

MAINE STATE LEGISLATURE

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Date: 4/28/9

L.D. 860
(Filing No. H-177)

NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 591, L.D. 860, Bill, "An Act Relating to Geothermal Heat Exchange Wells"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 32 MRSA §4700-E, sub-§3-C is enacted to read:

3-C. Geothermal heat exchange well. "Geothermal heat exchange well" means a hole drilled, driven or bored into the earth for the purpose of using the heat exchange capacity of the earth for heating and cooling.

Sec. 2. 32 MRSA §4700-E, sub-§3-D is enacted to read:

3-D. Geothermal heat exchange well driller. "Geothermal heat exchange well driller" means a person, firm or corporation engaged in the work of drilling, driving or boring geothermal heat exchange wells.

Sec. 3. 32 MRSA §4700-E, sub-§3-E is enacted to read:

3-E. Geothermal heat exchange well pump installer. "Geothermal heat exchange well pump installer" means a person who is engaged to work at and learn the trade of geothermal heat exchange well pump installation.

Sec. 4. 32 MRSA §4700-E, sub-§6, as amended by PL 2001, c. 209, Pt. B, §2, is further amended to read:

6. Pump or pump system. "Pump" For purposes of a water well, "pump" or "pump system" means mechanical equipment or a device used to remove water from a well including all piping and wiring up to the existing equipment in the structure. For the purposes of a geothermal heat exchange well, "pump" or "pump system" means the mechanical equipment or device used to move fluid from the geothermal heat exchange well, including all piping and wiring, up to the existing equipment in the structure.

Sec. 5. 32 MRSA §4700-E, sub-§11, as enacted by PL 2001, c. 209, Pt. B, §2, is amended to read:

COMMITTEE AMENDMENT

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1 **11. Well drilling company.** "Well drilling company" means a person, firm,
2 partnership or corporation that owns or otherwise operates any mechanical equipment
3 used to drill, drive or bore water wells or geothermal heat exchange wells.

4 **Sec. 6. 32 MRSA §4700-F, sub-§1,** as amended by PL 1993, c. 25, §6, is further
5 amended to read:

6 **1. Applicability.** The provisions of this chapter apply to all water wells constructed
7 in the State after January 1, 1994. The provisions of this chapter relating to geothermal
8 heat exchange well construction, geothermal heat exchange well pump installation and
9 licensing requirements for geothermal heat exchange well drillers and geothermal heat
10 exchange well pump installers apply after final adoption of initial rules pursuant to
11 section 4700-I, subsection 2-A.

12 **Sec. 7. 32 MRSA §4700-G, sub-§1,** as amended by PL 2001, c. 209, Pt. B, §3, is
13 further amended to read:

14 **1. Establishment of commission.** The Maine Water Well Commission, as
15 authorized by Title 5, chapter 379, is established to carry out the provisions of this
16 chapter. The purpose of the commission is to provide the public with the highest quality
17 drinking water possible by ensuring that water wells and geothermal heat exchange wells
18 are drilled, constructed, altered or abandoned in a manner that protects groundwater from
19 contamination.

20 **Sec. 8. 32 MRSA §4700-G, sub-§2,** as amended by PL 2001, c. 209, Pt. B, §4
21 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

22 **2. Membership.** The commission consists of the ~~Director~~ director of the ~~Division~~
23 ~~division~~ of ~~Health Engineering~~ environmental health within the Department of Health and
24 Human Services or the director's designee; the Director of the Bureau of Geology and
25 Natural Areas within the Department of Conservation or the director's designee; the
26 Commissioner of Transportation or the commissioner's designee; and 4 public members,
27 3 of whom must be well drillers.

28 **Sec. 9. 32 MRSA §4700-H, sub-§1-A,** as enacted by PL 1993, c. 25, §8 and
29 affected by §15, is amended to read:

30 **1-A. Administer examinations.** The commission shall develop and administer all
31 examinations required by section 4700-I, subsection 4. All examinations must be written
32 examinations and must test an applicant's knowledge of the ~~principles of water well~~
33 ~~drilling, abandonment of water wells and the installation of water well pumps.~~ following
34 matters as is appropriate for the license or license endorsement for which the application
35 is made:

- 36 A. Principles of water well drilling;
- 37 B. Principles of geothermal heat exchange well drilling;
- 38 C. Abandonment of water wells;
- 39 D. Abandonment of geothermal heat exchange wells;
- 40 E. Installation of water well pump systems;
- 41 F. Installation of geothermal heat exchange well pump systems; and

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G. The code of performance adopted by the commission.

Sec. 10. 32 MRSA §4700-H, sub-§2, as amended by PL 2001, c. 209, Pt. B, §7, is further amended to read:

2. Licensing. The commission shall license well drillers, geothermal heat exchange well drillers, well drilling companies, geothermal heat exchange well pump installers, pump installers and pump installation companies and may initiate action for the revocation or suspension of such licenses.

Sec. 11. 32 MRSA §4700-H, sub-§3, as amended by PL 2001, c. 209, Pt. B, §7, is further amended to read:

3. Investigate complaints. The commission shall investigate complaints and cases of noncompliance with, or violation of, this chapter or of the ~~well driller and pump installer~~ code of performance adopted by the commission. Complainants must petition the commission in writing within 24 months of completion of a water well or geothermal heat exchange well or the installation, repair or replacement of a pump system. At its discretion, the commission may request that an investigation of an alleged violation be conducted by a neutral qualified individual, acceptable to both the alleged violator and the commission, who shall report to the commission. At its discretion, the commission may refer a complaint to the Attorney General.

Sec. 12. 32 MRSA §4700-H, sub-§4, as amended by PL 2001, c. 209, Pt. B, §8, is further amended to read:

4. Revocation and suspension of license. If the commission determines a violation of this chapter, the ~~well driller and pump installer~~ code of performance adopted by the commission or other laws and rules in effect, including for a well driller or a well drilling company the water well information laws; under Title 12, section 550-B, has occurred, the commission shall notify the responsible ~~water well driller~~, geothermal heat exchange well driller, well drilling company, geothermal heat exchange well pump installer, pump installer or pump installation company by certified or registered mail of the violation. The commission may order the responsible party or parties to correct, within 48 hours of notification, any violation it determines to be a significant threat to public health, including, but not limited to, potential contamination by pathogenic organisms. The commission may order that all other violations be corrected within a period of 60 days following receipt of notification. If the violation is not corrected within 60 days, or within 48 hours for significant threats to public health, the commission may revoke or suspend the license of the responsible party or parties. A licensee who receives a written notice of a violation or of a revocation or suspension of a license under this subsection may request a hearing before the commission. The commission shall conduct such hearings and issue its decision within 30 days of the request. A decision of the commission under this subsection is a final agency action. The commission shall adopt rules governing criteria for license reinstatement. Rules adopted by the commission pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 13. 32 MRSA §4700-H, sub-§5, as amended by PL 1993, c. 25, §9 and affected by §15, is further amended to read:

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1 **5. Adopt code of performance.** The commission shall adopt rules establishing a
2 minimum code of performance for well drillers ~~and~~, pump installers, geothermal heat
3 exchange well drillers and geothermal heat exchange well pump installers. The code of
4 performance must set forth appropriate minimum standards of professional conduct for
5 well drillers ~~and~~, pump installers, geothermal heat exchange well drillers and geothermal
6 heat exchange well pump installers.

7 **Sec. 14. 32 MRSA §4700-H, sub-§6,** as enacted by PL 2001, c. 209, Pt. B, §9, is
8 amended to read:

9 **6. Levy fines.** The commission may levy fines for violations of the ~~well driller and~~
10 ~~pump installer~~ code of performance adopted by the commission of not more than \$1,000
11 per violation.

12 **Sec. 15. 32 MRSA §4700-H, sub-§7,** as enacted by PL 2001, c. 209, Pt. B, §9, is
13 amended to read:

14 **7. Order well abandonment.** The commission shall adopt rules establishing
15 procedures for determining that a water well or geothermal heat exchange well must be
16 abandoned because of prior contamination or because it has been constructed in violation
17 of existing regulations and standards, can not be altered or repaired to meet existing
18 regulations or standards and poses a significant threat to public health or groundwater
19 contamination. Rules adopted by the commission pursuant to this subsection are routine
20 technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

21 **Sec. 16. 32 MRSA §4700-I, first ¶,** as amended by PL 2001, c. 209, Pt. B, §10,
22 is further amended to read:

23 Effective January 1, 1994, a person may not participate in the physical construction
24 of a water well for compensation or any public drinking water well unless licensed under
25 this section. After final adoption of initial rules pursuant to subsection 2-A, a person may
26 not participate in the physical construction of a geothermal heat exchange well for
27 compensation unless licensed under this section.

28 **Sec. 17. 32 MRSA §4700-I, sub-§2,** as amended by PL 2001, c. 209, Pt. B, §10,
29 is further amended to read:

30 **2. Licensure.** ~~As~~ Except as provided in subsection 2-A, an applicant for licensure
31 shall submit to the commission, on a form provided by the commission, a written
32 application for licensure containing such information as the commission requires. A
33 person who holds a valid license as provided for in this section must be in the charge of a
34 licensed well drilling company or pump installation company in order to actively practice
35 well drilling or pump installation, repair or replacement. A company license is valid only
36 while the company employs at least one licensed master well driller for a well drilling
37 company or one master pump installer for a pump installation company. The commission
38 shall license an applicant for well driller licensure as either a master well driller or a
39 journeyman well driller and applicants for pump installer licensure as either a master
40 pump installer or a journeyman pump installer, based on the following criteria.

41 A. A master well driller must have a minimum of 3 years experience in well drilling
42 and have worked an average of 1,000 hours per year as a journeyman well driller for
43 each of those years.

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B. A journeyman well driller must have at least one year experience in well drilling and have worked at least 1,000 hours during that year as an apprentice well driller.

C. A master pump installer must have a minimum of 3 years experience as a pump installer and have worked at least 350 hours as a pump installer during each of those years.

E. A journeyman pump installer must have at least one year experience in pump installing and have worked at least 350 hours during that year as an apprentice pump installer.

F. A well drilling company must be issued a license upon presentation to the commission of a valid master well driller license issued to and held by the owner or an employee of the firm, partnership or corporation.

G. A pump installation company must be issued a license upon presentation to the commission of a valid master pump installer license issued to and held by the owner or an employee of the firm, partnership or corporation.

The commission shall license a well driller or pump installer applicant who is not eligible for licensure under paragraphs A to E as an apprentice.

Sec. 18. 32 MRSA §4700-I, sub-§2-A is enacted to read:

2-A. Geothermal heat exchange well drillers and geothermal heat exchange well pump installers; licensure. The commission shall adopt rules establishing a licensing structure for geothermal heat exchange well drillers and geothermal heat exchange well pump installers. The rules may allow licensure by endorsement. After adoption of the initial rules, rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The initial rules must be adopted through major substantive rulemaking as defined in Title 5, chapter 375, subchapter 2-A. The commission shall consult with appropriate departments and agencies, including the Department of Environmental Protection, during the rule-making process.

Sec. 19. 32 MRSA §4700-I, sub-§3, as amended by PL 2001, c. 209, Pt. B, §10, is further amended to read:

3. Term of license. Well drillers, geothermal heat exchange well drillers, geothermal heat exchange well pump installers and pump installers must be licensed annually. All licenses expire on December 31st of each year. Any person who is a well driller or pump installer on the effective date of this Act is deemed to be licensed.

Sec. 20. 32 MRSA §4700-I, sub-§4-A is enacted to read:

4-A. Examinations for geothermal heat exchange well drillers and geothermal heat exchange well pump installers. After final adoption of initial rules pursuant to subsection 2-A, the commission may require a person to successfully complete a written examination administered by the commission in order to be licensed as a geothermal heat exchange well driller or a geothermal heat exchange well pump installer.

Sec. 21. 32 MRSA §4700-J, first ¶, as amended by PL 2001, c. 209, Pt. B, §11, is further amended to read:

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1 Effective January 1, 1994, a person may not engage in the business of constructing
2 water wells within the State or engage in the installation, replacement or repair of a pump
3 in a water well unless licensed with the commission. After final adoption of initial rules
4 pursuant to subsection 2-A, a person may not engage in the business of constructing
5 geothermal heat exchange wells or engage in the installation, replacement or repair of a
6 pump in a geothermal heat exchange well unless licensed with the commission. An
7 applicant for licensure must complete an application form supplied by the commission,
8 successfully complete any examination required by this chapter and pay an annual license
9 fee established by the commission. The person so licensed shall display on each side of
10 the drilling rig or the pump installer vehicle a seal issued by the commission indicating
11 that person's license number and the current year of licensure. A person licensed under
12 chapter 49 as a master plumber is not required to be licensed with the commission to
13 perform the work of a pump installer.

14 **Sec. 22. 32 MRSA §4700-K**, as enacted by PL 1991, c. 455, Pt. B, §1, is amended
15 to read:

16 **§4700-K. Compliance with other laws and rules**

17 Notwithstanding this chapter, all water wells and geothermal heat exchange wells
18 must be constructed and maintained in accordance with all other laws and rules in effect,
19 including for water wells the water well information laws, Title 12, section 550-B.

20 **Sec. 23. 32 MRSA §4700-L, sub-§1**, as enacted by PL 2001, c. 209, Pt. B, §13,
21 is amended to read:

22 **1. Fine.** Any person, company, firm, partnership or corporation who installs, alters,
23 repairs or replaces a water well, geothermal heat exchange well or pump system without
24 being licensed as provided in this chapter or in violation of the code of performance
25 adopted by the ~~Maine Water Well Commission~~ commission pursuant to section 4700-A,
26 subsection 5, except for an apprentice well driller or an apprentice pump installer as set
27 forth in this chapter, or any person, firm, partnership or corporation who procures a
28 license as provided in this chapter wrongfully or by fraud commits a civil violation
29 punishable by a fine of not more than \$1,000.

30 **Sec. 24. 32 MRSA §4700-L, sub-§3**, as enacted by PL 2001, c. 209, Pt. B, §13,
31 is amended to read:

32 **3. Exclusion.** This chapter does not prevent a person from making water well,
33 geothermal heat exchange well or pump system installations, alterations, repairs or
34 replacements in a single-family residence occupied by that person or to be occupied by
35 that person as a bona fide personal abode, ~~providing as long as~~ as long as the installation, ~~alternation~~
36 alteration, repair or replacement conforms to the standards set forth in this chapter and
37 any rules adopted by the commission or the department.

38 **Sec. 25. 32 MRSA §4700-M**, as amended by PL 2001, c. 209, Pt. B, §13, is
39 further amended to read:

40 **§4700-M. Reciprocity**

41 The commission may issue a license without examination, in a comparable
42 classification, to any person who holds a registration or license in any state, territory or

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1 possession of the United States or any country, if the commission determines that the
2 requirements for registration or licensure of well drillers, geothermal heat exchange well
3 drillers, geothermal heat exchange well pump installers or pump installers under which
4 the person's registration or license was issued do not conflict with this chapter or the code
5 of performance adopted by the commission under this chapter.

6 **Sec. 26. Rulemaking; report; authority to submit legislation.** The initial
7 rules adopted by the Maine Water Well Commission pursuant to the Maine Revised
8 Statutes, Title 32, section 4700-I, subsection 2-A are major substantive rules as defined in
9 Title 5, chapter 375, subchapter 2-A. By January 1, 2010, the Maine Water Well
10 Commission shall submit provisionally adopted initial rules to the Legislature for review
11 by the Joint Standing Committee on Natural Resources. By January 1, 2010, the Maine
12 Water Well Commission shall submit to the Joint Standing Committee on Natural
13 Resources draft legislation to amend the provisions of this Act if any necessary
14 amendments are identified during the rule-making process. The Joint Standing
15 Committee on Natural Resources may submit legislation relating to geothermal heat
16 exchange well construction and licensing to the Second Regular Session of the 124th
17 Legislature.'

18 **SUMMARY**

19 This amendment adds geothermal heat exchange well pump installers to the
20 provisions of the bill. It directs the Maine Water Well Commission to adopt rules
21 establishing a licensing structure for geothermal heat exchange well drillers and
22 geothermal heat exchange well pump installers. It makes the initial rules major
23 substantive; subsequent rules are routine technical. It directs the Maine Water Well
24 Commission to submit provisionally adopted rules to the Legislature by January 1, 2010
25 and to submit draft legislation to amend the provisions of the Act if any necessary
26 amendments are identified during the rule-making process. It authorizes the Joint
27 Standing Committee on Natural Resources to submit legislation to the Second Regular
28 Session of the 124th Legislature. It delays the application of the provisions relating to
29 geothermal heat exchange well construction, geothermal heat exchange well pump
30 installation and licensing requirements for geothermal heat exchange well drillers and
31 geothermal heat exchange well pump installers until after the Maine Water Well
32 Commission finally adopts rules.

FISCAL NOTE REQUIRED
(See attached)



Approved: 04/15/09 *MRC*

124th MAINE LEGISLATURE

LD 860

LR 787(02)

An Act Relating to Geothermal Heat Exchange Wells

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Natural Resources
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increases the number of civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Additional costs to the Maine Water Well Program in the Department of Health and Human Services and to the Department of Environmental Protection to adopt rules for minimum standards governing geothermal heat exchange well drillers and heat exchange pump installers can be absorbed utilizing existing budgeted resources.