



Legislative Fiscal Bureau

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March 8, 2004

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 244: Regulation of Wells, Well Drillers and Water Systems

Senate Bill 244 would make several changes in the regulation of wells, drill holes, well drillers, water systems, and related licensing and certification. The bill would also create the Council on Well Drilling and Pump Installing, grant rule-making authority to the Department of Natural Resources (DNR), create a program revenue appropriation in DNR for the purpose of administering the activities included in the bill, and authorize DNR to assess fees for the activities. Finally, the bill repeals Chapter 280 of the Statutes, relating to pure drinking water, and recreates the chapter to relate to wells, drill holes, and water systems.

SB 244 was introduced on September 10, 2003, and referred to the Senate Committee on Environment and Natural Resources. On February 24, 2004, the Committee reported adoption of Senate Amendment 1 by a vote of 4-1, and recommended passage, as amended, by a vote of 3-2. On March 2, 2004, the bill was referred to the Joint Committee on Finance.

SUMMARY OF BILL

See the attached memo from the Legislative Council staff for a summary of the bill.

SUMMARY OF AMENDMENT

See the attached memo from the Legislative Council staff for a summary of Senate Amendment 1.

FISCAL ESTIMATE

In its fiscal estimate for SB 244, DNR indicated that the bill would increase one-time costs to the Department by \$280,500 PR for salary and associated costs for 4.03 PR water supply specialist-advanced positions. Further, DNR estimated that ongoing annual costs would increase by \$331,300 PR with 4.76 PR water supply specialist-advanced positions. DNR's estimate assumed that the Department would promulgate administrative rules to collect the \$331,300 annual program revenue it believed would be necessary to fund the 4.76 positions to carry out the activities in the bill.

DNR estimated that the net revenue increase would be \$260,300 because \$71,000 currently received as GPR revenue for well driller and pump installer licenses would be converted to program revenue and deposited in a new PR continuing appropriation. The general fund balance would decrease by a corresponding \$71,000 annually, beginning on the January 1, 2005, effective date of the bill. However, while the bill converts the \$71,000 in current GPR revenue to PR, it does not make a corresponding reduction in the GPR appropriation that currently funds costs related to administration of well driller and pump installer licensing.

One-Time Cost Components

In its fiscal estimate for SB 244, DNR identified one-time costs totaling \$280,500 PR for 4.03 PR positions. The one-time cost components are shown in Table 1.

TABLE 1

One-Time Costs

<u>Activity</u>	<u>Cost</u>	<u>Positions</u>
Develop New Administrative Code	\$174,000	2.50
Develop New Exams	69,600	1.00
License DNR Staff	<u>36,900</u>	<u>0.53</u>
Total	\$280,500	4.03

Develop Administrative Code. DNR estimates that it would take 2.5 FTE of time to develop the new administrative codes needed to implement the bill, based on the amount of time spent on previous major code revisions. The administrative rules promulgated under the current and recreated chapter 280 would relate to topics such as: (a) the location of potential contamination sources relative to existing or proposed wells; (b) licensure and examination requirements for well drillers, well point drivers, pump installers, environmental well drillers, geothermal well constructors, dewatering well constructors, elevator shaft constructors, and water system inspectors; (c) registration requirements for drilling rig operators and pump installer helpers; (d) certification

and continuing education requirements for water system operators; (e) fee amounts that cover the cost of providing the activity; (f) standards for approval of any county ordinances conforming to chapter 280 that relate to the location of private wells, abandonment of private wells and drill holes, construction and reconstruction of private wells, installation of pumps in private wells, modification of existing pump installations in private wells, and inspection of private water systems; (g) requirements for filling and sealing wells and other drill holes; (h) exemptions from the requirements related to construction of a water system requiring approval by DNR; (i) authorization of the underground discharge of a substance; (j) the design, construction, modification, operation, and maintenance of water systems; (k) the construction and reconstruction of wells and other drill holes; (l) well construction requirements for areas of the state with special water protection problems; (m) the location of wells and other drill holes in relation to existing or proposed potential sources of contamination; (n) drinking water standards for public water systems; (o) water treatment techniques; (p) record-keeping and reporting requirements for persons regulated under the chapter; (q) water sampling and monitoring requirements; (r) standards to ensure that any well or other drill hole does not act as a conduit for groundwater contamination; and (s) the establishment of application, licensing, certification, registration, or examination fees to cover the costs of administering activities under chapter 280.

Develop Exams. The Department estimates that it would need 1.0 FTE of time to develop the new exams required under the bill. The exams would be required for persons who want to obtain a license as an environmental well driller, geothermal well constructor, dewatering well constructor, elevator shaft constructor or water system inspector.

License DNR Staff. DNR estimates that approximately 60 DNR staff would need to be licensed under the bill, and that it would take approximately 16 hours of time for each of the 60 staff to become licensed. Under the bill, DNR staff would have to pass the license exam before the employee could conduct site evaluations or inspections or grant variances related to that license category. DNR staff would also have to comply with the continuing education requirements for the license categories they regulate.

Process Applications for New Licenses. While not included in DNR's fiscal estimate, DNR officials have recently indicated that there would also be one-time costs of approximately \$154,500 PR with 2.22 PR positions associated with issuing 400 additional licenses on January 1, 2005, for environmental well drillers, geothermal well constructors, dewatering well constructors, elevator shaft constructors and water system inspectors. These people are not licensed under current law but would be required to be licensed as of January 1, 2005, to practice these activities. The Department estimates that it would take approximately 10 hours to review each license application, determine the qualifications of the applicant, and issue the license.

Process Applications for New Registrations. While not included in DNR's fiscal estimate, DNR officials have recently indicated that there would also be one-time costs of approximately \$15,300 PR with 0.22 PR position associated with issuing 1,600 registrations on January 1, 2005, for drilling rig operators and pump installer helpers. These people are not licensed under current

law but would be required to be registered as of January 1, 2005, to practice these activities. The Department estimates that it would take approximately 0.25 hour to review each registration application, determine the qualifications of the applicant, and issue the registration.

Ongoing Cost Components

In its fiscal estimate for SB 244, DNR identified ongoing annual costs totaling \$331,300 PR for 4.76 PR positions. The cost components are shown in Table 2.

TABLE 2

Ongoing Annual Costs

<u>Activity</u>	<u>Cost</u>	<u>Positions</u>
Facilitate and Coordinate Council on Well Drilling	\$34,800	0.50
Process Applications for New Licenses	154,500	2.22
Process Applications for New Registrations	15,300	0.22
Hold and Grade Exams	2,100	0.03
Process License Renewals	15,300	0.22
Conduct Continuing Education Sessions	87,000	1.25
Conduct Disciplinary Hearings	<u>18,800</u>	<u>0.27</u>
Total	\$331,100	4.76

Facilitate and Coordinate Council on Well Drilling. DNR estimates that 0.5 FTE of time would be required to facilitate and coordinate the activities of the proposed Council on Well Drilling. The estimate is based on the amount of time currently spent working with the Groundwater Coordinating Council. The proposed Council on Well Drilling would: (a) advise DNR concerning the approval of products to be used in the construction, repair, and abandonment of wells and other drill holes; and (b) advise the Department concerning the interpretation and administration of chapter 280.

Process Applications for New Licenses. DNR's fiscal estimate assumes that 400 additional licenses would be issued every year to environmental well drillers, geothermal well constructors, dewatering well constructors, elevator shaft constructors and water system inspectors. The Department estimates that it would take approximately 10 hours to review each license application, determine the qualifications of the applicant, and issue the license. However, DNR officials recently indicated that the 400 licenses is the number that would be issued on January 1, 2005, and that the number of new licenses per year would be 150. DNR's current estimate still assumes an annual license renewal cycle rather than renewal every two years as under the bill.

Process Applications for New Registrations. DNR's updated estimate assumes that 1,600 registrations would be issued every year to drilling rig operators and pump installer helpers. The Department estimates that it would take approximately 0.25 hour to review each registration application, determine the qualifications of the applicant, and issue the registration. However, DNR officials recently indicated that the 1,600 registrations is the number that would be issued on January 1, 2005, and that the number of new registrations per year may be 600. Further, DNR's lower number still assumes an annual registration renewal cycle rather than renewal every two years as specified under the bill.

Hold and Grade Exams. DNR's updated estimate assumes that four additional exams would need to be held every year for the environmental well drillers, geothermal well constructors, dewatering well constructors, elevator shaft constructors and water system inspectors that would be licensed under the bill. The Department estimates that it would take approximately 12 hours to hold and grade the exams from each of the four additional dates.

Process License Renewals. Under the bill, each license and registration would expire on January 15 of the next even-numbered year. Licenses and registrations issued between January 1, 2005, and January 15, 2006, would be subject to renewal effective January 16, 2006, and every two years thereafter. DNR's fiscal estimate assumed that 2,000 licenses and registrations would be renewed annually. The Department estimates that it would take approximately 0.2 hours to process each renewal request. DNR did not estimate how many licenses and registrations would be renewed in every two-year cycle. DNR officials do expect that there would be a much higher level of turnover in the newly regulated professions than for the current well driller and pump installer licenses, where there is a minimal turnover for annual licenses.

Conduct Continuing Education Sessions. The bill would require DNR to conduct at least one continuing education program relating to drill hole constructing and pump installing each year, or to approve one continuing education program related to drill hole constructing and pump installing that is conducted by another person. DNR estimates that 10 additional continuing education sessions in a new continuing education program would be needed every year for the environmental well drillers, geothermal well constructors, dewatering well constructors, elevator shaft constructors and water system inspectors that would be newly licensed. The Department estimates it would take approximately 225 hours per continuing education session to develop the program, develop presentations, prepare handouts, travel to the education site, make presentations, and take in and review evaluation forms. The estimate is based the experience of the past year, when eight continuing education sessions in one education program for well drillers and pump installers took an average of 225 hours each to conduct. DNR officials indicate that the continuing education needs of the newly licensed professions would be different enough from the continuing education needs of the currently licensed well drillers and pump installers that a separate program would need to be implemented. Thus, under the bill, DNR estimates it would need to conduct 18 continuing education sessions, an increase of 10 over the current eight sessions. DNR further indicates that enough changes would need to be made in the continuing education program each year that the average of 225 hours per session would be an ongoing need. However, after a

continuing education program is developed, if updates in subsequent years require less preparation and development time, the ongoing costs of conducting continuing education sessions would be lower.

Conduct Disciplinary Hearings. DNR estimates that approximately 24 disciplinary hearings would be conducted against license holders each year. This would be done as part of implementation of the bill's authority to, under certain conditions, refuse to renew a license, revoke a license, or suspend a license. DNR estimates that it would take approximately 20 hours to conduct each hearing.

Current License Holders. DNR's fiscal estimate does not include the costs associated with administering the license requirements for well drillers and pump installers licensed under current law. Currently, approximately 1,880 pump installers pay an annual license fee of \$25, and approximately 480 well drillers pay an annual license fee of \$50. Currently, the annual licenses have a term from January 1 through December 31. Under the bill, any well driller or pump installer with a license in effect on January 1, 2004, would receive a new license from DNR on January 1, 2005, and would not have to take and pass an examination before the new license is issued. In addition, any well driller or pump installer who obtains a license under current law on or after January 2, 2004, and before the January 1, 2005, effective date of the bill would have to take the required exam in order to maintain their license. DNR estimates that there are only a few new well driller or pump installer licenses issued each year.

Revised Ongoing Costs. While DNR has not submitted a revised fiscal note, based on the recent adjustments suggested by agency staff, ongoing costs identified by DNR could be estimated at approximately \$221,000 with 3.2 positions.

Revenues and Appropriations

SB 244 would authorize DNR to promulgate administrative rules related to the establishment of application, licensing, certification, registration, or examination fees to cover the costs of administering activities under chapter 280. The exam fee would be statutorily set at \$25, but could be changed by administrative rule. DNR anticipates that it would promulgate rules that would generate fees that equal its annual ongoing costs.

SB 244, as amended, would create a program revenue continuing appropriation to receive all fees imposed under chapter 280. As a continuing appropriation, all monies received from well drilling license and registration related fees under the bill would be deposited in the appropriation and could be spent by DNR with the Department of Administration's approval. As a result, no additional funding needs to be approved for DNR from this appropriation. The bill would authorize 3.0 PR positions in the new continuing appropriation.

An annual appropriation has the effect of limiting expenditures from the appropriation to the amount listed in Chapter 20 of the statutes, unless legislative approval for additional expenditures

were to be granted. If additional legislative oversight of expenditures was sought, the bill could be amended to create the appropriation as an annual appropriation. The annual appropriation could be set at \$187,000 in 2004-05 to provide funding for the three staff provided in the bill. If additional staff or supplies would be needed in future years, DNR could seek additional resources through budget legislation (or under the s. 16.505/515, 14-day passive review process in an emergency). The provision of \$187,000 would be based on the annual funding required for the entry level salary of three staff at \$19.51 per hour rather than the \$22.00 estimated by DNR, and would provide sufficient expenditure authority for DNR to address some of the one-time workload that would occur prior to the January 1, 2005, effective date.

While the bill would require two-year licenses (expiring on January 15 of each even-numbered year), the initial registration period would be just over one-year (January 1, 2005, through January 15, 2006). Therefore, based on DNR estimates of participation (approximately 5,100 persons licensed or registered under the provisions of the bill), if DNR established initial fees by administrative rule to be approximately \$60 for driller licenses and \$30 for operator and installer registrations and exam fees of \$25 (the initial statutory level), fiscal year 2004-05 revenues may be sufficient to cover up to \$187,000 in expenditures. Well drillers currently pay annual fees of \$50 and pump installers pay \$25. In order to generate adequate revenues in future years a biennial license fee of perhaps \$120 for well drillers (similar to a \$60 fee on an annual basis) and \$60 for operators and installers may be needed. Further, if these revenues proved inadequate DNR may be required to charge for continuing education courses in order to maintain adequate revenues to support the 3.0 authorized PR positions under the bill. Actual fee levels would be established by DNR through the administrative rule process.

Further, if the \$71,000 in lost general fund revenues under the bill were offset by an equivalent GPR reduction to DNR (\$71,000 and 1.0 position could be converted from GPR to PR beginning in 2004-05) licensing fees would need to increase accordingly to maintain funding for the program (\$258,000 PR and 4.0 PR positions annually). This level of revenues might be obtained by, for example, charging a biennial license fee of approximately \$165 for drillers and \$85 for operators and installers or, perhaps, by maintaining fees at \$120 or \$60 respectively, but charging \$15 per continuing education class attended (annual attendance is required under the bill). However, it should be noted that the number of persons required to be licensed or registered under the bill is not known. If actual applications differ significantly from estimates, associated fees and/or staffing levels may need to be adjusted accordingly.

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Attachments