construction or to permit the use of an area that is below the surface
22 of the ground.

23 **(4)** “Drill hole” means an excavation, opening, or driven point deeper than it
24 is wide and extending at least 10 feet below the ground surface.

25 **(5)** “Drilling rig” means the equipment used to construct a drill hole.

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1 **(5g)** “Environmental well” means a drill hole constructed to obtain information
2 about the physical, chemical, hydrological, or biological characteristics of
3 groundwater.

4 **(5r)** “Geothermal well” means a drill hole constructed to obtain geothermal
5 energy from beneath the surface of the earth.

6 **(6)** “Groundwater” has the meaning given in s. 160.01 (4).

7 **(6m)** “Hydrofracturing” means hydraulic fracturing of an aquifer by injecting
8 into a well a fluid that is under at least 500 pounds per square inch of pressure and
9 may include injecting sand or a similar material to hold the crevices open when the
10 pressure is removed.

11 **(7)** “Local governmental unit” means a city, village, town, county, utility district
12 under s. 66.0827, municipal water district, town sanitary district as defined in s.
13 60.70 (9), or any other local public entity if that local public entity operates a water
14 system.

15 **(8)** “Modification” means an improvement, extension, or alteration.

16 **(8r)** “Nontransient noncommunity water system” means a public water system
17 that is not a community water system but that regularly serves at least 25 of the
18 same individuals for at least 6 months per year.

19 **(9)** “Person” means an individual, corporation, limited liability company,
20 association, cooperative, trust, institution, partnership, state, including this state,
21 public utility, local governmental unit, or federal, state, or interstate agency.

22 **(10)** “Private water system” means any water system that is not a public water
23 system.

24 **(11)** “Public utility” has the meaning given in s. 196.01 (5).

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1 **(12)** “Public water system” means a water system providing water for human
2 consumption if the water system has at least 15 service connections or regularly
3 serves an average of at least 25 individuals per day for at least 60 days each year.

4 “Public water system” includes all of the following:

5 (a) Collection, treatment, storage, and distribution facilities that are under the
6 control of the owner or operator of the water system and are used primarily in
7 connection with the water system.

8 (b) Collection or pretreatment storage facilities that are not under the control
9 of the owner or operator of the water system but are used primarily in connection
10 with the water system.

11 **(13)** “Pump installing” means installing, replacing, or reinstalling equipment
12 or material needed to withdraw water from a well, including making an entrance to
13 a well, establishing seals and other safeguards to prevent contamination, installing
14 a pressure tank, connecting a pump to a pressure tank or reservoir, installing a water
15 treatment device in a well or between a well and a building control valve or a pressure
16 tank, installing water service piping from a well to a building, and installing controls
17 needed to operate a pump.

18 **(13u)** “Waters of the state” has the meaning given in s. 281.01 (18).

19 **(14)** “Water system” means all structures, conduits and appurtenances by
20 means of which water is delivered to consumers except piping and fixtures inside
21 buildings served, and service pipes from building to street main.

22 **(15)** “Well” means a drill hole constructed by drilling, digging, boring, driving,
23 or other method for the purpose of withdrawing, monitoring, or gaining access to
24 groundwater.

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1 **(16)** “Well drilling” means constructing or reconstructing a well, by any means
2 such as digging, boring, drilling, or jetting, except well point driving, and includes
3 hydrofracturing and the installation of well casings.

4 **(17)** “Well point driving” means joining a drive point, with a diameter of not
5 more than 3 inches, with lengths of pipe and driving or jetting the assembly into the
6 ground more than 10 feet below the ground surface with either motor or manually
7 driven percussion equipment.

8 **280.03 Powers of the department.** The department has general supervision
9 and control over all drill holes, water systems, methods of withdrawing groundwater,
10 and methods of providing and ensuring the sanitary provision of water for all
11 purposes. In connection with this authority, the department may do any act
12 necessary to safeguard the public health and to protect the groundwater and surface
13 water, including any of the following:

14 **(1)** Establish and administer a safe drinking water program that is no less
15 stringent than the requirements of the federal Safe Drinking Water Act, 42 USC 300f
16 to 300j-26.

17 **(3)** Cooperate with the division of emergency management under s. 166.03 in
18 preparing plans or providing safe drinking water under emergency conditions.

19 **(4)** Enter into agreements, contracts, or cooperative arrangements with other
20 persons to administer this chapter, except for enforcement of provisions related to s.
21 280.24.

22 **(5)** Conduct investigations, experiments, research, and training related to the
23 administration of this chapter.

24 **(6)** Upon request and without charge to the requester, consult with and advise
25 any person who has installed or may install a water system about water sources,

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1 protective measures, construction and operation of the water system, and the
2 current and future needs of all persons who may be affected by the installation.

3 (7) Maintain laboratory facilities or contract for the provision of laboratory
4 services to test for contaminants.

5 (8) Require the owner or operator of a public water system, in accordance with
6 department rules governing frequency, form, and content, to provide public notice if
7 the public water system fails to comply with any drinking water standard or other
8 rule promulgated by the department or is the subject of a health advisory issued by
9 the department.

10 (9) Prepare and have printed any documents related to drill holes and drinking
11 water that are necessary for the safety and health of the public and persons engaged
12 in constructing drill holes, and furnish copies of the documents to the public upon
13 request.

14 (10) Take any other action determined to be reasonably necessary to safeguard
15 public health, safety, or welfare.

16 **280.04 Duty of the department.** The department shall employ competent
17 personnel to administer this chapter. The department may not authorize an
18 employee of the department to conduct site evaluations or inspections or to grant
19 variances with respect to a license category under s. 280.24 (1) unless the employee
20 has passed the examination under s. 280.24 (4) for that license category and complies
21 with the continuing education requirement under s. 280.24 (12) (b).

22 **280.05 Rule-making authority. (1) AUTHORIZATION.** In addition to other rule
23 making authorized under this chapter and under s. 227.11 (2), the department may
24 promulgate rules relating to all of the following:

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1 (a) The design, construction, modification, operation, and maintenance of
2 water systems.

3 (b) The construction and reconstruction of wells and other drill holes.

4 (c) Well construction requirements for areas of this state with special water
5 protection problems.

6 (d) The location of wells and other drill holes in relation to existing or proposed
7 potential sources of contamination and the location of potential contamination
8 sources in relation to existing or proposed wells and other drill holes.

9 (f) Drinking water standards for public water systems including maximum
10 contaminant level goals, primary and secondary maximum contaminant levels, and
11 monitoring requirements and including procedures and standards for granting
12 variances from or exceptions to the drinking water standards in accordance with 42
13 USC 300g-4 and 300g-5.

14 (g) Water treatment techniques and action levels used to determine treatment
15 requirements for specified contaminants.

16 (h) Record-keeping and reporting requirements for persons regulated under
17 this chapter.

18 (i) Water sampling and monitoring requirements, including methods,
19 frequency, handling of samples, types of analyses, and format of reports.

20 (j) The establishment of application, licensing, certification, registration, or
21 examination fees to cover the cost of administering activities under this chapter. All
22 moneys received under rules promulgated under this paragraph shall be credited to
23 the appropriation account under s. 20.370 (4) (ai).

24 (k) Standards to ensure that any well or other drill hole does not act as a conduit
25 for groundwater contamination.

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1 **(2) REQUIREMENT.** After consulting with the council, the department shall
2 promulgate, by rule, requirements for filling and sealing wells and other drill holes
3 that are unused or contaminated, that do not comply with the requirements of this
4 chapter and rules promulgated under this chapter, or that are a threat to safety or
5 groundwater quality. The department shall promulgate requirements that ensure
6 that the entire constructed diameter of the well or other drill hole is sealed in a way
7 that prevents the well or other drill hole from serving as a conduit for contamination
8 to reach the groundwater.

9 **280.06 Council on wells and drill holes.** The council shall do all of the
10 following:

11 **(1)** Advise the department concerning the approval of products to be used in
12 the construction, repair, and abandonment of wells and other drill holes.

13 **(2)** Advise the department concerning the interpretation and administration
14 of this chapter.

15 **280.07 Underground discharge. (1)** Notwithstanding s. 280.01 (4), in this
16 section, “drill hole” means any excavation or opening into the ground that is deeper
17 than it is wide without regard to the depth of the excavation or opening.

18 **(2)** Except as authorized under sub. (3), no person may discharge any
19 substance, as defined in s. 160.01 (8), into any well, other drill hole, open sinkhole,
20 or mine shaft.

21 **(3)** The department may promulgate rules authorizing the underground
22 discharge of a substance, as defined in s. 160.01 (8). The rules may authorize the
23 underground discharge of a substance only if the department determines that the
24 discharge will not adversely affect public health, safety, or welfare or the waters of

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1 the state. Any authorized underground discharge shall comply with chs. 160 and 281
2 to 299.

SUBCHAPTER II

REGULATION OF WATER WITHDRAWALS

AND WATER SYSTEMS

6 **280.10 Water systems; approval required. (1)** SUBMISSION OF APPLICATION;
7 EXEMPTIONS. (a) Any person who intends to construct, install, modify, or operate a
8 community water system or any other water system identified by the department by
9 rule as requiring approval shall, before beginning the proposed construction,
10 installation, modification, or operation, apply to the department for approval. An
11 applicant shall include in the application plans and specifications in the scope and
12 detail required by the department and any other information concerning
13 maintenance and operation that the department requires. An applicant shall comply
14 with s. 281.35 (4), if applicable. A person may not begin construction without the
15 approval of the department. A person may not make changes in approved
16 construction or materials without submitting a written request for approval of the
17 changes, including a statement of the reasons for the changes, and obtaining the
18 written approval of the department.

19 (b) The department may promulgate rules creating exemptions from the
20 requirements of par. (a), except that the department may not exempt any person from
21 the requirements of s. 281.35.

22 **(2)** DEPARTMENT PROCEDURE. (a) Upon receipt of a complete application under
23 sub. (1) (a), the department shall notify the applicant of the date of receipt, except
24 that the department may by rule exempt specified types of applications from this
25 requirement. If the department receives an incomplete application, it shall notify

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1 the applicant of the information needed to complete the application and may return
2 the application to the applicant for completion.

3 (b) Within 90 days after the date of receipt of a complete application, the
4 department shall examine the application and notify the applicant in writing
5 whether the application is approved, conditionally approved, or denied. The notice
6 shall state any conditions of approval or the reason for denial.

7 (c) The period specified in par. (b) does not apply if any of the following
8 conditions is met:

9 1. The department is unable to comply with s. 1.11 within 90 days.

10 2. The department is unable to complete its review of the application within 90
11 days because of circumstances beyond its control.

12 3. The proposed construction or modification will cost \$350,000 or more.

13 (d) The department's failure to comply with par. (b) constitutes approval of the
14 application, unless par. (c) applies. If an application is approved under this
15 paragraph, the department, upon request, shall issue a written approval to the
16 applicant.

17 (e) If s. 281.35 applies to the application, s. 281.35 (5) and (6) supersede any
18 inconsistent provision of this subsection.

19 **(3) REPORTING REQUIRED.** The department may require a person issued an
20 approval under this section to report the volume and rate of withdrawal, as defined
21 in s. 281.35 (1) (m), and volume and rate of water loss, as defined in s. 281.35 (1) (L),
22 of the water system, if any, in the form and at the times specified by the department.

23 **(4) PROHIBITION.** No well driller, pump installer, or other person may construct,
24 modify, or begin operation of a water system requiring approval under this section

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1 unless the water system is constructed or modified in accordance with the
2 requirements of the department's approval and any conditions on that approval.

3 **280.15 Report on aquifer recovery system. (1)** In this section:

4 (a) "Aquifer storage and recovery system" has the meaning given in s. 160.257
5 (1).

6 (b) "Municipal water system" has the meaning given in s. 160.257 (1) (c).

7 **(2)** The operator of a municipal water system that uses an aquifer storage and
8 recovery system shall submit a report to the department, no later than the first day
9 of the 60th month after beginning to operate the aquifer storage and recovery system,
10 describing the experience that the operator has had with using the aquifer storage
11 and recovery system.

12 **280.16 Prohibited practices. (1)** No person may use any chemical, paint,
13 coating, or other material that may come into contact with water in the construction,
14 reconstruction, operation, or abandonment of a community water system or in any
15 conditioning, treatment, or rehabilitation process in a community water system
16 unless the material and method of use have been approved by the department. The
17 department may provide that approval by rule.

18 **(3)** No person may introduce any fertilizer, pesticide, or other substance into
19 a water system except under conditions specified by the department by rule.

20 **(5) (a)** No person may use any pipe, solder, or flux in the installation or repair
21 of any water system unless the pipe, solder, or flux is lead free, as defined in 42 USC
22 300g-6 (d).

23 (b) Paragraph (a) does not apply to leaded joints necessary for the repair of
24 cast-iron pipes.

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1 applicant's related experience. In the rule, the department may provide for different
2 examinations for various categories of certified operators according to the skill,
3 knowledge, and ability needed to operate various types of community water systems
4 or nontransient noncommunity water systems.

5 **(3) CONTINUING EDUCATION.** The department may promulgate rules
6 establishing continuing education requirements for certified operators. The
7 department may, as provided under s. 280.28, refuse to renew the certification of an
8 individual who fails to comply with any requirements under this subsection.

9 **(4) FEE.** The department may charge an applicant for certification a fee
10 designed to cover the cost of administering this section. All moneys received under
11 this subsection shall be credited to the appropriation account under s. 20.370 (4) (ai).

12 **280.24 Licensing and supervision; registration. (1) TYPES AND CATEGORIES**
13 **OF LICENSES AND REGISTRATION.** (a) The department shall issue the following types of
14 licenses:

- 15 1. Well driller.
- 16 2. Well point driver.
- 17 3. Pump installer.
- 18 3m. Environmental well driller.
- 19 4. a. Restricted drill hole constructor–geothermal well constructor.
- 20 b. Restricted drill hole constructor–dewatering well constructor.
- 21 c. Restricted drill hole constructor–elevator shaft constructor.

22 5. Water system inspector.

23 (b) The department may, after consulting with the council, promulgate rules
24 establishing additional categories of licenses under par. (a) 4. and may place

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1 conditions on licenses according to the skill, knowledge, and ability needed to
2 perform the activities for which the licenses are issued.

3 (c) The department shall register drilling rig operators and pump installer
4 helpers.

5 **(2) LICENSING OR SUPERVISION REQUIRED; REGISTRATION REQUIRED.** (a) 1. Except
6 as provided under sub. (3), no individual may perform well drilling of a well
7 constructed to obtain potable water or represent that he or she is able to perform well
8 drilling of a well constructed to obtain potable water unless he or she holds a well
9 driller license under this section or is registered as a drilling rig operator and is under
10 the immediate supervision of an individual who holds a well driller license under this
11 section.

12 2. To provide immediate supervision for well drilling of a well constructed to
13 obtain potable water, an individual holding a well driller license shall direct and
14 inspect the well drilling and shall be on the site of the well drilling for a reasonable
15 period at least once during the well siting, the well drilling, or the finishing
16 operations. When not on the site, the individual holding the well driller license shall
17 be readily available for consultation with, and direction of the activities of, the
18 individuals who do not hold a well driller license. Availability by telephone satisfies
19 the requirement to be readily available.

20 (b) 1. Except as provided under sub. (3), beginning on January 1, 2006, no
21 individual may perform well point driving or represent that he or she is able to
22 perform well point driving unless he or she holds a well point driver license or a well
23 driller license under this section or is under the immediate supervision of an
24 individual who holds a well point driver license or a well driller license under this
25 section.

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1 2. To provide immediate supervision for well point driving, an individual
2 holding a well driller or well point driver license shall be on the site during the well
3 point driving.

4 (c) 1. Except as provided under sub. (3), no individual may perform pump
5 installing or represent that he or she is able to perform pump installing unless he or
6 she holds a pump installer license under this section or is registered with the
7 department as a pump installer helper and is under the immediate supervision of an
8 individual who holds a pump installer license under this section.

9 2. To provide immediate supervision for pump installing, an individual holding
10 a pump installer license shall either be on the site of the pump installing or be readily
11 available for consultation with, and direction of the activities of, the registered pump
12 installer helper and any other individuals involved with the pump installing.
13 Availability by telephone satisfies the requirement to be readily available.

14 (cm) 1. Except as provided under sub. (3), no person may perform well drilling
15 of an environmental well or represent that he or she is able to perform well drilling
16 of an environmental well unless he or she holds an environmental well driller license
17 under this section or is registered as a drilling rig operator and is under the
18 immediate supervision of an individual who holds an environmental well driller
19 license under this section.

20 2. To provide immediate supervision for well drilling of an environmental well,
21 an individual holding an environmental well driller license shall either be on the site
22 during the well drilling or be readily available for consultation with, and direction
23 of the activities of, the individuals who do not hold an environmental well driller
24 license. Availability by telephone satisfies the requirement to be readily available.

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1 (d) 1. Except as provided under sub. (3), beginning on January 1, 2006, no
2 individual may construct a type of drill hole other than a well constructed to obtain
3 potable water or an environmental well or represent that he or she is able to
4 construct a type of drill hole other than a well constructed to obtain potable water
5 or an environmental well unless he or she holds a restricted drill hole constructor
6 license that authorizes construction of that type of drill hole or a well driller license
7 under this section or is registered as a drilling rig operator and is under the
8 immediate supervision of an individual who holds a restricted drill hole constructor
9 license that authorizes construction of that type of drill hole or a well driller license
10 under this section.

11 2. To provide immediate supervision for constructing a drill hole other than a
12 well constructed to obtain potable water or an environmental well, an individual
13 holding a restricted drill hole constructor license or well driller license shall be on the
14 site of the drill hole construction at least once during the siting, drilling, or finishing
15 of the drill hole. When not on the site, the individual holding the restricted drill hole
16 constructor license or well driller license shall be readily available for consultation
17 with, and direction of the activities of, the individuals who do not hold a restricted
18 drill hole constructor license or well driller license. Availability by telephone
19 satisfies the requirement to be readily available.

20 (e) 1. No individual, other than an individual holding a well driller license, may
21 operate a drilling rig for the construction of a well constructed to obtain potable water
22 unless he or she is registered with the department as a drilling rig operator and is
23 under the immediate supervision, as provided in par. (a) 2., of an individual who
24 holds a well driller license.

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1 1m. No individual, other than an individual holding an environmental well
2 driller license, may operate a drilling rig for the construction of an environmental
3 well unless he or she is registered with the department as a drilling rig operator and
4 is under the immediate supervision, as provided in par. (cm) 2., of an individual who
5 holds an environmental well driller license.

6 2. No individual, other than an individual holding a restricted drill hole
7 constructor license or a well driller license, may operate a drilling rig for the
8 construction of a type of drill hole other than a well constructed to obtain potable
9 water or an environmental well unless he or she is registered with the department
10 as a drilling rig operator and is under the immediate supervision, as provided in par.
11 (d) 2., of an individual who holds a restricted drill hole constructor license that
12 authorizes construction of that type of drill hole or a well driller license.

13 (f) Except as provided under sub. (3), no individual, other than an individual
14 holding a well driller license, may inspect a water system unless he or she holds a
15 water system inspector license.

16 **(3) EXCEPTIONS.** (a) The department may, upon application, grant a temporary
17 exemption from any requirement under this section for a specific period or for a
18 specific job if the department finds that an emergency requires the work to be
19 performed by an unlicensed individual or without the required supervision.

20 (b) An individual licensed as a well driller may install a pump solely for initial
21 sampling of water quality and for test pumping and development of a well without
22 obtaining a pump installer license.

23 (c) Subsection (2) (b) does not apply to an individual who constructs a
24 driven-point well serving only a single-family residence on property owned and
25 occupied by the individual and sub. (2) (c) does not apply if that individual installs

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1 a pump in the driven-point well. This paragraph does not exempt the individual
2 from any other statute or rule governing the construction of a driven-point well or
3 the installation of a pump.

4 (d) The department may, after consulting with the council, promulgate rules
5 establishing exemptions to the requirements of sub. (2).

6 **(4) EXAMINATION PROGRAM.** The department shall, after consulting with the
7 council, promulgate rules establishing an examination program to determine the
8 competence of individuals applying for licenses under this section to perform and
9 supervise the activities specified in sub. (2). The department shall ensure that
10 examinations reasonably relate to the skills likely to be needed by an applicant to
11 perform the activities specified in sub. (2) at the time of application. The department
12 shall include, in the examination program, questions designed to determine an
13 individual's knowledge of the statutes and rules applicable to the license category
14 and the individual's related experience.

15 **(5) APPLICATION.** (a) An applicant for any license or registration under this
16 section shall apply on a form provided by the department. An applicant shall submit
17 the application fee specified under sub. (11) (a) with the application.

18 (b) The department shall examine all license applicants and shall notify each
19 applicant within 45 days after the examination whether he or she passed the
20 examination. If an applicant who passes an examination and meets all other
21 licensing requirements pays the applicable license fee established under sub. (11) (b)
22 to the department within one year after the date of the notice under this paragraph,
23 the department, except as provided in s. 280.28 (2), shall issue the license. If the
24 license fee is not paid within one year, the applicant shall pay another application
25 fee and retake the examination.

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1 (c) Each license and registration issued under this section expires on January
2 15 of the next even-numbered year.

3 (d) To ensure continuous licensure or registration, an individual holding a
4 license or registration shall submit a complete application for a license renewal by
5 December 15 of each odd-numbered year on a form provided by the department along
6 with the fee established under sub. (11) (b). The department shall issue a renewal
7 license without requiring the licensee to take an examination if the application is
8 received no later than 2 years after the expiration of the last license issued to the
9 individual and if the individual attended at least one continuing education program
10 conducted or approved under sub. (12) (a) during the year before the application is
11 received.

12 **(6) ADDITIONAL REQUIREMENTS.** (a) Except as provided in sub. (9), an applicant
13 for drilling rig operator registration shall have at least 1,000 hours of experience in
14 the construction of wells or other drill holes and have attended a continuing
15 education program under sub. (12) in the year preceding the year of application.

16 (b) 1. Except as provided in subd. 2. or sub. (9), an applicant for a license under
17 sub. (1) (a) 1., 2., 3m., or 4. a., b., or c. shall have at least 1,000 hours of experience
18 in each of the 2 years preceding the year of application in the construction of the kinds
19 of wells or drill holes authorized to be constructed by the license. The applicant shall
20 have been registered as a drilling rig operator and have fulfilled the continuing
21 education requirement in sub. (12) in each of those 2 years.

22 2. The experience requirement in subd. 1. does not apply to an applicant for an
23 environmental well driller license who holds a well driller license.

24 (c) Except as provided in sub. (9), an applicant for a pump installer license shall
25 have at least 1,000 hours of experience in the installing or servicing of pumps in each

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1 of the 2 years preceding the year of application. The applicant shall have been
2 registered as a pump installer helper and have fulfilled the continuing education
3 requirement in sub. (12) in each of those 2 years.

4 **(9) RECIPROCITY.** The department may issue the appropriate license without
5 requiring compliance with sub. (6) to an applicant who holds a license for an activity
6 under sub. (1) (a) that is issued by another state that, in the determination of the
7 department, has laws and regulations governing that activity and licensing that are
8 substantially equivalent to this chapter and rules promulgated under this chapter
9 and provides comparable reciprocity to persons licensed in this state if all of the
10 following apply:

11 (a) The applicant is in good standing in the other state.

12 (am) The other state issued the license to the applicant in accordance with its
13 laws and regulations and not under reciprocity with a 3rd state.

14 (b) The applicant has not been convicted of engaging in the activity without a
15 license in this state within the preceding 5 years.

16 (c) The applicant passes the examination.

17 (d) The applicant pays the application fee and the license fee.

18 **(9m) REQUIREMENT OF OUT-OF-STATE LICENSEE.** The department may not issue
19 a well driller, pump installer, or environmental well driller license to an individual
20 who lives outside of this state unless the individual files with the department a bond
21 furnished by a surety company licensed to do business in this state or a letter of credit
22 in the amount of \$10,000. The department may use a bond or letter of credit under
23 this subsection to compensate persons injured by a violation by the licensee of
24 requirements under this chapter.

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1 **(10) WITHHOLDING LICENSE OR REGISTRATION.** The department may, for one year
2 after the date on which a license or registration would otherwise take effect, withhold
3 issuance of a license or registration to an applicant who qualifies for a license or
4 registration under this section if the applicant has been convicted of committing 3
5 or more violations of this chapter or rules promulgated under this chapter within the
6 5-year period immediately preceding the date of application. At the end of the
7 one-year period, the applicant is eligible to apply for a license or registration upon
8 payment of the fee established under sub. (11) (b), if the applicant has not been
9 determined to have committed any further violations of the applicable statutes or
10 rules during that period.

11 **(11) FEES.** (a) The application fee for an examination is \$25, except that the
12 department may change the amount by rule.

13 (b) After consulting with the council, the department shall establish by rule the
14 fees for licenses and registration under this section. In the rule, the department may
15 provide for an additional charge for license or registration applications submitted
16 after the date specified in sub. (5) (d).

17 (c) After consulting with the council, the department may establish by rule a
18 fee for an applicant for a license who fails an examination required for the license and
19 requests a review of his or her examination results. The department shall base the
20 fee on the cost of the review.

21 (d) All moneys received as fees under this subsection shall be credited to the
22 appropriation under s. 20.370 (4) (ai).

23 **(12) CONTINUING EDUCATION REQUIRED.** (a) Each year the department, in
24 consultation with the council, shall conduct at least one continuing education
25 program relating to drill hole constructing and pump installing or approve at least

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1 one continuing education program relating to drill hole constructing and pump
2 installing that is conducted by another person.

3 (b) Each individual licensed or registered under this section shall attend one
4 program conducted or approved under par. (a) each year and shall notify the
5 department of his or her attendance.

6 **280.27 Well and other drill hole abandonment. (1)** No person may fill or
7 seal a well constructed to obtain potable water, other than a driven-point well, unless
8 the person holds a well driller license or a pump installer license under s. 280.24.

9 (2) No person may fill or seal a driven-point well unless the person holds a well
10 driller license, a well point driver license, or a pump installer license under s. 280.24.

11 (3) No person may fill or seal a drill hole, other than a well constructed to obtain
12 potable water, unless the person holds a restricted drill hole constructor license or
13 a well driller license under s. 280.24.

14 **280.28 Denial, nonrenewal, suspension, and revocation. (1)** In this
15 section, “license” means a license or registration issued under s. 280.24 or an
16 operator certificate issued under s. 280.20.

17 (1m) (a) Any person may file a complaint with the department and request the
18 department to commence disciplinary proceedings against any holder of a license.

19 (b) The burden of proof in disciplinary proceedings before the department
20 under this chapter is a preponderance of the evidence.

21 (2) The department may refuse to renew a license as provided in s. 280.20 (3).
22 The department may deny an application for a license, refuse to renew a license, or
23 suspend a license if the applicant or licensee does any of the following:

24 (a) Makes a material misstatement in an application.

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1 (b) Violates any provision of this chapter or a rule promulgated or order issued
2 under this chapter.

3 (c) Demonstrates incompetence in performing the work for which the license
4 is issued or fails a required examination.

5 (d) Intentionally fails to submit a report required to be submitted.

6 (e) Submits false information on any report required to be submitted.

7 (f) Has been convicted of a criminal charge related to the activity for which the
8 license is applied for or issued.

9 (g) In a civil proceeding, has been found negligent in the conduct of the activity
10 for which the license is applied for or issued.

11 (h) Fails to comply with requirements for initial licensure or license renewal.

12 (i) Gives his or her license to another individual for the purpose of enabling that
13 other individual to represent that he or she holds a license.

14 (j) Provides false information about his or her business relationship with
15 unlicensed individuals.

16 (k) Consults with another person or consults with written materials with which
17 the department has not authorized consultation while taking an examination.

18 (L) Provides false information under s. 280.52.

19 **(2m)** The department may revoke a license if any of the following applies:

20 (a) The licensee is incompetent to perform the activity for which the license is
21 issued.

22 (b) The licensee has been convicted of committing a violation related to the
23 activity for which the license is granted.

24 **(3)** The department shall notify the applicant or licensee of any determination
25 made under sub. (2) or (2m) by issuing an order in writing that states the reason for

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1 the determination. The department shall serve the order by certified mail or
2 personal service.

3 (4) (a) Except as provided in par. (b), a suspension or revocation takes effect 30
4 days after the date of service under sub. (3) unless the licensee files a written request
5 for a hearing within 30 days after the date of service. If a request is filed, the
6 department shall stay the suspension or revocation and conduct a contested case
7 hearing under ch. 227 on the matter as soon as practicable. The department shall
8 provide written notice to the licensee of the date, time, and place of the hearing at
9 least 10 days before the hearing.

10 (b) If the department, after investigation, determines that protecting public
11 health, safety, or welfare requires immediate action, it may summarily suspend a
12 license and order the licensee to cease all licensed activity until the conclusion of all
13 proceedings arising out of the suspension. The department shall serve the licensee
14 with written notice of the suspension and the order. In the notice, the department
15 shall state the department's determination relating to protection of public health,
16 safety, or welfare. The licensee may request a hearing by filing a written request for
17 a hearing within 15 days after the date of service. The department shall hold the
18 hearing as soon as practicable, but not later than 30 days after the date of the
19 request.

20 (5) A refusal to renew a license takes effect 30 days after the date of service
21 under sub. (3) unless the licensee files a written request for a hearing within 30 days
22 after the date of service. If a request is filed, the department shall conduct a
23 contested case hearing under ch. 227 on the matter within 60 days after receiving the
24 request, except that a licensee has no right to a hearing if the department refuses to
25 renew the license for failure to pay fees or for failure to comply with continuing

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1 education requirements. The department shall provide written notice to the licensee
2 of the date, time, and place of the hearing at least 10 days before the hearing.

3 (6) Within 90 days after the conclusion of a hearing under sub. (4) or (5), the
4 department shall affirm, set aside, or modify the determination to suspend, revoke,
5 or refuse to renew a license.

6 (7) A licensee who requests a hearing under sub. (4) (a) or (5) may continue to
7 engage in the licensed activity until the conclusion of all administrative and judicial
8 proceedings arising out of the revocation, suspension, or refusal to renew.

9 (8) (a) A license revocation remains in effect for 2 years beginning on the date
10 that the order is served under sub. (3), the effective date of the order, or the date of
11 the conclusion of all administrative and judicial proceedings arising out of the
12 revocation, whichever is latest. A person may, at least one year after the date of
13 revocation, apply to the department for review of the revocation. The department
14 may shorten the period of revocation. After a period of revocation, a person may
15 regain a license only by complying with any requirements of the order, paying the
16 applicable fee, and passing any applicable examination.

17 (b) A license suspension remains in effect for the period specified in the
18 suspension order or until the person whose license is suspended or revoked complies
19 with any requirements of the order, whichever is later, except that, if a license
20 suspension extends through the next license period due to the person's failure to
21 comply with a requirement in the order, the department may provide that the license
22 suspension remains in effect until the person passes any applicable examination.

23 (c) The department may require a person whose license is suspended or revoked
24 to correct violations on which the suspension or revocation is based.

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1 Notwithstanding par. (a) or (b), if the department imposes such a requirement, the
2 license remains suspended or revoked until the person corrects the violations.

3 (d) A licensee whose renewal application is refused may not apply for the same
4 license for 90 days after the date of the refusal or the date of the conclusion of all
5 administrative and judicial proceedings arising out of the refusal, whichever is later,
6 except that a licensee may apply after 10 days from that date if the licensee
7 eliminates all impediments to nonrenewal.

8 (9) A licensee who is subject to a nonrenewal, suspension, or revocation shall,
9 at the request of the department, notify the department of the location of the work
10 that he or she performed under the license within 2 years before the nonrenewal,
11 suspension, or revocation takes effect. The licensee shall, immediately after the
12 sanction takes effect, notify the department of the location of any drilling rigs owned,
13 leased, or rented by the licensee and shall notify the department of any change in
14 location during the period that the sanction remains in effect.

15 (10) An individual who is subject to a nonrenewal, suspension, or revocation
16 of a license issued under s. 280.24 may not perform any activity authorized by the
17 license, except as directed by the department under sub. (8) (c), for a period of 60 days
18 starting with the first day of the nonrenewal, suspension, or revocation. After that
19 period, the individual may perform the activity if the individual is employed by and
20 is in the actual physical presence of a licensed individual.

SUBCHAPTER IV**LOCAL AUTHORITY**

23 **280.30 County ordinances. (1) DEFINITION.** In this section, “private well”
24 means a type of well designated by the department by rule, which may not include

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1 any type of well for which plans and specifications must be submitted to the
2 department for approval before construction.

3 **(2) ORDINANCES.** (a) The department may authorize the enactment, under s.
4 59.70 (6), of county ordinances strictly conforming to this chapter and rules
5 promulgated under this chapter, or to portions of this chapter and rules promulgated
6 under this chapter, that govern any of the following:

- 7 1. The location of private wells.
- 8 2. The abandonment of private wells and other drill holes that are unused or
9 contaminated or do not comply with this chapter or rules promulgated under this
10 chapter.
- 11 3. The construction and reconstruction of private wells.
- 12 4. The installation of pumps in private wells.
- 13 5. The modification of existing pump installations in private wells.
- 14 6. The inspection of private water systems.

15 (b) Each county that proposes to enact an ordinance authorized under par. (a)
16 shall, before enactment, submit the proposed ordinance and a plan for its
17 enforcement to the department for approval.

18 (c) The department shall promulgate rules establishing the standards for
19 approval of county ordinances, program management, and enforcement plans, which
20 may include all of the following:

- 21 1. Personnel, training, reporting, and other requirements.
- 22 2. Standards for various categories of private wells.
- 23 3. Standards for various categories of enforcement actions.
- 24 4. The emergency conditions under which a county may grant an exemption
25 from a provision of its ordinance for the replacement of a well or pump.

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1 (d) The department may require that a person obtain approval from the
2 department for a variance from this chapter or rules promulgated under this chapter
3 before a county may issue a permit for the construction of a private well or the
4 installation of a pump.

5 **(3) TRAINING.** The department shall provide training and technical assistance
6 to county employes who implement ordinances enacted under s. 59.70 (6). The
7 department may charge a fee, not to exceed the department's actual cost, for the
8 training and technical assistance provided. All amounts received under this
9 subsection shall be credited to the appropriation under s. 20.370 (4) (ai).

10 **(4) REVIEW AND AUDIT.** (a) The department shall periodically review and audit
11 each ordinance enacted under s. 59.70 (6) and the county's enforcement of the
12 ordinance to determine compliance with this chapter and rules promulgated under
13 this chapter.

14 (b) If following a review and audit the department determines that an
15 ordinance or an enforcement program is not in substantial compliance with any
16 requirement, the department may notify the county clerk of the determination. If
17 the department provides notification, it shall hold a public informational hearing in
18 the county no sooner than 30 days after the date of the notice. If the department finds
19 after the hearing that the county is not in compliance, the department may revoke
20 all or part of the county's authority to enforce the ordinance. A county is not entitled
21 to a contested case hearing on the department's decision to revoke the county's
22 authority to enforce the ordinance.

23 **(5) DEPARTMENT ENFORCEMENT.** (a) In a county that has not enacted an
24 ordinance under s. 59.70 (6) or that has, under its ordinance, only partial authority
25 to regulate private wells and pump installation, the department shall enforce all

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1 applicable provisions of this chapter and rules promulgated under this chapter
2 relating to private wells and pump installation that are not governed by a county
3 ordinance.

4 (b) The department may enforce this chapter and rules promulgated under this
5 chapter in a county that has enacted an ordinance under s. 59.70 (6) under any of the
6 following circumstances:

7 1. If the department is conducting an audit and review under sub. (4) (a).

8 2. If there is reasonable cause to believe that the county ordinance or
9 enforcement program does not comply with any requirement of this chapter or rules
10 promulgated under this chapter.

11 3. If the department determines that there are other special circumstances
12 requiring enforcement by the department.

13 **280.32 Local enforcement prohibited.** Except as provided in ss. 59.70 (6),
14 66.0437, and 280.30, no city, village, town, or county may enact or enforce an
15 ordinance governing any matter regulated under this chapter.

16 SUBCHAPTER V

17 ENFORCEMENT

18 **280.40 Orders; affidavits. (1)** The department may do any of the following:

19 (a) Order the owner or operator of a water system or the person responsible for
20 construction, operation, or abandonment of the water system to take actions, which
21 may include repair, replacement, reconstruction, abandonment, or discontinuance
22 of use, in a designated manner to protect public health, safety, or welfare.

23 (c) If the department finds that the absence of a municipal water system results
24 in a nuisance to public health or safety, order the city, village, or town in which the
25 nuisance exists to construct a water system within a specified time.

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1 (d) After giving the owner or operator of any well or other drill hole that is
2 contaminated or that does not comply with this chapter or rules promulgated under
3 this chapter the opportunity to eliminate the contamination or bring the well or other
4 drill hole into compliance, order the owner or operator to fill the well or other drill
5 hole as required under rules of the department.

6 (dm) Order the owner or operator of any well or other drill hole that is unused
7 to fill the well or other drill hole as required under department rules.

8 (e) Order any licensee or registrant under s. 280.24 or certificate holder under
9 s. 280.20 to cease all activities and operations authorized under the license,
10 registration, or certificate.

11 (f) Issue any other order determined necessary by the department to ensure
12 compliance with this chapter and rules promulgated under this chapter.

13 **(2)** The department shall include all of the following in each order issued under
14 sub. (1):

15 (a) The statute or rule alleged to be violated, if any.

16 (b) The findings of fact upon which the department determined that a violation
17 exists or that a condition authorizing an order exists.

18 (c) A compliance schedule or a date by which the order must be obeyed.

19 **(3)** Except as provided under sub. (5), an order issued under sub. (1) takes effect
20 30 days after the date on which the order is served, unless a person subject to the
21 order files a written request for a hearing before the expiration of the 30 days. The
22 department shall serve an order issued under sub. (1) by certified mail or personal
23 service. The person subject to an order has a right to a hearing if s. 227.42 (1) is
24 satisfied. If the request for a hearing is granted, the department shall stay the order
25 and conduct a contested case hearing under ch. 227 on the matter. The department

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1 shall provide written notice to the person of the date, time, and place of the hearing
2 at least 10 days before the hearing.

3 (4) Following a hearing under sub. (3), the department shall affirm, set aside,
4 or, if necessary, modify the original order.

5 (5) (a) If necessary to protect public health, safety, or welfare, the department
6 may issue an order described in sub. (1) as an emergency order that takes effect
7 immediately or within 30 days after the date of service, whichever is specified in the
8 order. The department shall publish each emergency order as a class 1 notice, under
9 ch. 985, and shall serve the emergency order on the person subject to the emergency
10 order by certified mail or personal service. In an emergency order, the department
11 shall notify the person subject to the order that he or she is entitled to a contested
12 case hearing under ch. 227 if a request is filed within 30 days after the date on which
13 the order is served. The hearing shall be held as soon as practicable after receipt of
14 the request. An emergency order remains in effect pending the result of the hearing.

15 (b) The department may, without a prior hearing, issue an emergency order to
16 a person to whom an approval, as defined in s. 281.35 (1) (a), is issued to stop a
17 withdrawal, as defined in s. 281.35 (1) (m), immediately if the department
18 determines that there is a danger of imminent harm to the public health. In the
19 emergency order, the department shall specify the date on which the withdrawal
20 must be stopped and the date, if any, on which it may be resumed. In the emergency
21 order, the department shall notify the person subject to the order that he or she is
22 entitled to a contested case hearing under ch. 227 if a request is filed within 30 days
23 after the date on which the order is served. The department shall hold the hearing
24 as soon as practicable after receipt of a request for a hearing. An emergency order
25 remains in effect pending the result of the hearing.

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1 **(5m)** (a) The department may issue orders directing particular owners of water
2 systems to remedy violations of the safe drinking water program under ss. 280.03 (1)
3 and 280.05 (1) (f), within a specified time. Pending efforts to comply with any order,
4 the department may permit continuance of operations on the conditions that it
5 prescribes. If any owner cannot comply with an order within the time specified, the
6 owner may, before the date set in the order, petition the department to modify the
7 order. The department may modify the order, specifying in writing the reasons for
8 the modification. If any order is not complied with within the period specified, the
9 department shall notify the attorney general of the failure to comply. After receiving
10 the notice, the attorney general may commence an action under s. 280.46 (1) (b).

11 (b) The department may issue temporary emergency orders to remedy
12 violations described in par. (a) without prior hearing when the department
13 determines that the protection of the public health necessitates immediate action.
14 Emergency orders shall take effect at the time the department specifies. As soon as
15 is practicable, the department shall hold a public hearing after which it may modify
16 or rescind the temporary emergency order or issue a special order under par. (a).

17 (c) 1. Any owner may secure a review of the necessity for and reasonableness
18 of any order of the department under this subsection or s. 280.50 by first filing with
19 the department a petition setting forth specifically the change desired in the order.
20 The petition must be filed within 60 days of the issuance of the order sought to be
21 reviewed. Upon receipt of a petition the department shall order a public hearing on
22 the order and make whatever further investigation it determines is advisable.
23 Pending the review and hearing, the department may suspend the order under terms
24 and conditions to be fixed by the department on application of the petitioner. The

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1 department shall affirm, repeal, or change the order within 60 days after the close
2 of the hearing on the petition.

3 2. The determination of the department under subd. 1. is subject to review
4 under ch. 227.

5 **(6)** In addition to issuing an order under this section, the department may
6 proceed under s. 280.28.

7 **(7)** The department may record an order under sub. (1) that relates to a water
8 system, well, or other drill hole with the register of deeds of the county in which the
9 water system, well, or other drill hole is located. If an order is recorded and the
10 person complies with the order, the department shall record a satisfaction of the
11 order with the register of deeds.

12 **(8)** In lieu of recording an order under sub. (7), the department may record an
13 affidavit that sets forth facts showing that a violation or a condition exists, relating
14 to a water system, well, or other drill hole, that would authorize the department to
15 issue an order under sub. (1). In an affidavit recorded under this subsection, the
16 department shall include a legal description of the property on which the water
17 system, well, or other drill hole is located. An employee of the department shall sign
18 the affidavit. If a person corrects the violation or the condition, the department shall
19 record an affidavit describing that correction.

20 **280.42 Inspection authority.** **(1)** For purposes of administering and
21 enforcing this chapter or any rule promulgated under this chapter, any authorized
22 representative of the department who presents appropriate identification may, at
23 any reasonable hour, enter public or private property to do any of the following:

24 (a) Inspect and obtain samples from any water system, well, or other drill hole.

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1 (b) Conduct an investigation or inspection to ensure compliance with this
2 chapter or with any rule promulgated or order issued under this chapter.

3 (c) Inspect records that the department requires to be kept.

4 **(2)** If an owner refuses a request to make his or her property accessible for
5 inspection under sub. (1), the department's authorized representative may obtain a
6 special inspection warrant as provided under s. 66.0119.

7 **(3)** No person may refuse to permit an authorized representative of the
8 department who, at a reasonable hour, presents a special inspection warrant and
9 appropriate identification to enter the person's property, to conduct an inspection, or
10 to take samples.

11 **280.44 Sampling; testing. (1)** The department may, in accordance with rules
12 promulgated under s. 280.05 (1) (i), require a well driller, well point driver, restricted
13 drill hole constructor, or pump installer to take a sample of water from any water
14 system for which the person provides services, to submit the sample to the state
15 laboratory of hygiene or a laboratory approved under s. 93.12 or certified under s.
16 299.11 for analysis, and to provide the analysis to the department and the owner or
17 operator of the water system or drill hole.

18 **(3)** If a person required to submit samples under sub. (1) fails to do so, the
19 department may enter the person's property as provided under s. 280.42, if
20 necessary, and take samples for analysis. The department shall charge the person
21 responsible for sampling for the costs incurred under this subsection, according to
22 fees established by the department by rule.

23 **280.46 Enforcement. (1) GENERAL. (a)** If the department determines that
24 a person has violated this chapter, a rule promulgated under this chapter, or an order
25 issued under this chapter, the department may refer the matter to the department

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1 of justice or the district attorney of the county in which the violation occurred for
2 enforcement.

3 (b) If the department of justice commences an action after a referral under par.
4 (a), the department of justice shall, before stipulation, consent order, judgment, or
5 other final disposition, consult with the department of natural resources to
6 determine that department's views on final disposition.

7 **(2) INJUNCTIONS.** In any action commenced under sub. (1) (a), the department
8 of justice or a district attorney may seek, and the court may grant, a temporary or
9 permanent injunction to prevent or restrain any violation of this chapter, a rule
10 promulgated under this chapter, or an order issued under this chapter.

11 **(3) VENUE.** An action under sub. (1) shall be commenced in the circuit court for
12 the county in which the violation occurred in whole or in part. The proceedings may
13 be transferred to the circuit court for Dane County if all parties stipulate to the
14 transfer and if that court agrees to the transfer.

15 **280.49 Penalties. (1)** In subs. (2) to (4), "violation" means a violation of this
16 chapter, a rule promulgated under this chapter, or an order, license, or approval
17 issued under this chapter or the falsification of any report required under this
18 chapter.

19 **(2)** Any individual who is a licensed well driller, well point driver, restricted
20 drill hole constructor, or pump installer or is licensed under ch. 145 who commits a
21 violation shall forfeit not less than \$10 nor more than \$1,000 for each violation.

22 **(3)** Any person, other than a person specified under sub. (2), who commits a
23 violation shall forfeit not less than \$10 nor more than \$5,000 for each violation.

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1 **(4)** Any person who intentionally commits a violation shall, for each violation,
2 be fined not less than \$100 nor more than \$10,000 or imprisoned for not more than
3 6 months or both.

4 **(5)** For purposes of subs. (2) to (4), each violation is a separate offense and each
5 day of continued violation is a separate offense.

6 **(6)** (a) Notwithstanding subs. (2) to (4), any person who violates this chapter,
7 a rule promulgated under this chapter, or an order, license, or approval issued under
8 this chapter with respect to any requirement of the federal Safe Drinking Water Act,
9 42 USC 300f to 300j–26, shall forfeit not less than \$10 nor more than \$25,000 for each
10 violation. Each day of continued violation is a separate offense.

11 (b) Notwithstanding subs. (2) to (4), any person who intentionally commits an
12 act that violates, or intentionally fails to perform an act required by, this chapter, a
13 rule promulgated under this chapter, or an order, license, or approval issued under
14 this chapter with respect to any requirement of the federal Safe Drinking Water Act,
15 42 USC 300f to 300j–26, is guilty of a Class I felony, except that, notwithstanding the
16 maximum fine specified in s. 939.50 (3) (i), the person may be fined not more than
17 \$50,000 for each day of violation.

SUBCHAPTER VI**FINANCIAL ASSISTANCE**

20 **SECTION 41.** Chapter 281 (title) of the statutes is amended to read:

CHAPTER 281**WATER POLLUTION AND SEWAGE**

23 **SECTION 42.** 281.01 (8) of the statutes is amended to read:

24 281.01 **(8)** “Owner” means the state, county, town, town sanitary district, city,
25 village, metropolitan sewerage district, corporation, firm, company, institution or

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1 individual owning or operating any ~~water supply~~, sewerage ~~or water~~ system or
2 sewage and refuse disposal plant.

3 **SECTION 43.** 281.01 (15) of the statutes is amended to read:

4 281.01 **(15)** “Solid waste” means any garbage, refuse, sludge from a waste
5 treatment plant, water ~~supply~~ treatment plant or air pollution control facility and
6 other discarded or salvageable materials, including solid, liquid, semisolid, or
7 contained gaseous materials resulting from industrial, commercial, mining and
8 agricultural operations, and from community activities, but does not include solids
9 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
10 return flows or industrial discharges which are point sources subject to permits
11 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
12 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
13 (1).

14 **SECTION 44.** 281.01 (16) of the statutes is amended to read:

15 281.01 **(16)** “System or plant” includes ~~water and~~ sewerage systems and
16 sewage and refuse disposal plants.

17 **SECTION 45.** 281.01 (20) of the statutes is repealed.

18 **SECTION 46.** 281.12 (3) of the statutes is amended to read:

19 281.12 **(3)** The department, upon request, shall consult with and advise owners
20 who have installed or are about to install systems or plants, ~~as to the most~~
21 ~~appropriate water source and the best method of providing for its purity, or as to the~~
22 best method of disposing of wastewater, including operations and maintenance,
23 taking into consideration the future needs of the community for protection of its
24 water supply. The department is not required to prepare plans.

25 **SECTION 47.** 281.13 (title) of the statutes is repealed and recreated to read:

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1 **281.13** (title) **Research.**

2 **SECTION 48.** 281.13 (1) (a) of the statutes is renumbered 280.03 (2), and 280.03
3 (2) (intro.), as renumbered, is amended to read:

4 280.03 (2) (intro.) ~~The department is authorized to act~~ Act with the U.S.
5 geological survey in determining the sanitary and other conditions and nature of the
6 natural water sources in this state, for the following purposes:

7 **SECTION 49.** 281.13 (1) (b) of the statutes is repealed.

8 **SECTION 50.** 281.13 (3) of the statutes is renumbered 281.13.

9 **SECTION 51.** 281.17 (3) of the statutes is amended to read:

10 281.17 (3) The department shall promulgate rules establishing an examining
11 program for the certification of operators of ~~water systems~~, wastewater treatment
12 plants and septage servicing vehicles operated under a license issued under s. 281.48
13 (3), setting such standards as the department finds necessary to accomplish the
14 purposes of this chapter and chs. 285 and 289 to 299, including requirements for
15 continuing education. The department may charge applicants a fee for certification.
16 All moneys collected under this subsection for the certification of operators of ~~water~~
17 ~~systems~~, wastewater treatment plants and septage servicing vehicles shall be
18 credited to the appropriation under s. 20.370 (4) (bL). No person may operate a ~~water~~
19 ~~systems~~, wastewater treatment plant or septage servicing vehicle without a valid
20 certificate issued under this subsection. The department may suspend or revoke a
21 certificate issued under this subsection for a violation of any statute or rule relating
22 to the operation of a ~~water system~~ ~~or~~ wastewater treatment plant or to septage
23 servicing, for failure to fulfill the continuing education requirements or as provided
24 under s. 145.245 (3). The owner of any wastewater treatment plant shall be, or shall
25 employ, an operator certified under this subsection who shall be responsible for plant

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1 operations, unless the department by rule provides otherwise. In this subsection,
2 “wastewater treatment plant” means a system or plant used to treat industrial
3 wastewater, domestic wastewater or any combination of industrial wastewater and
4 domestic wastewater.

5 **SECTION 52.** 281.17 (8) of the statutes is repealed.

6 **SECTION 53.** 281.17 (9) of the statutes is renumbered 280.03 (8m) and amended
7 to read:

8 280.03 **(8m)** ~~The department may require~~ Require owners of water systems to
9 demonstrate the technical, managerial, and financial capacity to comply with
10 national primary drinking water regulations under 42 USC 300g-1 and ~~may assist~~
11 owners of water systems to develop that capacity.

12 **SECTION 54.** 281.19 (2) (a) of the statutes is amended to read:

13 281.19 **(2)** (a) The department may issue special orders directing particular
14 owners ~~to remedy violations of the safe drinking water program under s. 281.17 (8)~~
15 ~~and (9) or~~ to secure such operating results toward the control of pollution of the
16 waters of the state as the department prescribes, within a specified time. Pending
17 efforts to comply with any order, the department may permit continuance of
18 operations on such conditions as it prescribes. If any owner cannot comply with an
19 order within the time specified, the owner may, before the date set in the order,
20 petition the department to modify the order. The department may modify the order,
21 specifying in writing the reasons therefor. If any order is not complied with within
22 the time period specified, the department shall ~~immediately~~ notify the attorney
23 general of this fact. After receiving the notice, the attorney general shall may
24 commence an action under s. 299.95.

25 **SECTION 55.** 281.35 (1) (a) and (b) 2. of the statutes are amended to read:

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1 281.35 (1) (a) “Approval” means a permit issued under s. 30.18 or an approval
2 under s. 280.10, 281.17 (1) or 281.41.

3 (b) 2. If subd. 1. does not apply, the highest average daily water loss over any
4 30–day period that is reported to the department or the public service commission
5 under sub. (3) (c) or s. 30.18 (6) (c), 196.98, 280.10 (3), 281.17 (1) or 281.41.

6 **SECTION 56.** 281.35 (4) (a) 3. and (b) (intro.) of the statutes are amended to read:

7 281.35 (4) (a) 3. An owner who is operating a sewage system or sewage and
8 refuse disposal plant under plans approved under s. 281.41 or, who is required to
9 submit plans and obtain an approval under that section before construction or
10 extension, modification, or operation of a proposed sewage system or sewage and
11 refuse disposal plant, who is operating a water system under an approval under s.
12 280.10, or who is required to obtain an approval under s. 280.10 before construction,
13 modification, or operation of a water system.

14 (b) (intro.) Before any person specified in par. (a) may begin a new withdrawal
15 or increase the amount of an existing withdrawal, the person shall apply to the
16 department under s. 30.18, 280.10 (1), 281.17 (1) or 281.41 for a new approval or a
17 modification of its existing approval if either of the following conditions applies:

18 **SECTION 57.** 281.41 (1) (c) of the statutes is amended to read:

19 281.41 (1) (c) Construction or material change shall be according to approved
20 plans only. The department may disapprove plans that are not in conformance with
21 any existing approved areawide waste treatment management plan prepared
22 pursuant to the federal water pollution control act, P.L. 92–500, as amended 33 USC
23 1251 to 1387, and shall disapprove plans that do not meet the grounds for approval
24 specified under s. 281.35 (5) (d), if applicable. The department shall require each
25 person whose plans are approved under this section to report that person’s volume

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1 and rate of water withdrawal, as defined under s. 281.35 (1) (m), and that person's
2 volume and rate of water loss, as defined under s. 281.35 (1) (L), if any, in the form
3 and at the times specified by the department.

4 **SECTION 58.** 281.45 of the statutes is amended to read:

5 **281.45 House connections.** To assure ~~preservation of~~ preserve the public
6 ~~health, comfort and safety, any city, village or town or town sanitary district having~~
7 ~~a system of waterworks or sewerage, or both, may~~ municipality with a sewerage
8 system shall by ordinance require buildings used for human habitation and located
9 adjacent to a sewer or water main, ~~or in a block through which one or both of these~~
10 ~~systems extend, to be connected with either or both~~ to the sewerage system in the
11 manner prescribed by the municipality. If any person fails to comply with the
12 ordinance for more than 10 days after notice in writing, the municipality may impose
13 a ~~penalty or may cause~~ forfeiture. The municipality may also complete the
14 ~~connection to be made, and~~ charge the expense thereof ~~shall be assessed as a special~~
15 ~~tax~~ assessment against the property. Except in 1st class cities, the ~~owner may, within~~
16 ~~30 days after the completion of the work, file a written option with the municipal~~
17 ~~clerk stating that he or she cannot pay the amount in one sum and asking that it be~~
18 ~~levied in not to exceed~~ municipality shall collect the special assessment in 5 equal
19 ~~annual installments, and the amount shall be so collected with interest at a rate not~~
20 ~~to exceed 15% per year from the completion of the work, the unpaid balance to be a~~
21 ~~special tax lien~~ if the property owner files a written request with the municipal clerk
22 within 30 days after completion of the connection. If the property owner does not file
23 a request or if the property is located in a 1st class city, the property owner shall pay
24 the entire sum in a single payment.

SENATE BILL 244**SECTION 59**

1 **SECTION 59.** 281.53 of the statutes is renumbered 280.54, and 280.54 (1) and
2 (3), as renumbered, are amended to read:

3 280.54 (1) The department may award a municipal clean drinking water grant,
4 from the appropriation under s. 20.866 (2) (tb), to a ~~municipality~~ local governmental
5 unit for capital costs to achieve compliance with standards for contaminants
6 established by the department by rule under the safe drinking water program under
7 s. ~~281.17 (8)~~ 280.03 (1), if the ~~municipality~~ local governmental unit is not in
8 compliance with those standards on or after April 1, 1990, if the ~~municipality~~ local
9 governmental unit incurs the capital costs after January 1, 1989, and if the violation
10 of the standards for contaminants occurs in a public water system owned by the
11 ~~municipality~~ local governmental unit.

12 **(3)** The department shall rank applicants for grants under this section on the
13 basis of the severity of risk to human health posed by each applicant's violation of the
14 standards for contaminants. If insufficient funds are available for providing grants
15 to eligible ~~municipalities~~ local governmental units, the department shall allocate
16 grants based on the severity of risk to human health.

17 **SECTION 60.** 281.75 (title) and (1) (intro.), (a) and (b) of the statutes are
18 renumbered 280.52 (title) and (1) (intro.), (a) and (b).

19 **SECTION 61.** Subchapter VI (title) of chapter 281 [precedes s. 281.75] of the
20 statutes is repealed.

21 **SECTION 62.** 281.75 (1) (c) of the statutes is repealed.

22 **SECTION 63.** 281.75 (1) (d) to (g) of the statutes are renumbered 280.52 (1) (d)
23 to (g).

24 **SECTION 64.** 281.75 (1) (h) of the statutes is renumbered 280.52 (1) (h) and
25 amended to read:

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1 280.52 (1) (h) “Well” Notwithstanding s. 280.01 (15), “well” means an
2 excavation or opening in the ground made by boring, drilling or driving for the
3 purpose of obtaining a supply of groundwater. “Well” does not include dug wells.

4 **SECTION 65.** 281.75 (2) and (3) of the statutes are renumbered 280.52 (2) and
5 (3).

6 **SECTION 66.** 281.75 (4) of the statutes is renumbered 280.52 (4).

7 **SECTION 67.** 281.75 (4m) to (11) of the statutes are renumbered 280.52 (4m) to
8 (11).

9 **SECTION 68.** 281.75 (12) (intro.) and (a) of the statutes are renumbered 280.52
10 (12) (intro.) and (a).

11 **SECTION 69.** 281.75 (12) (b) of the statutes is renumbered 280.52 (12) (b) and
12 amended to read:

13 280.52 (12) (b) If the well is a drilled well, it is constructed by a well driller
14 licensed under ~~ch. 280 s. 280.24~~ or, if the well is a sandpoint well, it is constructed
15 by a well driller or pump-installer well point driver licensed under ~~ch. 280 s. 280.24~~.

16 **SECTION 70.** 281.75 (13) to (17) of the statutes are renumbered 280.52 (13) to
17 (17).

18 **SECTION 71.** 281.75 (18) of the statutes is renumbered 280.52 (18) and amended
19 to read:

20 280.52 (18) **SUSPENSION OR REVOCATION OF LICENSES.** The department may
21 suspend or revoke a license issued under ~~ch. 280~~ this chapter if the department finds
22 that the licensee falsified information submitted under this section. The department
23 of commerce may suspend or revoke the license of a plumber licensed under ch. 145
24 if the department of commerce finds that the plumber falsified information
25 submitted under this section.

SENATE BILL 244**SECTION 72**

1 **SECTION 72.** 281.75 (19) of the statutes is renumbered 280.52 (19), and 280.52
2 (19) (intro.), as renumbered, is amended to read:

3 280.52 **(19)** PENALTIES. (intro.) ~~Whoever~~ Notwithstanding s. 280.49, whoever
4 does any of the following shall forfeit not less than \$100 nor more than \$1,000 and
5 shall be required to repay an award issued to that person under this section:

6 **SECTION 73.** 281.77 of the statutes is renumbered 280.19, and 280.19 (title), (1)
7 (b) and (3), as renumbered, are amended to read:

8 **280.19** (title) **Damage to private water supplies.**

9 **(1)** (b) “Regulated activity” means an activity for which the department may
10 issue an order under ch. 281, except s. 281.48, or under chs. 285 or 289 to 299 or this
11 chapter, ~~except s. 281.48,~~ if the activity is conducted in violation of ch. 281, except s.
12 281.48, or in violation of chs. 285 or 289 to 299 or this chapter, ~~except s. 281.48,~~ or
13 in violation of licenses, permits or special orders issued or rules promulgated under
14 ch. 281, except s. 281.48, or under chs. 285 or 289 to 299 or this chapter, ~~except s.~~
15 281.48.

16 **(3)** In any action brought by the department of justice under s. 280.46 or 299.95
17 or by a district attorney under s. 280.46, if the court finds that a regulated activity
18 owned or operated by the defendant has caused a private water supply to become
19 contaminated, polluted or unfit for consumption by humans, livestock or poultry, the
20 court may order the defendant to treat the water to render it fit for consumption by
21 humans, livestock and poultry, repair the private water supply or replace the private
22 water supply and to reimburse the town, village or city for the cost of providing water
23 under sub. (4).

24 **SECTION 74.** 281.97 of the statutes is amended to read:

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1 **281.97 Records; inspection.** ~~Records~~ Owners shall keep records required by
2 the department ~~shall be kept by the owners and shall supply~~ the department
3 ~~supplied with certified copies of those records~~ and such other information as it may
4 ~~require~~ required by the department. Agents of the department may enter buildings,
5 structures and premises of owners supplying the public or industrial plants with
6 ~~water, ice, sewerage systems, or~~ sewage or refuse disposal service and private
7 properties to collect samples, records and information, and to ascertain if the rules
8 and orders of the department are complied with.

9 **SECTION 75.** 281.98 (1) of the statutes is amended to read:

10 281.98 (1) Except as provided in ss. s. 281.47 (1) (d), ~~281.75 (19), and 281.99~~
11 ~~(2)~~, any person who violates this chapter or any rule promulgated or any plan
12 approval, license, special order, or water quality certification issued under this
13 chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each
14 day of continued violation is a separate offense. While an order is suspended, stayed,
15 or enjoined, this penalty does not accrue.

16 **SECTION 76.** 281.98 (2) of the statutes is amended to read:

17 281.98 (2) In addition to the penalties provided under sub. (1) ~~or s. 281.99 (2)~~,
18 the court may award the department of justice the reasonable and necessary
19 expenses of the investigation and prosecution of a violation of this chapter, including
20 attorney fees. The department of justice shall deposit in the state treasury for
21 deposit into the general fund all moneys that the court awards to the department or
22 the state under this subsection.

23 **SECTION 77.** 281.99 of the statutes, as affected by 2003 Wisconsin Act 33, is
24 renumbered 280.50, and 280.50 (1) (a), (b) 2. and (c), (2) (a) (intro.), (3) and (5), as
25 renumbered, are amended to read:

SENATE BILL 244**SECTION 77**

1 280.50 (1) (a) The department may directly assess forfeitures in the amounts
2 provided under sub. (2) for violations of safe drinking water program rules
3 promulgated under s. ~~281.17 (8) or (9)~~ 280.03 (1) or 280.05 (1) (f).

4 (b) 2. The department may directly assess a forfeiture by issuing an order under
5 par. (c) without first providing notice if the alleged violation either creates an acute
6 risk to public health or safety or is part of a documented pattern of noncompliance
7 with one or more rules promulgated under s. ~~281.17 (8) or (9)~~ 280.03 (1) or (8m) or
8 280.05 (1) (f).

9 (c) If the department determines that a forfeiture should be assessed for a
10 particular violation, it shall issue an order under s. ~~281.19 (2) (a)~~ 280.40 (5m) to the
11 water system owner or operator alleged to have committed the violation. Except as
12 provided in par. (b) 2., the department may not issue the order until at least 60 days
13 after the day on which it provided notice under par. (b) 1. The order shall specify the
14 amount of the forfeiture assessed, the violation and the rule alleged to have been
15 violated and shall inform the licensee of the right to contest the order under sub. (3).

16 (2) (a) (intro.) ~~The~~ Notwithstanding s. 280.49, the amount of forfeitures that
17 the department may assess under this section are as follows:

18 (3) A water system owner or operator may contest the issuance of an order and
19 the assessment of a forfeiture under this section using the procedure under ch. 227
20 or s. ~~281.19 (8)~~ 280.40 (5m) (c). A water system owner or operator that timely
21 requests a hearing under ch. 227 is entitled to a contested case hearing.

22 (5) The attorney general may bring an action as provided in s. ~~281.19 (2) (a)~~
23 280.46 (1) (b) in the name of the state to collect any forfeiture imposed under this
24 section if the forfeiture has not been paid following the exhaustion of all
25 administrative and judicial reviews.

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1 **SECTION 78.** 285.01 (40) of the statutes is amended to read:

2 285.01 **(40)** “Solid waste” means any garbage, refuse, sludge from a waste
3 treatment plant, water supply treatment plant or air pollution control facility and
4 other discarded or salvageable materials, including solid, liquid, semisolid, or
5 contained gaseous materials resulting from industrial, commercial, mining and
6 agricultural operations, and from community activities, but does not include solids
7 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
8 return flows or industrial discharges which are point sources subject to permits
9 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
10 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
11 (1).

12 **SECTION 79.** 289.01 (33) of the statutes is amended to read:

13 289.01 **(33)** “Solid waste” means any garbage, refuse, sludge from a waste
14 treatment plant, water supply treatment plant or air pollution control facility and
15 other discarded or salvageable materials, including solid, liquid, semisolid, or
16 contained gaseous materials resulting from industrial, commercial, mining and
17 agricultural operations, and from community activities, but does not include solids
18 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
19 return flows or industrial discharges which are point sources subject to permits
20 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
21 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
22 (1).

23 **SECTION 80.** 289.01 (44) of the statutes is repealed.

24 **SECTION 81.** 292.65 (1) (g) of the statutes is amended to read:

SENATE BILL 244**SECTION 81**

1 292.65 (1) (g) “Groundwater” has the meaning given in s. ~~281.75 (1) (e)~~ 299.01
2 (5).

3 **SECTION 82.** 295.11 (10) of the statutes is amended to read:

4 295.11 (10) “Solid waste” means any garbage, refuse, sludge from a waste
5 treatment plant, water supply treatment plant or air pollution control facility and
6 other discarded or salvageable materials, including solid, liquid, semisolid, or
7 contained gaseous materials resulting from industrial, commercial, mining and
8 agricultural operations, and from community activities, but does not include solids
9 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
10 return flows or industrial discharges which are point sources subject to permits
11 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
12 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
13 (1).

14 **SECTION 83.** 299.07 (1) (a) 1. of the statutes is amended to read:

15 299.07 (1) (a) 1. A license or registration under s. ~~280.15~~ 280.24.

16 **SECTION 84.** 299.07 (1) (a) 2. of the statutes is amended to read:

17 299.07 (1) (a) 2. A certification under s. 280.20 or 281.17 (3).

18 **SECTION 85.** 299.08 (1) (a) 1. of the statutes is amended to read:

19 299.08 (1) (a) 1. A license or registration under s. ~~280.15~~ 280.24.

20 **SECTION 86.** 299.08 (1) (a) 2. of the statutes is amended to read:

21 299.08 (1) (a) 2. A certification under s. 280.20 or 281.17 (3).

22 **SECTION 87.** 299.11 (1) (d) 4. and 6. of the statutes are amended to read:

23 299.11 (1) (d) 4. The replacement of a well or provision of alternative water
24 supplies under s. ~~281.75 or 281.77~~ 280.19 or 280.52.

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1 6. The management or enforcement of the ~~safe drinking water~~ supply program
2 under s. ~~280.13 (1) (b) and (d) or 281.17 (8)~~ ch. 280.

3 **SECTION 88.** 443.14 (12m) of the statutes is amended to read:

4 443.14 **(12m)** A well driller, ~~as defined in s. 280.01 (7),~~ person licensed or
5 registered under s. 280.24 who is engaged in well drilling, as defined in s. 280.01 ~~(8)~~
6 (16), well point driving, as defined in s. 280.01 (17), or constructing a drill hole, as
7 defined in s. 280.01 (4), other than a well.

8 **SECTION 89.** 470.025 (9) of the statutes is amended to read:

9 470.025 **(9)** A well driller, ~~as defined in s. 280.01 (7)~~ person licensed or
10 registered under s. 280.24, who is engaged in well drilling, as defined in s. 280.01 ~~(8)~~
11 (16), well point driving, as defined in s. 280.01 (17), or constructing a drill hole, as
12 defined in s. 280.01 (4), other than a well.

13 **SECTION 90.** 893.80 (8) of the statutes is amended to read:

14 893.80 **(8)** This section does not apply to actions commenced under s. 19.37,
15 19.97 or ~~281.99~~ 280.50.

16 **SECTION 91. Nonstatutory provisions.**

17 (1) CURRENT LICENSEES. Notwithstanding section 280.24 (5) (b) of the statutes,
18 as created by this act, the department of natural resources shall issue a well driller
19 license to each individual registered as a well driller under section 280.15, 2001
20 stats., on January 1, 2004, and shall issue a pump installer license to each individual
21 registered as a pump installer under section 280.15, 2001 stats., on January 1, 2004,
22 without requiring the individual to take and pass an examination.

23 (2) POSITION AUTHORIZATION. The authorized FTE positions for the department
24 of natural resources are increased by 3.0 PR positions to be funded from the

SENATE BILL 244**SECTION 91**

1 appropriation under section 20.370 (4) (ai) of the statutes, as created by this act, for
2 water supply management.

3 (3) INITIAL TERMS OF MEMBERS OF COUNCIL. Notwithstanding the length of term
4 specified in section 15.347 (3) (a) of the statutes, as created by this act, the initial
5 members of the council on wells and drill holes shall serve as follows:

6 (a) One of the members appointed under section 15.347 (3) (a) 1. of the statutes,
7 one of the members appointed under section 15.347 (3) (a) 2. of the statutes, and one
8 of the members appointed under section 15.347 (3) (a) 4. of the statutes, for terms
9 expiring on July 1, 2006.

10 (b) One of the members appointed under section 15.347 (3) (a) 1. of the statutes,
11 one of the members appointed under section 15.347 (3) (a) 2. of the statutes, one of
12 the members appointed under section 15.347 (3) (a) 3. of the statutes, and one of the
13 members appointed under section 15.347 (3) (a) 4. of the statutes, for terms expiring
14 on July 1, 2007.

15 (c) One of the members appointed under section 15.347 (3) (a) 1. of the statutes,
16 one of the members appointed under section 15.347 (3) (a) 3. of the statutes, and the
17 members appointed under section 15.347 (3) (a) 5. to 8. of the statutes, for terms
18 ending on July 1, 2008.

19 **SECTION 92. Initial applicability.**

20 (1) PRIVATE WATER SYSTEM ABANDONMENT AND PLUMBING CONNECTION ORDINANCES.
21 The treatment of section 66.0437 (2) (am) of the statutes first applies to ordinances
22 enacted or modified on the effective date of this subsection.

23 **SECTION 93. Effective date.**

24 (1) This act takes effect on January 1, 2005.

25

(END)