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1 (b) The department may, without a prior hearing, issue an emergency order to
2 a person to whom an approval, as defined in s. 281.35 (1) (a), is issued to stop a
3 withdrawal, as defined in s. 281.35 (1) (m), immediately if the department
4 determines that there is a danger of imminent harm to the public health, safety, or
5 welfare, to the environment, or to the water resources or related land resources of
6 this state. In the emergency order, the department shall specify the date on which
7 the withdrawal must be stopped and the date, if any, on which it may be resumed.
8 In the emergency order, the department shall notify the person subject to the order
9 that he or she is entitled to a contested case hearing under ch. 227 if a request is filed
10 within 30 days after the date on which the order is served. The department shall hold
11 the hearing as soon as practicable after receipt of a request for a hearing. An
12 emergency order remains in effect pending the result of the hearing.

13 **(5m)** (a) The department may issue orders directing particular owners of water
14 systems to remedy violations of the safe drinking water program under ss. 280.03 (1)
15 or (8m) and 280.05 (1) (f), within a specified time. Pending efforts to comply with any
16 order, the department may permit continuance of operations on the conditions that
17 it prescribes. If any owner cannot comply with an order within the time specified,
18 the owner may, before the date set in the order, petition the department to modify the
19 order. The department may modify the order, specifying in writing the reasons for
20 the modification. If any order is not complied with within the period specified, the
21 department shall notify the attorney general of this fact. After receiving the notice,
22 the attorney general may commence an action under s. 280.46 (1) (b).

23 (b) The department may issue temporary emergency orders to remedy
24 violations described in par. (a) without prior hearing when the department
25 determines that the protection of the public health necessitates immediate action.

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1 Emergency orders shall take effect at the time the department specifies. As soon as
2 is practicable, the department shall hold a public hearing after which it may modify
3 or rescind the temporary emergency order or issue a special order under par. (a).

4 (c) 1. Any owner may secure a review of the necessity for and reasonableness
5 of any order of the department under this subsection or s. 280.50 by first filing with
6 the department a petition setting forth specifically the change desired in the order.
7 The petition must be filed within 60 days of the issuance of the order sought to be
8 reviewed. Upon receipt of a petition the department shall order a public hearing on
9 the order and make whatever further investigation it determines is advisable.
10 Pending the review and hearing, the department may suspend the order under terms
11 and conditions to be fixed by the department on application of the petitioner. The
12 department shall affirm, repeal, or change the order within 60 days after the close
13 of the hearing on the petition.

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

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

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

23 (8) In lieu of recording an order under sub. (7), the department may record an
24 affidavit that sets forth facts showing that a violation or a condition exists, relating
25 to a water system, well, or other drill hole, that would authorize the department to

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1 issue an order under sub. (1). In an affidavit recorded under this subsection, the
2 department shall include a legal description of the property on which the water
3 system, well, or other drill hole is located. An employee of the department shall sign
4 the affidavit. If a person corrects the violation or the condition, the department shall
5 record an affidavit describing that correction.

6 **280.42 Inspection authority.** (1) For purposes of administering and
7 enforcing this chapter or any rule promulgated under this chapter, any authorized
8 representative of the department who presents appropriate identification may, at
9 any reasonable hour, enter public or private property to do any of the following:

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

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

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

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

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

21 **280.44 Sampling.** (1) The department may, in accordance with rules
22 promulgated under s. 280.05 (1) (i), require a well driller, well point driver, restricted
23 drill hole constructor, or pump installer to take a sample of water from any water
24 system for which the person provides services, to submit the sample to the state
25 laboratory of hygiene or a laboratory approved under s. 93.12 or certified under s.

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1 299.11 for analysis, and to provide the analysis to the department and the owner or
2 operator of the water system or drill hole.

3 (2) The department may, in accordance with rules promulgated under s. 280.05
4 (1) (i), require the owner or operator of a public water system or the owner or operator
5 of a private water system that is the water supply for bottled drinking water
6 regulated under s. 97.34 to take samples of water from the water system according
7 to a schedule specified by the department, to submit the samples to the state
8 laboratory of hygiene or a laboratory approved under s. 93.12 or certified under s.
9 299.11 for analysis, and to provide a report of the analysis to the department.

10 (3) If a person required to submit samples under sub. (1) or (2) fails to do so,
11 the department may enter the person's property as provided under s. 280.42, if
12 necessary, and take samples for analysis. The department shall charge the person
13 responsible for sampling for the costs incurred under this subsection, according to
14 fees established by the department by rule.

15 **280.46 Enforcement.** (1) GENERAL. (a) If the department determines that
16 a person has violated this chapter, a rule promulgated under this chapter, or an order
17 issued under this chapter, the department may refer the matter to the department
18 of justice or the district attorney of the county in which the violation occurred for
19 enforcement.

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

24 (2) INJUNCTIONS. In any action commenced under sub. (1) (a), the department
25 of justice or a district attorney may seek, and the court may grant, a temporary or

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1 permanent injunction to prevent or restrain any violation of this chapter, a rule
2 promulgated under this chapter, or an order issued under this chapter.

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

7 **280.49 Penalties.** (1) In subs. (2) to (4), “violation” means a violation of this
8 chapter, a rule promulgated under this chapter, or an order, license, or approval
9 issued under this chapter or the falsification of any report required under this
10 chapter.

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

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

16 (4) Any person who intentionally commits a violation shall, for each violation,
17 be fined not less than \$100 nor more than \$10,000 or imprisoned for not more than
18 6 months or both.

19 (5) For purposes of subs. (2) to (4), each violation of this chapter or a rule or
20 order is a separate offense and each day of continued violation is a separate offense.

21 (6) (a) Notwithstanding subs. (2) to (4), any person who violates this chapter,
22 a rule promulgated under this chapter, or an order, license, or approval issued under
23 this chapter with respect to any requirement of the federal Safe Drinking Water Act,
24 42 USC 300f to 300j-26, shall forfeit not less than \$10 nor more than \$25,000 for each
25 violation. Each day of continued violation is a separate offense.

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1 (b) Notwithstanding subs. (2) to (4), any person who intentionally commits an
2 act that violates, or intentionally fails to perform an act required by, this chapter, a
3 rule promulgated under this chapter, or an order, license, or approval issued under
4 this chapter with respect to any requirement of the federal Safe Drinking Water Act,
5 42 USC 300f to 300j-26, may be fined not more than \$50,000 for each day of violation
6 or imprisoned for not more than 3 years or both.

SUBCHAPTER V**FINANCIAL ASSISTANCE**

7
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9 **SECTION 36.** Chapter 281 (title) of the statutes is amended to read:

CHAPTER 281**WATER POLLUTION AND SEWAGE**

10
11
12 **SECTION 37.** 281.01 (8) of the statutes is amended to read:

13 281.01 (8) "Owner" means the state, county, town, town sanitary district, city,
14 village, metropolitan sewerage district, corporation, firm, company, institution or
15 individual owning or operating any ~~water supply~~, sewerage or ~~water~~ system or
16 sewage and refuse disposal plant.

17 **SECTION 38.** 281.01 (15) of the statutes is amended to read:

18 281.01 (15) "Solid waste" means any garbage, refuse, sludge from a waste
19 treatment plant, water ~~supply~~ treatment plant or air pollution control facility and
20 other discarded or salvageable materials, including solid, liquid, semisolid, or
21 contained gaseous materials resulting from industrial, commercial, mining and
22 agricultural operations, and from community activities, but does not include solids
23 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
24 return flows or industrial discharges which are point sources subject to permits
25 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear

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1 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
2 (1).

3 **SECTION 39.** 281.01 (16) of the statutes is amended to read:

4 281.01 (16) "System or plant" includes ~~water and~~ sewerage systems and
5 sewage and refuse disposal plants.

6 **SECTION 40.** 281.01 (20) of the statutes is repealed.

7 **SECTION 41.** 281.12 (3) of the statutes is amended to read:

8 281.12 (3) The department, upon request, shall consult with and advise owners
9 who have installed or are about to install systems or plants, ~~as to the most~~
10 ~~appropriate water source and the best method of providing for its purity, or as to the~~
11 best method of disposing of wastewater, including operations and maintenance,
12 taking into consideration the future needs of the community for protection of its
13 water supply. The department is not required to prepare plans.

14 **SECTION 42.** 281.13 (title) of the statutes is repealed and recreated to read:

15 **281.13 (title) Research.**

16 **SECTION 43.** 281.13 (1) (a) of the statutes is renumbered 280.03 (2), and 280.03
17 (2) (intro.), as renumbered, is amended to read:

18 280.03 (2) (intro.) ~~The department is authorized to act~~ Act with the U.S.
19 geological survey in determining the sanitary and other conditions and nature of the
20 natural water sources in this state, for the following purposes:

21 **SECTION 44.** 281.13 (1) (b) of the statutes is repealed.

22 **SECTION 45.** 281.13 (3) of the statutes is renumbered 281.13.

23 **SECTION 46.** 281.17 (3) of the statutes is amended to read:

24 281.17 (3) The department shall promulgate rules establishing an examining
25 program for the certification of operators of ~~water systems,~~ wastewater treatment

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1 plants and septage servicing vehicles operated under a license issued under s. 281.48
2 (3), setting such standards as the department finds necessary to accomplish the
3 purposes of this chapter and chs. 285 and 289 to 299, including requirements for
4 continuing education. The department may charge applicants a fee for certification.
5 All moneys collected under this subsection for the certification of operators of ~~water~~
6 ~~systems~~, wastewater treatment plants and septage servicing vehicles shall be
7 credited to the appropriation under s. 20.370 (4) (bL). No person may operate a ~~water~~
8 ~~systems~~, wastewater treatment plant or septage servicing vehicle without a valid
9 certificate issued under this subsection. The department may suspend or revoke a
10 certificate issued under this subsection for a violation of any statute or rule relating
11 to the operation of a ~~water system~~ or wastewater treatment plant or to septage
12 servicing, for failure to fulfill the continuing education requirements or as provided
13 under s. 145.245 (3). The owner of any wastewater treatment plant shall be, or shall
14 employ, an operator certified under this subsection who shall be responsible for plant
15 operations, unless the department by rule provides otherwise. In this subsection,
16 “wastewater treatment plant” means a system or plant used to treat industrial
17 wastewater, domestic wastewater or any combination of industrial wastewater and
18 domestic wastewater.

19 **SECTION 47.** 281.17 (8) of the statutes is repealed.

20 **SECTION 48.** 281.17 (9) of the statutes is renumbered 280.03 (8m) and amended
21 to read:

22 280.03 (8m) ~~The department may require~~ Require owners of water systems to
23 demonstrate the technical, managerial, and financial capacity to comply with
24 national primary drinking water regulations under 42 USC 300g-1 and ~~may assist~~
25 owners of water systems to develop that capacity.

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1 **SECTION 49.** 281.19 (2) (a) of the statutes is amended to read:

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

14 **SECTION 50.** 281.35 (1) (a) and (b) 2. of the statutes are amended to read:

15 281.35 (1) (a) “Approval” means a permit issued under s. 30.18 or an approval
16 under s. 280.10, 281.17 (1) or 281.41.

17 (b) 2. If subd. 1. does not apply, the highest average daily water loss over any
18 30-day period that is reported to the department or the public service commission
19 under sub. (3) (c) or s. 30.18 (6) (c), 196.98, 280.10 (3), 281.17 (1) or 281.41.

20 **SECTION 51.** 281.35 (4) (a) 3. and (b) (intro.) of the statutes are amended to read:

21 281.35 (4) (a) 3. An owner who is operating a sewage system or sewage and
22 refuse disposal plant under plans approved under s. 281.41 ~~or~~, who is required to
23 submit plans and obtain an approval under that section before construction ~~or~~
24 extension modification, or operation of a proposed sewage system or sewage and
25 refuse disposal plant, who is operating a water system under an approval under s.

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1 280.10, or who is required to obtain an approval under s. 280.10 before construction,
2 modification, or operation of a water system.

3 (b) (intro.) Before any person specified in par. (a) may begin a new withdrawal
4 or increase the amount of an existing withdrawal, the person shall apply to the
5 department under s. 30.18, 281.10 (1), 281.17 (1) or 281.41 for a new approval or a
6 modification of its existing approval if either of the following conditions applies:

7 **SECTION 52.** 281.41 (1) (c) of the statutes is amended to read:

8 281.41 (1) (c) Construction or material change shall be according to approved
9 plans only. The department may disapprove plans that are not in conformance with
10 any existing approved areawide waste treatment management plan prepared
11 pursuant to the federal water pollution control act, ~~P.L. 92-500, as amended~~ 33 USC
12 1251 to 1387, and shall disapprove plans that do not meet the grounds for approval
13 specified under s. 281.35 (5) (d), if applicable. The department shall require each
14 person whose plans are approved under this section to report that person's volume
15 and rate of water withdrawal, as defined under s. 281.35 (1) (m), and that person's
16 volume and rate of water loss, as defined under s. 281.35 (1) (L), if any, in the form
17 and at the times specified by the department.

18 **SECTION 53.** 281.45 of the statutes is amended to read:

19 **281.45 House connections.** ~~To assure preservation of~~ preserve the public
20 ~~health, comfort and safety, any city, village or town or town sanitary district having~~
21 ~~a system of waterworks or sewerage, or both, may~~ municipality with a sewerage
22 system shall by ordinance require buildings used for human habitation and located
23 adjacent to a sewer ~~or water main, or in a block through which one or both of these~~
24 ~~systems extend, to be connected with either or both~~ to the sewerage system in the
25 manner prescribed by the municipality. If any person fails to comply with the

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1 ordinance for more than 10 days after notice in writing, the municipality may impose
2 a ~~penalty or may cause forfeiture.~~ The municipality may also complete the
3 connection to be made, and charge the expense thereof shall be assessed as a special
4 tax assessment against the property. Except in 1st class cities, the owner may, within
5 30 days after the completion of the work, file a written option with the municipal
6 clerk stating that he or she cannot pay the amount in one sum and asking that it be
7 levied in not to exceed municipality shall collect the special assessment in 5 equal
8 annual instalments, and the amount shall be so collected with interest at a rate not
9 to exceed 15% per year from the completion of the work, ~~the unpaid balance to be a~~
10 special tax lien if the property owner files a written request with the municipal clerk
11 within 30 days after completion of the connection. If the property owner does not file
12 a request, the property owner shall pay the entire sum in a single payment.

13 **SECTION 54.** 281.53 of the statutes is renumbered 280.54, and 280.54 (1) and
14 (3), as renumbered, are amended to read:

15 280.54 (1) The department may award a municipal clean drinking water grant,
16 from the appropriation under s. 20.866 (2) (tb), to a ~~municipality~~ local governmental
17 unit for capital costs to achieve compliance with standards for contaminants
18 established by the department by rule under the safe drinking water program under
19 s. ~~281.17 (8)~~ 280.03 (1), if the ~~municipality~~ local governmental unit is not in
20 compliance with those standards on or after April 1, 1990, if the ~~municipality~~ local
21 governmental unit incurs the capital costs after January 1, 1989, and if the violation
22 of the standards for contaminants occurs in a public water system owned by the
23 ~~municipality~~ local governmental unit.

24 (3) The department shall rank applicants for grants under this section on the
25 basis of the severity of risk to human health posed by each applicant's violation of the

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1 standards for contaminants. If insufficient funds are available for providing grants
2 to eligible ~~municipalities~~ local governmental units, the department shall allocate
3 grants based on the severity of risk to human health.

4 **SECTION 55.** Subchapter VI (title) of chapter 281 [precedes s. 281.75] of the
5 statutes is repealed.

6 **SECTION 56.** 281.75 (title) and (1) (intro.), (a) and (b) of the statutes are
7 renumbered 280.52 (title) and (1) (intro.), (a) and (b).

8 **SECTION 57.** 281.75 (1) (c) of the statutes is repealed.

9 **SECTION 58.** 281.75 (1) (d) to (g) of the statutes are renumbered 280.52 (1) (d)
10 to (g).

11 **SECTION 59.** 281.75 (1) (h) of the statutes is renumbered 280.52 (1) (h) and
12 amended to read:

13 280.52 (1) (h) “Well” Notwithstanding s. 280.01 (15), “well” means an
14 excavation or opening in the ground made by boring, drilling or driving for the
15 purpose of obtaining a supply of groundwater. “Well” does not include dug wells.

16 **SECTION 60.** 281.75 (2) and (3) of the statutes are renumbered 280.52 (2) and
17 (3).

18 **SECTION 61.** 281.75 (4) of the statutes, as affected by 2001 Wisconsin Act 16,
19 is renumbered 280.52 (4).

20 **SECTION 62.** 281.75 (4m) to (11) of the statutes are renumbered 280.52 (4m) to
21 (11).

22 **SECTION 63.** 281.75 (12) (intro.) and (a) of the statutes are renumbered 280.52
23 (12) (intro.) and (a).

24 **SECTION 64.** 281.75 (12) (b) of the statutes is renumbered 280.52 (12) (b) and
25 amended to read:

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1 280.52 (12) (b) If the well is a drilled well, it is constructed by a well driller
2 licensed under ~~ch. 280 s. 280.24~~ or, if the well is a sandpoint well, it is constructed
3 by a well driller or ~~pump installer~~ well point driver licensed under ~~ch. 280 s. 280.24~~.

4 **SECTION 65.** 281.75 (13) to (17) of the statutes are renumbered 280.52 (13) to
5 (17).

6 **SECTION 66.** 281.75 (18) of the statutes is renumbered 280.52 (18) and amended
7 to read:

8 280.52 (18) **SUSPENSION OR REVOCATION OF LICENSES.** The department may
9 suspend or revoke a license issued under ~~ch. 280 this chapter~~ if the department finds
10 that the licensee falsified information submitted under this section. The department
11 of commerce may suspend or revoke the license of a plumber licensed under ch. 145
12 if the department of commerce finds that the plumber falsified information
13 submitted under this section.

14 **SECTION 67.** 281.75 (19) of the statutes is renumbered 280.52 (19), and 280.52
15 (19) (intro.), as renumbered, is amended to read:

16 280.52 (19) **PENALTIES.** (intro.) ~~Whoever~~ Notwithstanding s. 280.49, whoever
17 does any of the following shall forfeit not less than \$100 nor more than \$1,000 and
18 shall be required to repay an award issued to that person under this section:

19 **SECTION 68.** 281.77 of the statutes is renumbered 280.19, and 280.19 (title), (1)
20 (b) and (3), as renumbered, are amended to read:

21 **280.19 (title) Damage to private water supplies.**

22 (1) (b) “Regulated activity” means an activity for which the department may
23 issue an order under ch. 281, except s. 281.48, or under chs. 285 or 289 to 299 or this
24 chapter, except s. 281.48, if the activity is conducted in violation of ch. 281, except s.
25 281.48; or in violation of chs. 285 or 289 to 299 or this chapter, except s. 281.48, or

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1 in violation of licenses, permits or special orders issued or rules promulgated under
2 ch. 281, except s. 281.48, or under chs. 285 or 289 to 299 or this chapter, except s.
3 281.48.

4 (3) In any action brought by the department of justice under s. 280.46 or 299.95
5 or by a district attorney under s. 280.46, if the court finds that a regulated activity
6 owned or operated by the defendant has caused a private water supply to become
7 contaminated, polluted or unfit for consumption by humans, livestock or poultry, the
8 court may order the defendant to treat the water to render it fit for consumption by
9 humans, livestock and poultry, repair the private water supply or replace the private
10 water supply and to reimburse the town, village or city for the cost of providing water
11 under sub. (4).

12 **SECTION 69.** 281.97 of the statutes is amended to read:

13 **281.97 Records; inspection.** Records Owners shall keep records required by
14 the department shall be kept by the owners and shall supply the department
15 supplied with certified copies of those records and such other information as it may
16 require required by the department. Agents of the department may enter buildings,
17 structures and premises of owners supplying the public or industrial plants with
18 water, ice, sewerage systems, or sewage or refuse disposal service and private
19 properties to collect samples, records and information, and to ascertain if the rules
20 and orders of the department are complied with.

21 **SECTION 70.** 281.98 (1) of the statutes, as affected by 2001 Wisconsin Act 6, is
22 amended to read:

23 281.98 (1) Except as provided in ~~ss. s. 281.47 (1) (d), 281.75 (19), and 281.99~~
24 (2), any person who violates this chapter or any rule promulgated or any plan
25 approval, license, special order, or water quality certification issued under this

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1 chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each
2 day of continued violation is a separate offense. While an order is suspended, stayed,
3 or enjoined, this penalty does not accrue.

4 **SECTION 71.** 281.98 (2) of the statutes is amended to read:

5 281.98 (2) In addition to the penalties provided under sub. (1) ~~or s. 281.99 (2)~~,
6 the court may award the department of justice the reasonable and necessary
7 expenses of the investigation and prosecution of a violation of this chapter, including
8 attorney fees. The department of justice shall deposit in the state treasury for
9 deposit into the general fund all moneys that the court awards to the department or
10 the state under this subsection. Ten percent of the money deposited in the general
11 fund that was awarded under this subsection for the costs of investigation and the
12 expenses of prosecution, including attorney fees, shall be credited to the
13 appropriation account under s. 20.455 (1) (gh).

14 **SECTION 72.** 281.99 of the statutes is renumbered 280.50, and 280.50 (1) (a),
15 (b) 2. and (c), (2) (a) (intro.), (3) and (5), as renumbered, are amended to read:

16 280.50 (1) (a) The department may directly assess forfeitures in the amounts
17 provided under sub. (2) for violations of safe drinking water program rules
18 promulgated under s. ~~281.17 (8) or (9)~~ 280.03 (1) or (8m) or 280.05 (1) (f).

19 (b) 2. The department may directly assess a forfeiture by issuing an order under
20 par. (c) without first providing notice if the alleged violation either creates an acute
21 risk to public health or safety or is part of a documented pattern of noncompliance
22 with one or more rules promulgated under s. ~~281.17 (8) or (9)~~ 280.03 (1) or (8m) or
23 280.05 (1) (f).

24 (c) If the department determines that a forfeiture should be assessed for a
25 particular violation, it shall issue an order under s. ~~281.19 (2) (a)~~ 280.40 (5m) to the

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1 water system owner or operator alleged to have committed the violation. Except as
2 provided in par. (b) 2., the department may not issue the order until at least 60 days
3 after the day on which it provided notice under par. (b) 1. The order shall specify the
4 amount of the forfeiture assessed, the violation and the rule alleged to have been
5 violated and shall inform the licensee of the right to contest the order under sub. (3).

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

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

12 (5) The attorney general may bring an action as provided in s. ~~281.19 (2) (a)~~
13 280.46 (1) (b) in the name of the state to collect any forfeiture imposed under this
14 section if the forfeiture has not been paid following the exhaustion of all
15 administrative and judicial reviews.

16 **SECTION 73.** 285.01 (40) of the statutes is amended to read:

17 285.01 (40) “Solid waste” means any garbage, refuse, sludge from a waste
18 treatment plant, water ~~supply~~ treatment plant or air pollution control facility and
19 other discarded or salvageable materials, including solid, liquid, semisolid, or
20 contained gaseous materials resulting from industrial, commercial, mining and
21 agricultural operations, and from community activities, but does not include solids
22 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
23 return flows or industrial discharges which are point sources subject to permits
24 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear

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1 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
2 (1).

3 **SECTION 74.** 289.01 (33) of the statutes is amended to read:

4 289.01 (33) “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 75.** 289.01 (44) of the statutes is repealed.

15 **SECTION 76.** 292.65 (1) (g) of the statutes is amended to read:

16 292.65 (1) (g) “Groundwater” has the meaning given in s. ~~281.75 (1) (e)~~ 299.01
17 (5).

18 **SECTION 77.** 295.11 (10) of the statutes is amended to read:

19 295.11 (10) “Solid waste” means any garbage, refuse, sludge from a waste
20 treatment plant, water supply treatment plant or air pollution control facility and
21 other discarded or salvageable materials, including solid, liquid, semisolid, or
22 contained gaseous materials resulting from industrial, commercial, mining and
23 agricultural operations, and from community activities, but does not include solids
24 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
25 return flows or industrial discharges which are point sources subject to permits

BILL**SECTION 77**

1 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
2 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
3 (1).

4 **SECTION 78.** 299.07 (1) (a) 1. of the statutes is amended to read:

5 299.07 (1) (a) 1. A license or registration under s. ~~280.15~~ 280.24.

6 **SECTION 79.** 299.07 (1) (a) 2. of the statutes is amended to read:

7 299.07 (1) (a) 2. A certification under s. 280.20 or 281.17 (3).

8 **SECTION 80.** 299.08 (1) (a) 1. of the statutes is amended to read:

9 299.08 (1) (a) 1. A license or registration under s. ~~280.15~~ 280.24.

10 **SECTION 81.** 299.08 (1) (a) 2. of the statutes is amended to read:

11 299.08 (1) (a) 2. A certification under s. 280.20 or 281.17 (3).

12 **SECTION 82.** 299.11 (1) (d) 4. and 6. of the statutes are amended to read:

13 299.11 (1) (d) 4. The replacement of a well or provision of alternative water
14 supplies under s. ~~281.75 or 281.77~~ 280.19 or 280.52.

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

17 **SECTION 83.** 443.14 (12m) of the statutes is amended to read:

18 443.14 (12m) ~~A well driller, as defined in s. 280.01 (7),~~ person licensed or
19 registered under s. 280.24 who is engaged in well drilling, as defined in s. 280.01 (8)
20 (16), well point driving, as defined in s. 280.01 (17), or constructing a drill hole, as
21 defined in s. 280.01 (4), other than a well.

22 **SECTION 84.** 470.025 (9) of the statutes is amended to read:

23 470.025 (9) ~~A well driller, as defined in s. 280.01 (7)~~ person licensed or
24 registered under s. 280.24, who is engaged in well drilling, as defined in s. 280.01 (8)

BILL

1 (16), well point driving, as defined in s. 280.01 (17), or constructing a drill hole, as
2 defined in s. 280.01 (4), other than a well.

3 **SECTION 85.** 893.80 (8) of the statutes is amended to read:

4 893.80 (8) This section does not apply to actions commenced under s. 19.37,
5 19.97 or ~~281.99~~ 280.50.

6 **SECTION 86. Nonstatutory provisions.**

7 (1) CURRENT LICENSEES. Notwithstanding section 280.24 (5) (b) of the statutes,
8 as created by this act, the department of natural resources shall issue a well driller
9 license to each individual registered as a well driller under section 280.15, 1999
10 stats., on January 1, 2001, and shall issue a pump installer license to each individual
11 registered as a pump installer under section 280.15, 1999 stats., on January 1, 2001,
12 without requiring the individual to take and pass an examination.

13 (2) POSITION AUTHORIZATION. The authorized FTE positions for the department
14 of natural resources are increased by 3.0 PR positions to be funded from the
15 appropriation under section 20.370 (2) (ai) of the statutes for water supply
16 management.

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

20 (a) The member appointed under section 15.347 (3) (a) of the statutes, one of
21 the members appointed under section 15.347 (3) (c) of the statutes, one of the
22 members appointed under section 15.347 (3) (d) of the statutes, and one of the
23 members appointed under section 15.347 (3) (e) of the statutes for terms expiring on
24 July 1, 2003.

BILL

1 (b) The member appointed under section 15.347 (3) (b) of the statutes, one of
2 the members appointed under section 15.347 (3) (c) of the statutes, one of the
3 members appointed under section 15.347 (3) (d) of the statutes, and the member
4 appointed under section 15.347 (3) (f) of the statutes, for terms expiring on July 1,
5 2004.

6 (c) One of the members appointed under section 15.347 (3) (d) of the statutes,
7 one of the members appointed under section 15.347 (3) (e) of the statutes, and the
8 member appointed under section 15.347 (3) (g) of the statutes, for terms ending on
9 July 1, 2005.

SECTION 87. Initial applicability.

10 (1) PRIVATE WATER SYSTEM ABANDONMENT AND PLUMBING CONNECTION ORDINANCES.
11
12 The treatment of section 66.0437 (2) (am) of the statutes first applies to ordinances
13 enacted or modified on the effective date of this subsection.

SECTION 88. Effective date.

14 (1) This act takes effect on January 1, 2002, or on the first day of the 6th month
15 beginning after publication, whichever is later.
16

17 (END)

Insert 16-17

~~Section #. 281.01 (20) of the statutes is amended to read:~~

281.01 (20) ~~"Waterworks" or "water system"~~ ^{NO & KEEP} means all structures, conduits and appurtenances by means of which water is delivered to consumers except piping and fixtures inside buildings served, and service pipes from building to street main.

~~History: 1995 a. 227; 1999 a. 9; 2001 a. 6.~~

Tradewell, Becky

From: Sean Dilweg [sdilweg@patrickessie.com]
Sent: Friday, February 01, 2002 3:43 PM
To: Becky.tradewell@legis.state.wi.us
Cc: patrick.henderson@legis.state.wi.us; Johnson, Dan (Legislature) (E-mail)
Subject: drafting changes to LRB 3331/2



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280 drafting
changes 3.doc

Becky,

I've attached two items relating to drafting changes to lrb 3331/2. The TIF file relates to the 1st point on the attached memo.

thanks,

Sean Dilweg (Wisconsin Water Well Association)

Essie Consulting Group
phone: 608-256-7701
cell: 608-334-6620

TO: Becky Tradewell, Managing Attorney
Wisconsin Legislative Reference Bureau

FROM: Sean Dilweg

DATE: February 1, 2002

RE: LRB 3331/2 drafting changes

Becky, I wanted to forward the additional changes mentioned below. We have been working with DNR on the draft. Please call me with any clarifications or questions at 256-7701 or email:

- ✓1) Page 3 lines 5 to 14: delete and add language to reflect Jill Jonas's October 15th, 2001 letter on restructuring the existing advisory council into statutes. Attach the advisory council to the DNR Secretary. *(Please the attached TIF file to the email)*
- ✓2) Page 4 line 1: delete
- ✓3) Page 10 lines 19 to 24: delete
- ✓4) Page 11 lines 1 to 6: delete
- ✓5) Page 15 line 11: Change "Monitoring Well" to "Environmental Well"
- ✓6) Page 18 lines 14 to 19: Please changes to reflect our intent to only require DNR field staff maintain a license. Not central office or DNR wardens.
- ✓7) Page 20 lines 6 to 11: delete. Becky, DNR didn't feel they needed this section. Do they already have this authority over all rulemaking or does this need to be specifically enumerated in this section?
- ✓8) Page 25 line 18: delete
- 9) Page 25 add a new license category of "geothermal driller"
- 10) Page 27: line 16 delete "well driller license" the intent here is that someone could hold only an environmental drilling license. Also a well driller license could attain an environmental driller license via an exam.
- ✓11) Page 29 line 24: add language that would create an exception for private landowners to perform well point driving on their own property.
- ✓12) Page 30 lines 9 & 10: delete
- ✓13) Page 30 line 15: delete "certified mail or personal service" the assumption is it would now be regular mail.
- ✓14) Page 31 lines 22 to 25: delete
- ✓15) Page 33 line 15: keep "each year." and delete remainder of sentence. *see message dated 2/5*
- ✓16) Page 33 line 18: keep "or her attendance." Delete remainder of section to line 24.
- ✓17) Page 34 line 16 to 22: delete
- ✓18) Page 35 line 19 & 20: delete
- ✓19) Delete the elimination of county delegation. Therefore, the DNR would still have the ability to delegate programmatic activities to counties. Sorry, Becky I didn't know where this occurred in the draft.

**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

Scott McCallum, Governor
Darrell Bazzell, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY 608-267-6897

October 15, 2001

Members
Advisory Council on Well Drilling and Pump Installing

Subject: Revisions in Operating Structure for Advisory Council

Dear Advisory Council Member:

In 1992, the Department of Natural Resources established an Advisory Council on Well Drilling and Pump Installing. The Council has existed since that time and has been a positive focus for both the water well industries as well as the Department.

Industry representatives and Department staff recently revisited the 1992 document which initiated the Advisory Council and recognized needs for improvements in its operating structure. The attached document is an outcome of their discussions and should be regarded as the new operating structure for the Council. While changes from 1992 are few, please note that the Advisory Council will now operate with Co-Chairs: one from industry and the other from the Department. The Co-Chair arrangement is being tested on a trial basis. The new operating structure also contains a set of ground rules that should enhance the Council's productivity.

If you have questions, don't hesitate to phone Gordon Stevenson, Acting Chief, Private Water Systems Section, at (608) 267-7649.

Sincerely,

A handwritten signature in cursive script that reads 'J. D. Jonas'.

J. D. Jonas
Director
Bureau of Drinking Water and Groundwater

Attachment

Cc: Darrell Bazzell – AD/5
Susan Sylvester – AD/5
Section Chiefs - DG/2

Advisory Council on Well Drilling and Pump Installing
Revised: October 15, 2001

The Advisory Council on Well Drilling and Pump Installing is created to act in an advisory capacity to the Wisconsin Department of Natural Resources, Bureau of Drinking Water and Groundwater, Private Water Systems Section.

The purpose of the Council is:

1. To advise the Private Water Systems Section on issues related to water well technology design, construction and operation.
2. To alert the Section to emerging problems and concerns related to well drilling and pump installation.
3. To provide a forum for discussion of issues related to well drilling and pump installing.
4. To act as a principal point of contact between the water well industry and the Private Water Systems Section.

The Council membership shall be as follows:

- A. Three members shall be active water well drillers licensed by the State of Wisconsin appointed by the Board of Directors of the Wisconsin Water Well Association (WWWA members).
- B. Two members shall be active water well drillers licensed by the State of Wisconsin appointed by the Secretary of the Department of Natural Resources. (non-WWWA members)
- C. Two members shall be active pump installers licensed by the State of Wisconsin appointed by the Board of Directors of the Wisconsin Water Well Association (WWWA members).
- D. Two members shall be active pump installers licensed by the State of Wisconsin appointed by the Secretary of the Department of Natural Resources (non-WWWA members).
- E. One member shall be a monitoring well contractor appointed by the National Drilling Contractors Association.

F. One member shall be an employee of the Wisconsin Geologic and Natural History Survey appointed by the Director of the Survey.

G. Two members shall be affiliated with the Wisconsin Pump and Well Suppliers Association appointed by the President of the Association.

Members shall be appointed for terms of three years, except:

1. Under paragraph A, initially one member shall be appointed for one year, one member for two years and one member for three years.

2. Under paragraph B, initially one member shall be appointed for one year and one member for two years.

3. Under paragraph C, initially one member shall be appointed for two years and one member for three years.

4. Under paragraph D, initially one member shall be appointed for one year and one member for two years.

5. Under paragraphs E, F and G, the members shall be appointed for three years.

No member shall serve more than two consecutive terms except the representative of the Wisconsin Geologic and Natural History Survey may serve longer at the discretion of the Director of the Survey.

The Council will be co-chaired by: a representative of the Department of Natural Resources appointed by the Director of the Bureau of Drinking Water and Groundwater and a representative from the Advisory Council as elected by the membership. The Council will meet three times per year. The schedule can be adjusted based on need agreed to by co-chairs.

To ensure orderly and productive meetings, Council meetings shall be conducted in accordance with the following ground rules:

- Council members are to be on time for the start of the council meeting and follow the agenda
- Council members and guests invited by the co-chairs are to sit at the table.
- Noncouncil members and other members of the public attending council meetings are to sit in a designated area within the room.

- Council members are to speak one at a time during the meeting and are not to interrupt other people speaking.
- Participation by noncouncil members and other members of the public will be by recognition by the Council co-chairs or the person designated to conduct the meeting.

Tradewell, Becky

From: Sean Dilweg [sdilweg@patrickessie.com]
Sent: Monday, February 04, 2002 12:29 PM
To: Tradewell, Becky
Subject: RE: drafting changes to LRB 3331/2

Becky,

Please place the delayed effective date to January 1, 2003.

In addition I will forward your question on county ordinance to Mark Putra & Jill Jonas in DNR and I will get back to you.

Thank you,
--Sean

-----Original Message-----

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.state.wi.us]
Sent: Monday, February 04, 2002 11:00 AM
To: Sean Dilweg
Subject: RE: drafting changes to LRB 3331/2

Sean,

That line repeals s. 59.70 (6) of the statutes, which relates to county ordinances concerning well construction and pump installation. Looking at s. 59.70 (6), I can see that some changes will have to be made in its language because of the changes that the rest of the draft makes, such as changing the statutory cross-references because the draft restructures ch. 280. There will need to be other changes in the draft, like restoring the stricken language in s. 59.70 (1) and modifying proposed s. 280.08. Currently, s. 59.70 (6) refers to s. 280.21, which contains various provisions about local authority. I do not think that there is anything like current s. 280.21 in the draft. Someone (from DNR, perhaps), should look at s. 59.70 (6) to see how it should be changed to be consistent with the rest of the draft and at s. 280.21 to see whether any of its provisions (or some similar provisions) should be added to the draft.

Also, I just noticed that the delayed effective date of the draft is January 1, 2002, or 6 month after publication, whichever is later. Since we are into 2002, we should change the effective date. Do you want the draft to just have a 6 month delay, do you want the delayed effective date to be January 1, 2003, or do you want a different effective date altogether? Also, please look at the first nonstatutory provision and let me know if you want the date for grandfathering licensees to be changed to January 1, 2003.

Please let me know if you have any questions about these matters.

Becky Tradewell
266-7290

-----Original Message-----

From: Sean Dilweg [mailto:sdilweg@patrickessie.com]
Sent: Monday, February 04, 2002 10:02 AM
To: Tradewell, Becky
Subject: RE: drafting changes to LRB 3331/2

Becky,

I talked with DNR they think Page 6 line 4 repeals the authority for county delegation.

Thanks,

Sean

-----Original Message-----

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.state.wi.us]
Sent: Friday, February 01, 2002 4:01 PM
To: Sean Dilweg
Subject: RE: drafting changes to LRB 3331/2

Sean,

Concerning the last item in your memo, do you think that you could get DNR to identify the current source of their authority to delegate to counties? Otherwise, I do not know how long it will take me to track it down.

I may have questions about some of the other items. It is often difficult to redraft based only on mechanical instructions without an explanation of the intent of the changes, especially with such a complex draft.

Becky Tradewell

-----Original Message-----

From: Sean Dilweg [mailto:sdilweg@patrickessie.com]
Sent: Friday, February 01, 2002 3:43 PM
To: Becky.tradewell@legis.state.wi.us
Cc: patrick.henderson@legis.state.wi.us; Johnson, Dan (Legislature) (E-mail)
Subject: drafting changes to LRB 3331/2

Becky,

I've attached two items relating to drafting changes to lrb 3331/2. The TIF file relates to the 1st point on the attached memo.

thanks,

Sean Dilweg (Wisconsin Water Well Association)

Essie Consulting Group
phone: 608-256-7701
cell: 608-334-6620

TO: Becky Tradewell
FROM: Sean Dilweg
DATE: February 11, 2002
RE: Follow-up Clarifications & Additional Changes
All language refers to LRB 3331/2

Follow Up Clarifications from email correspondence since February 1st drafting changes:

- ✓1) **Advisory Council** preliminary language is correct. The DNR Co-chair is a nonvoting member except in a time of tie on the committee. Then the DNR co-chair must vote to break the tie. The language on page 20 relating to the duties of the council are correct as in LRB 3331/2.
- ✓2) **Field Staff:** Page 18 lines 14 to 19 specify that the requirement for licensure apply to field staff. Field staff defined as a department staff that performs all of the following: site evaluations, inspections & grant variances.
- 3) **Restricted drill hole constructor-Geothermal well constructor:** (*Response to ?'s*)
 - ✓a. Add to page 25 as a license
 - ✓b. Definition: "geothermal well" means a drill hole constructed to withdraw geothermal energy from the subsurface formations.
 - ✓c. A geothermal well driller would not need to have a well driller license before he or she could get a geothermal well driller license.
 - ✓d. 1,000 hours of experience would be required.
 - ✓e. A person with an ordinary well driller license could drill this kind of well.
 - ✓f. A drilling rig operator could drill a geothermal well under the supervision of a person with a geothermal license.
- 4) **Retain DNR's County Delegation:** (*Becky please see TIF files from DNR's 1999 draft on this issue. They labeled their draft with inserts A, D & L on this issue*)
 - ✓a. Page 1 see cross-references from 1999 draft.
 - ✓b. Page 6 line 3 insert sections 16 through 20 from pages 8 & 9 of attached language. (Insert D relates to county delegation deletion)
 - ✓c. p. 38, before the subchapter on enforcement, insert the subchapter on Local Authority (Insert L deals with County ordinances))
- ✓5) Page 35 lines 19 & 20 delete and replace with "(k) Consults with another person or unauthorized written materials while taking an examination."

Additional Changes to Draft:

- ✓6) Page 12 line 12 delete "the same" and replace with "it"
- ✓7) Page 14 line 25 delete "drill" replace with "construct"... a drill hole.
- ✓8) Page 21 lines 5 to 7 delete
- ✓9) Page 24 line 10 & 11 delete last sentence and add "Only licensed pump installers or registered pump installer helpers working under the supervision of licensed pump installers may install pitless adapters."

local
em.

Tradewell, Becky

From: Sean Dilweg [sdilweg@patrickessie.com]
Sent: Monday, February 11, 2002 5:18 PM
To: Tradewell, Becky
Subject: RE: 280 changes



280 changes feb10
2nd.doc



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Becky,

As usual goals and reality on timing are never the same. I apologize for the attached but have been wrestling with the DNR on their old bill draft from 1999. I at least convinced the DNR not to pursue their draft seperately.

I have attached a memo in word that deals with clarification from my February 1, 2002 memo and then additions from the DNR. There is also 2 TIF files that deal with language on county delegation from the DNR's 1999 bill draft.

Please note that I have put language back in dealing with environmental drillers the intent being that same as the Feb 1, 2002 memo. I had emailed you asking to not change LRB 3331/2 on this issue please follow the intent of Feb 1 and this memo.

Please call or email with any questions.

Thank you once again,

Sean Dilweg

-----Original Message-----

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.state.wi.us]
Sent: Thursday, February 07, 2002 4:28 PM
To: Sean Dilweg
Subject: RE: 280 changes

Thanks for the update.

-----Original Message-----

From: Sean Dilweg [mailto:sdilweg@patrickessie.com]
Sent: Thursday, February 07, 2002 4:24 PM
To: Tradewell, Becky
Subject: 280 changes

Becky,

Just wanted to let you know I'm finalizing discussions with the Drillers & DNR on our dangling points. I should have reactions and final reccomendations by early afternoon tomorrow.

Thank you,

--Sean Dilweg

From DNR's draft which had no specific experience reqs. - this one does

- 10) Page 25 following line 24 in the same paragraph additional language on the establishment of experience, examination and supervision criteria for each category of license under (a) and each category of registrants under (c)
- 11) Page 26 following line 9 insert a new paragraph "No person may engage in the business of well drilling unless he or she holds a water well driller license under this section; he or she holds a business water well drilling employing a licensed individual water well driller."
- 12) Page 26 following line 17 insert new paragraph "A registered drill rig operator shall always be onsite during the drilling of potable water well."
- 13) Page 26 lines 20 & 21 delete "represent that he or she is able to perform well point driving" and replace with "engage in the business of well point driving"
- 14) Page 27 line 5 delete "installation" replace with "installing" twice on line.
- 15) Page 27 line 9 to 12 delete up to "...pump installer license." And replace with "To provide immediate supervision for pump installing, an individual holding a pump installer license shall either be on the site of the pump installation or be readily available for consultation with, and to direct the activities of, the registered pump installer helper and any other individuals involved with the pump installing work."
- 16) Page 27 following line 13 add: "A registered pump installer helper shall always be onsite during pump installing work on a potable well."
- 17) Page 27 line 16 delete: "a well driller license and"
- 18) Page 27 lines 17 to 19 from "...or is registered as a drilling rig..." and replace with "is working under the immediate supervision of a person holding and environmental well driller license."
- 19) Page 27 following line 19 add new paragraph "No individual may engage in the business of environmental well drilling unless he or she holds an environmental well driller license."
- 20) Page 29: Suggested exception language for private landowners to perform well point driving: "Subsection (2) (b) and (c) does not apply to an individual who constructs a driven-point well or installs a pump serving only a single-family residence on property owned and occupied by the individual. This paragraph does not exempt the individual from compliance with any other law or rule governing the construction of a driven-point well or the installation of a pump."
- 21) Page 31 line 6 add "the individual has satisfied the continuing education requirements for that license period."
- 22) Page 31 line 11 add "environmental well driller"
- 23) Page 32 following line 14 add "The applicant was required to go through the substantially equivalent license process in that state in order to become licensed."
- 24) Page 33 line 13 change "(12)" to "280.26" Becky, the intent and reason being that the DNR believes the language on page 17 lines 16 to 18 prohibits the subcontracting of continuing education which WWA & DNR do not want to happen.
- 25) Page 37, line 21 (b) Add a sentence that says: "If the suspension extends through the next license period due the individual's failure to comply with a provision of the order, the individual must pass the applicable exam before regaining the license."
- 26) Page 37: Line 18 (8) (a) Change last sentence to read: "After a period of revocation, a person may regain a license only by complying with any requirements of the order, paying the applicable fee, and passing any applicable examination."

- ✓27) p. 39, (dm), line 16, Replace with "Order the owner or operator of well or other drillhole that is unused to fill the well or other drillhole as required under department rules.
- ✓28) p. 41: Line 21 (5m) (a) Replace "this fact" in next to last sentence with "the failure to comply."
- ✓29) p.43: line 21 280.44 Change title to "Sampling; testing"



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0105/1
RCT:cmh&wlj:km

1999 BILL

*Insert
A*

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 (1), 281.17 (8), 281.35 (7), subchapter VI (title) of chapter
3 281 [precedes s. 281.75], 281.75 (1) (c) and 289.01 (44); **to renumber** 281.13 (3),
4 281.35 (5) and (6), 281.35 (8) to (12), 281.75 (title) and (1) (intro.), (a) and (b),
5 281.75 (1) (d) to (g), 281.75 (2) to (11), 281.75 (12) (intro.) and (a) and 281.75 (13)
6 to (17); **to renumber and amend** 66.065 (1), 281.13 (1), 281.17 (9), 281.35
7 (title) and (1) to (3), 281.35 (4), 281.53, 281.75 (1) (h), 281.75 (12) (b), 281.75 (18),
8 281.75 (19), 281.77, 281.94, 281.95 and 281.99; **to consolidate, renumber**
9 **and amend** 59.70 (6) (a) (intro.) and 1.; **to amend** 20.370 (4) (bL), 20.370 (6)
10 (cr), 20.370 (7) (cd), 20.865 (2) (em), 20.866 (2) (tb), 23.50 (1), 25.46 (5e), 30.01
11 (1b), (7m) and (9), 30.18 (3) (b), (4) (a) and (5) (b), 30.18 (6) (a) and (d) and (6m)
12 (c), 30.21 (3) (a), 59.07 (1), 59.64 (1) (a), 59.70 (1), 59.70 (6) (title), 60.44 (1) (a),
13 60.44 (3), 62.25 (1), 66.065 (4), 88.145, 97.34 (2) (b), 97.34 (2) (d), 101.143 (1) (c),
14 118.26, 119.68 (2), 145.06 (4) (b), 145.10 (1) (intro.) and (a) to (b), 160.09 (1)

BILL

1 (intro.), 167.27 (title), (2) and (3), 167.27 (5), 167.27 (6), 196.49 (2), 196.98,
2 198.12 (2), chapter 281 (title), 281.01 (8), 281.01 (15), 281.01 (16), 281.12 (3),
3 281.17 (3), 281.19 (2) (a), subchapter IV (title) of chapter 281 [precedes 281.41],
4 281.41 (1), 281.45, 281.66 (6), 281.81 (1), 281.97, 281.98 (1), 285.01 (40), 289.01
5 (33), 292.65 (1) (g), 293.43 (3) (a), 293.65 (3), 295.11 (10), 299.05 (2) (b), 299.07
6 (1) (a) 1., 299.07 (1) (a) 2., 299.08 (1) (a) 1., 299.08 (1) (a) 2., 299.11 (1) (d) 4. and
7 6., 443.14 (12m), 470.025 (9) and 893.80 (8); *to repeal and recreate* 59.70 (6)
8 (b), 59.70 (6) (c), 66.071 (1) (i), chapter 280 and 281.13 (title); and *to create*
9 20.370 (2) (ai), 66.039, 145.07 (5m) and 167.27 (9) of the statutes; *relating to:*
10 the regulation of drill holes, water quality and water systems, related licensing
11 and certification, granting rule-making authority, making appropriations and
12 providing 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

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

7 **SECTION 15.** 59.70 (1) of the statutes is amended to read:

8 59.70 (1) **BUILDING AND SANITARY CODES.** The board may enact building and
 9 sanitary codes, make necessary rules and regulations in relation thereto and provide
 10 for enforcement of the codes, rules and regulations by forfeiture or otherwise. The
 11 codes, rules and regulations do not apply within municipalities which have enacted
 12 ordinances or codes concerning the same subject matter. "Sanitary code" does not
 13 include a private sewage system ordinance enacted under sub. (5). "Building and
 14 sanitary codes" does not include ~~well code~~ ordinances enacted under sub. (6).

15 **SECTION 16.** 59.70 (6) (title) of the statutes is amended to read:

16 59.70 (6) (title) OPTIONAL PRIVATE WELL CODE AND PUMP INSTALLATION ORDINANCES.

17 **SECTION 17.** 59.70 (6) (a) (intro.) and 1. of the statutes are consolidated,
 18 renumbered 59.70 (6) and amended to read:

19 59.70 (6) (a) (title) ~~Definitions~~ Definition. In this subsection: ~~1. "Department"~~
 20 "department" means the department of natural resources.

21 **SECTION 18.** 59.70 (6) (a) 2. and 3. of the statutes are repealed.

22 **SECTION 19.** 59.70 (6) (b) of the statutes is repealed and recreated to read:

23 59.70 (6) (b) *Contents.* 1. If authorized by the department under s. 280.30 (2),
 24 a county may enact and enforce an ordinance regulating any of the following:

25 a. The location of private wells.

Insert D

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1 b. The abandonment of private wells and other drillholes that are unused or
2 unsafe because of the presence of bacteria or do not comply with ch. 280 or rules
3 promulgated under that chapter.

4 c. The construction and reconstruction of private wells.

5 d. The installation of pumps in private wells.

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

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

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

12 3. The provisions of an ordinance enacted under this paragraph that regulate
13 the abandonment of private wells and drillholes do not apply in any portion of a local
14 governmental unit that is covered by an ordinance enacted under s. 66.039.

15 **SECTION 20.** 59.70 (6) (c) of the statutes is repealed and recreated to read:

16 59.70 (6) (c) *Revocation.* If the department, under s. 280.30 (4), revokes all or
17 part of the authority of a county to enforce an ordinance under par. (b), the county
18 shall immediately cease all activities under the ordinance or part of the ordinance
19 with respect to which authority is revoked and may not resume any such activity
20 unless notified by the department to do so at the conclusion of all administrative and
21 judicial proceedings arising out of the revocation.

22 **SECTION 21.** 59.70 (6) (e) of the statutes is repealed.

23 **SECTION 22.** 60.44 (1) (a) of the statutes is amended to read:

24 60.44 (1) (a) Claims for money against a town or against officers, officials,
25 agents or employes of the town arising out of acts done in their official capacity shall

Amend D

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1 except that a licensee may apply after 10 days from that date if the licensee
2 eliminates all impediments to nonrenewal.

3 (9) A licensee who is subject to a nonrenewal, suspension or revocation shall,
4 at the request of the department, notify the department of the location of the work
5 that he or she performed under the license within 5 years before the nonrenewal,
6 suspension or revocation takes effect. If the licensee who is subject to a nonrenewal,
7 suspension or revocation is a well driller, he or she shall, immediately after the
8 sanction takes effect, notify the department of the location of all drilling rigs owned,
9 leased or rented by the licensee and shall notify the department of any change in any
10 of those locations during the period that the sanction remains in effect.

11 (10) An individual who is subject to a nonrenewal, suspension or revocation of
12 a license issued under s. 280.24 or 280.27 may not perform any activity authorized
13 by the license, except as directed by the department under sub. (8) (c), for a period
14 of 60 days starting with the first day of the nonrenewal, suspension or revocation.
15 After that period, the individual may perform the activity if the individual is
16 employed by and in the actual physical presence of a licensed individual.

17 **SUBCHAPTER IV**

18 **LOCAL AUTHORITY**

19 **280.30 County ordinances.** (1) **DEFINITION.** In this section, "private well"
20 means a type of well designated by the department by rule, which may not include
21 any type of well for which plans and specifications must be submitted to the
22 department for approval before construction.

23 (2) **ORDINANCES:** (a) The department may authorize the enactment, under s.
24 59.70 (6), of county ordinances strictly conforming to this chapter and rules

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1 promulgated under this chapter, or to portions of this chapter and rules promulgated
2 under this chapter, that govern any of the following:

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

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

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

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

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

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(3) TRAINING. The department shall provide training and technical assistance to county employees who implement ordinances enacted under s. 59.70 (6). The department may charge a fee, not to exceed the department's actual cost, for the training and technical assistance provided. All amounts received under this subsection shall be credited to the appropriation under s. 20.370 (2) (ai).

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

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

(5) DEPARTMENT ENFORCEMENT. (a) In a county that has not enacted an ordinance under s. 59.70 (6) or that has, under its ordinance, only partial authority to regulate private wells and pump installation, the department shall enforce all applicable provisions of this chapter and rules promulgated under this chapter relating to private wells and pump installation that are not governed by a county ordinance.

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

- 4 1. If the department is conducting an audit and review under sub. (4) (a).
5 2. If there is reasonable cause to believe that the county ordinance or
6 enforcement program does not comply with any requirement of this chapter or rules
7 promulgated under this chapter.
8 3. If the department determines that there are other special circumstances
9 requiring enforcement by the department.

10 **280.32 Local enforcement prohibited.** Except as provided in ss. 59.70 (6),
11 66.039 and 280.30, no city, village, town or county may enact or enforce an ordinance
12 governing any matter regulated under this chapter.

13 **SUBCHAPTER V**

14 **ENFORCEMENT**

15 **280.40 Orders; affidavits.** (1) The department may do any of the following:

16 (a) Order the owner or operator of a water system or the person responsible for
17 construction, operation or abandonment of the water system to take actions, which
18 may include repair, replacement, reconstruction, abandonment or discontinuance of
19 use, in a designated manner to protect public health, safety or welfare, to protect
20 groundwater or surface water from contamination or to conform to rules of the
21 department.

22 (b) Order any person causing the contamination of groundwater or whose
23 actions may cause the contamination of groundwater to take any action necessary,
24 or to refrain from any action in order to protect or restore the environment to the
25 extent practicable or to minimize the harmful effects of the contamination.

2/14/02

Telephone discussion with Sean Dilweg:
I explained problems that I see with items 10-13, 16, 18, 19,
23 & 24. He understood and said to leave those items
out.