

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Hawkins**

# A Bill

**HOUSE BILL**

## For An Act To Be Entitled

8 "AN ACT TO REPEAL A.C.A. 17-43-201 ET SEQ. WHICH CREATED  
9 THE ARKANSAS WATER WELL CONSTRUCTION COMMISSION; TO  
10 TRANSFER ALL DUTIES, POWERS, FUNCTIONS, ASSETS, PROPERTIES  
11 AND APPROPRIATIONS OF A.C.A. 17-43-201 ET SEQ. TO THE  
12 ARKANSAS SOIL AND WATER CONSERVATION COMMISSION; AND FOR  
13 OTHER PURPOSES."

## Subtitle

16 "AN ACT TO TRANSFER POWER AND DUTIES OF WATER WELL  
17 CONSTRUCTION COMMISSION TO THE SOIL AND WATER CONSERVATION  
18 COMMISSION."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Declaration of Policy.

23 The General Assembly has charged the Arkansas Soil and Water  
24 Conservation Commission with developing and implementing a comprehensive  
25 ground water management and protection program. Since water well construction  
26 and pump installation are an integral part of a ground water protection  
27 program, it is in the public interest to incorporate them into the  
28 comprehensive program. Protective measures can then be implemented in the  
29 most efficient and economical way.

31 SECTION 2. Purpose.

32 The purpose of this Act is to abolish the Arkansas Water Well  
33 Construction Commission; to transfer all duties, powers, functions, assets,  
34 properties and appropriations of said commission to the Arkansas Soil and  
35 Water Conservation Commission; and to implement this transfer in an

1 expeditious, orderly and efficient manner.

2

3 SECTION 3. Transfer of Authority.

4 The Water Well Construction Commission as now established and  
5 constituted, is hereby abolished, effective July 1, 1993; and, also effective  
6 July 1, 1993, all functions, powers and duties of said commission in relation  
7 to the installation, construction, repair, and abandonment of water wells and  
8 pumping equipment are hereby transferred to and conferred and imposed upon the  
9 Arkansas Soil and Water Conservation Commission. The Commission shall take  
10 over all records, files, books, papers, maps, furniture, fixtures, equipment  
11 and other assets in the custody or under the control of the commission so  
12 abolished and shall be deemed to have taken over all executory contracts  
13 negotiated by said commission unless it shall have disaffirmed the same within  
14 a reasonable time after July 1, 1993, as contrary in its judgment to the best  
15 interest of the State. All actions, proceedings and hearings of whatsoever  
16 nature pending before the Water Well Construction Commission in matters  
17 relating to water wells and pumping equipment, on July 1, 1993, shall be  
18 transferred to the Arkansas Soil and Water Conservation Commission, and all  
19 such actions, proceedings, and hearings shall survive and be continued, and be  
20 heard and determined by and in the name of the Commission, and shall be  
21 subject to the same incidents and with the same results as though they had  
22 originated with the Commission.

23

24 SECTION 4. Powers and Duties - General.

25 Effective on and after July 1, 1993, the Commission shall have the  
26 authority and responsibility for the administration of Act 641 of 1969, known  
27 as the "Arkansas Water Well Construction Act," and the rules, regulations and  
28 orders established thereunder, and shall adopt, and from time to time amend or  
29 repeal, necessary rules and regulations governing the installation,  
30 construction, repair, and abandonment of water wells and pumping equipment.  
31 With respect thereto, it shall:

32 (A) Hire such employees and contract for such legal and engineering  
33 services as may be necessary to perform its powers and duties under the  
34 provisions of this chapter and fix their salaries within such limitations as  
35 may be provided by law;

1 (B) Issue such orders and take such other actions as may be necessary  
2 to enforce the provisions of this Chapter and the rules and regulations  
3 adopted pursuant thereto;

4  
5 (C) Hold public hearings in accordance with the Administrative  
6 Procedure Act, 25-15-201 et seq.;

7 (D) Establish procedures and forms for the submission, review,  
8 approval, and rejection of applications, notifications, and reports required  
9 under this chapter;

10 (E) Prepare subject matter for examinations to test the knowledge and  
11 skills of:

12 (1) Water well drillers in the construction, alteration, and  
13 repair of water wells, including proper sealing and abandonment of water  
14 wells, and the rules and regulations of this Chapter;

15 (2) Pump installers in the planning, installation, operation,  
16 and repair of pumping equipment and water wells including sealing and  
17 abandonment, pumping efficiency, and the rules and regulations of this  
18 Chapter; and

19 (3) Other persons who by trade install, alter, construct, or  
20 repair water wells and related equipment and who are eligible for license or  
21 certificate;

22 (F) Adopt, amend, or repeal, and publish rules and regulations  
23 governing examinations;

24 (G) Hold examinations of applicants for certificates of registration  
25 at least once a year;

26 (H) Grade all tests and examinations for certificates of registration;  
27 and

28 (I) Issue licenses, permits, or certificates for the type or class of  
29 well construction or repair or pump installation.

30

31 SECTION 5. Enforcement.

32 (A) The Commission may inspect any water well or abandoned water well.

33 (1) Authorized representatives of the Commission may at  
34 reasonable times enter upon, and shall be given access to, any premises for  
35 the purpose of inspection.

1           (2)    Upon the basis of such inspections, if the Commission finds  
2 that applicable laws, rules, or regulations have not been complied with or  
3 that a health hazard exists, the Commission shall disapprove the well. If  
4 disapproved, no well shall thereafter be used until brought into compliance  
5 and any health hazard is eliminated.

6           (3)    Any person aggrieved by the disapproval of a well shall be  
7 afforded the opportunity of a hearing before the Commission.

8           (B)    The Commission may seek in a court of competent jurisdiction an  
9 injunction, whether permanent or temporary, upon affidavit to prevent any  
10 person, business, corporation, or other legal entity from violating any  
11 provisions of this Chapter or any rule or regulation promulgated by the  
12 Commission under the authority of this Chapter. Such injunctions shall be  
13 issued without bond.

14           (1)    Issuance of any injunction shall not preclude any criminal  
15 prosecution for violations of this Chapter.

16           (2)    The members of the Commission, when acting in good faith,  
17 shall not be personally liable for any proceedings taken under this Chapter.

18           (C)    The Commission is empowered, by majority vote, to issue subpoenas  
19 for witnesses, to require their attendance in the giving of testimony before  
20 it, and to require the production of books, papers, and records in any  
21 proceeding before the Commission as may be pertinent to any questions lawfully  
22 before the Commission. The subpoena shall be served by the sheriff or any  
23 other officer authorized by law to serve process in this state.

24           (1)    In case of failure or refusal on the part of any person to  
25 comply with any subpoena issued by the Commission, or in case of the refusal  
26 of any witness to testify or answer as to any matter regarding which he may be  
27 lawfully interrogated, the circuit court of the county where the person is  
28 domiciled or is engaged in business or where the records are filed, on  
29 application of the Commission, may issue an order to compel the person to  
30 comply with the subpoena and to attend before the Commission and produce the  
31 documents and give his testimony upon matters, as may be lawfully required.

32           (2)    The court shall have the power to punish for contempt as in case  
33 of disobedience of like subpoena issued by or from the court, or for a refusal  
34 to testify therein.

35

1 SECTION 6.

2 The Commission shall perform any and all such other duties as are  
3 consistent with the purposes of this Chapter.

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5 SECTION 7. Disposition of Funds.

6 All fees, civil penalties, or payments of any type collected by the  
7 Commission under this chapter shall be deposited in one (1) or more banks  
8 qualifying for the deposit of public funds to be used by the Commission for  
9 the proper administration of this Chapter, which deposits shall be audited  
10 under the rules and regulations prescribed by the Department of Finance and  
11 Administration.

12

13 SECTION 8. Vacancies.

14 The first vacancy occurring on the Arkansas Soil and Water Conservation  
15 Commission after July 1, 1993, shall be filled by a representative of the  
16 water well construction industry.

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18 SECTION 9.

19 This Act shall not affect any licenses, permits, or certificates  
20 previously issued by the Arkansas Water Well Construction Commission as long  
21 as they are in compliance with this Chapter.

22

23 SECTION 10.

24 Effective July 1, 1993, A.C.A. 17-43-102(b) is amended to read as  
25 follows:

26 "(b) In that there is an ever-increasing demand for water in this state,  
27 necessitating the construction of water wells, and pump installation, it is  
28 imperative that the general health, safety, and welfare be protected by  
29 providing the Arkansas Soil and Water Conservation Commission with  
30 jurisdiction over pump installation, which is an inherent part of well  
31 construction. The regulation of pump installation and installers is essential  
32 to fulfill the intent of the Arkansas Water Well Construction Act."

33

34 SECTION 11. Definitions.

35 Effective July 1, 1993, A.C.A. 17-43-103(1) is amended to read as

1 follows:

2       "(1) "Commission" means the Arkansas Soil and Water Conservation  
3 Commission, as created by §15-20-201;"

4

5       SECTION 12.

6       The following laws and parts of laws enacted by the General Assembly of  
7 the State of Arkansas are hereby repealed, effective July 1, 1993: Arkansas  
8 Code §§17-43-201 through 17-43-209.

9

10       SECTION 13.

11       Any other laws and parts of laws in conflict with this Act are hereby  
12 repealed.

13

14       SECTION 14.

15       All provisions of this Act of a general and permanent nature are  
16 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
17 Revision Commission shall incorporate the same into the Code.

18

19       SECTION 15. Severability.

20       If any provision of this Act or the application thereof to any person or  
21 circumstance is held invalid, such invalidity shall not affect other  
22 provisions or applications of the Act which can be given effect without the  
23 invalid provision or application, and to this end the provisions herein are  
24 declared to be severable.

25

26       SECTION 16. Emergency.

27       It is hereby found and determined by the General Assembly that the  
28 herein described transfer be implemented for efficiency and economy.  
29 Therefore, an emergency is declared to exist and this Act being necessary for  
30 the preservation of the public peace, health and safety shall be in full force  
31 and effect from and after July 1, 1993.

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