

Act 748 of the 1989 Regular Session.

Act 748

HB1614

By: Representatives Mahony, O. Miller and Northcutt

"AN ACT TO AMEND ARKANSAS CODE 17-43-204 TO PROVIDE THE WATER WELL CONSTRUCTION COMMISSION WITH INJUNCTIVE AND SUBPOENA POWERS TO ENFORCE VIOLATIONS AND INVESTIGATIONS OF VIOLATIONS OF THE ARKANSAS WATER WELL CONSTRUCTION ACT; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 17-43-204 is hereby amended to read as follows:  
"17-43-204. Powers and duties.

(a) The commission shall be responsible for the administration of this chapter and shall adopt, and from time to time amend or repeal, necessary rules and regulations governing the installation, construction, repair, and abandonment of water wells and pumping equipment. With respect thereto, it shall:

(1) Hold public hearings in accordance with the Administrative Procedure Act of 1967, 25-15-201 et seq.;

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

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

(4) Prepare subject matter for examinations to test the knowledge and skills of:

(A) Water well drillers in the construction, alteration, and repair of water wells, including proper sealing and abandonment of water wells, and the rules and regulations of this chapter;

(B) Pump installers in the planning, installation, operation, and repair of pumping equipment and water wells including sealing and abandonment, pumping efficiency, and the rules and regulations of this chapter; and

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

(5) Adopt, amend, or repeal, and publish rules and regulations governing examinations;

(6) Hold examinations of applicants for certificates of registration at least once a year;

(7) Grade all tests and examinations for certificates of registration;

(8) Issue, licenses, permits, or certificates for the type or class of well construction or repair or pump installation; and

(9) Perform such other duties as are consistent with the purposes of this chapter.

(b) The commission may adopt and procure a seal for its official use.

(c) The commission is authorized to seek in a court of competent jurisdiction an injunction, whether permanent or temporary, upon affidavit to prevent any person, business, corporation, or other legal entity from

violating any provisions of this chapter or any rule or regulation promulgated by the commission under the authority of this chapter. Such injunctions shall be issued without bond. The issuance of any injunction shall not preclude any criminal prosecution for violations of this chapter. The members of the commission, when acting in good faith, shall not be personally liable for any proceedings taken under this chapter.

(d) The commission is empowered, by majority vote, to issue subpoenas for witnesses, to require their attendance in the giving of testimony before it, and to require the production of books, papers, and records in any proceeding before the commission as may be pertinent to any questions lawfully before the commission. The subpoena shall be served by the sheriff or any other officer authorized by law to serve process in this state. In case of failure or refusal on the part of any person to comply with any subpoena issued by the commission, or in case of the refusal of any witness to testify or answer as to any matter regarding which he may be lawfully interrogated, the circuit court of the county where the person is domiciled or is engaged in business or where the records are filed, on application of the commission, may issue an order to compel the person to comply with the subpoena and to attend before the commission and produce the documents and give his testimony upon matters, as may be lawfully required. The court shall have the power to punish for contempt as in case of disobedience of like subpoena issued by or from the court, or for a refusal to testify therein.

(e) When engaged in any investigation, any employee of the commission shall have the power to administer oaths and to take depositions of persons relevant to any investigations for violations of this chapter."

SECTION 2. All provisions of this act of general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 4. Emergency. It is hereby found and determined by the Seventy-Seventh General Assembly of the State of Arkansas that the available water supply is being depleted or polluted at a rapidly increasing rate in Arkansas; that it is necessary to take protective action to conserve a potable water supply for future generations; and that such water supply can be partially assured through reasonable controls of water well and pump installation contractors. Therefore, in order to conserve our natural water supply for the future, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

APPROVED: March 21, 1989

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