



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 244

**Senate
Amendment 1**

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Senate Bill 244 relates to the regulation of drill holes, water quality in water systems, related licensing and certification, creates the Council on Well Drilling and Pump Installing, grants rule-making authority, makes appropriations, and provides penalties. The bill includes the repeal of ch. 280, Stats., relating to pure drinking water, and the recreation of this chapter to relate to wells, drill holes, and water systems.

Senate Amendment 1 makes the following changes to Senate Bill 244:

- Modifies the provisions on local governmental unit well abandonment ordinances in s. 66.0437 to direct local governmental units served by community water systems to require the abandonment of a well or drill hole on a property adjacent to a water main:
 - If the well or drill hole is unsafe due to the continued presence of any contaminants and not, as under the bill, just bacteria.
 - If the well or drill hole is unneeded.
 - Unless the well is producing safe water and the owner of the well demonstrates a need for the continued use of the well.
- Creates an exception to the definition of “drill hole” applicable in ch. 280 for “excavation constructed for the purpose of laying a foundation for a building.”
- Deletes in the general supervision and control powers granted to the DNR in s. 280.03:
 - The general authority over “methods of providing and ensuring the sanitary provision of water for all purposes.”

- The authority to do “any act to safeguard the public health and to protect the groundwater and surface water.”
- Deletes from the specific powers granted to the DNR in s. 280.03 the authority to “take any other action determined to be reasonably necessary to safeguard public health, safety, or welfare.”
- In the rule-making authority granted to the DNR in s. 280.05:
 - Deletes the authority to promulgate rules relating to the “location of potential contamination sources in relation to existing or proposed wells and other drill holes.”
 - Clarifies that the DNR’s rules may establish application, licensing, certification, registration, or examination fees necessary to cover the cost of administering these activities under ch. 280, as affected by the bill, rather than the cost of administering any activity under this chapter.
- Limits the duty of the Council on Wells and Drill Holes in s. 280.06 to advising the DNR on the interpretation and administration of only subch. III of ch. 280, relating to certification, registration, and licensing, rather than the interpretation and administration of all of ch. 280.
- Creates an exception to the definition of “drill hole” used in the provisions on underground discharge, s. 280.07, to exclude from a drill hole an excavation for the purpose of laying a foundation for a building.
- Establishes that the 90-day review period that the DNR has to act on a complete application under s. 280.10 (2) to construct, install, modify, or operate a community water system may be extended by not more than six months, by agreement with the owner, as opposed to not applying, as provided in the bill, under any of the following conditions: if, within the 90-day period, the DNR is either unable to comply with the Wisconsin Environmental Policy Act or due to circumstances beyond its control; or because the construction or modification will cost \$350,000 or more.
- Replaces the general requirement in s. 280.24 (2) (f) that no individual, other than an individual holder holding a well driller license, may inspect a water system unless he or she holds a water system inspector license, with the following general requirements:
 - No individual may inspect a municipal water system, unless he or she holds a water system inspector license.
 - No individual may inspect a water system other than a municipal water system, unless he or she holds a water system inspector license or a well driller license.
- Creates an exception to the provisions on well and other drill hole abandonment in s. 280.27 that establishes that a water system operator certified under s. 280.20 may fill or seal a well or other drill hole located within the service area of a municipal water system.

- Deletes from the provisions on county ordinances in s. 280.30 (2) the authority for the DNR to require that a person obtain approval from the DNR for a variance from ch. 280 or rules promulgated under ch. 280 before a county may issue a permit for the construction of a private well or the installation of a pump.
- Authorizes the DNR in the enforcement provisions in s. 280.40 to order the owner or operator of a water system or the person responsible for construction, operation, or abandonment of the water system to take actions that are necessary to ensure compliance with ch. 280 and rules promulgated under ch. 280 rather than to take actions which may include repair, replacement, reconstruction, abandonment, or discontinuance of use, in a designated manner to protect public health, safety, or welfare.
- Directs the DNR, if it exercises its authority under s. 280.40 (7) and (8) to record an enforcement order or record an affidavit relating to facts showing a violation or condition exists that would authorize the DNR to issue an enforcement order, to record with the Register of Deeds within a reasonable time any satisfaction of the order and any affidavit describing a correction of the violation or condition.
- Specifies that in the exercise of its inspection authority under s. 280.42, the DNR or its representative may enter public or private property at a reasonable hour only if the representative has requested permission to enter the property.
- Establishes that when a person required to submit samples fails to do so, the DNR may only enter the property under s. 280.44 (3) after requesting permission to enter, if necessary, and take samples for analysis if the DNR requests permission to enter. If the owner refuses to authorize DNR to enter the property to take such samples, the amendment authorizes the DNR's representative to obtain a special inspection warrant to enter the property to obtain a sample. The amendment also establishes that no owner may refuse to permit an authorized DNR representative who, at a reasonable hour, presents a special inspection warrant and appropriate identification to enter the owner's property to take a sample.
- Removes from the penalty provisions in s. 280.49 (6), the Class I felony penalty for any person who intentionally commits an act that violates, or intentionally fails to perform an act required by, promulgated under ch. 280, or rules, or an order, license, or approval issued under ch. 280 with respect to any requirement of the federal Safe Drinking Water Act.
- Renames ch. 281 from water pollution and sewage to water resources and sewage.
- Replaces the bill's treatment of required house connections in s. 281.45. Under current law, a city, village, town, or town sanitary district having a water works or sewage system may, by ordinance, require buildings used for human habitation located adjacent to a sewer or water main or in a block through which one or both of these systems extend to be connected with either or both systems. The bill changes this authority to a duty applicable to all municipalities, as defined in s. 281.01 (6), Stats., and requires this connection only to a sewerage system. Senate Amendment 1 reverts this provision essentially to current law, using terminology created by the bill.

Legislative History

Senator Kedzie introduced Senate Amendment 1 to Senate Bill 244 on November 19, 2003. On February 23, 2004, the Senate Committee on Environment and Natural Resources recommended adoption of Senate Amendment 1 to Senate Bill 244 on a vote of Ayes, 4; Noes, 1; and recommended passage of Senate Bill 244, as amended, on a vote of Ayes, 3; Noes, 2.

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