

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 473

By: Senator Gibson As engrossed 3-11-87

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 641 OF 1969, AS AMENDED, PROVIDING THE COMMITTEE ON WATER WELL CONSTRUCTION WITH AUTHORITY AND JURISDICTION OVER WATER WELL PUMP INSTALLATION, TO CHANGE THE NAME OF THE COMMITTEE TO THE ARKANSAS WATER WELL CONSTRUCTION COMMISSION; AND FOR OTHER PURPOSES."

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

SECTION 1. LEGISLATIVE PURPOSE. In that there is an ever increasing demand for water in this State, necessitating the construction of water wells, and pump installation, it is imperative that the general health, safety and welfare be protected by providing the Committee on Water Well Construction with jurisdiction over pump installation, which is an inherit part of well construction. The regulation of pump installation and installers is essential to fulfill the intent of the Water Well Act.

SECTION 2. Section 3 of Act 641 of 1969, as amended, the same being Arkansas Statute 21-2003, is hereby amended to read as follows:

"Section 3. DEFINITIONS. As used in this Act: (a) Committee as created by Section 5 of Act 641 of 1969, as amended, means Commission or Arkansas Water Well Construction Commission.

(b) "Person" includes any natural person, partnership, association, business trust, and public or private corporation.

(c) "Repair" means any action which results in a breaking, opening, or replacement of a well seal or cap.

(d) "Rig" means the machinery used in the construction or repair of water wells and/or the installation or repair of pumping equipment, which has a lift or pulling capacity of greater than 1,000 lbs.

(e) "Water Well" means any excavation that is drilled, re-drilled, cored, bored, washed, driven, dug, jetted or otherwise artificially constructed for the purpose of locating, acquiring, diverting or artificially recharging ground water; to include excavations made for the purpose of exchanging the geothermal energy found in the earth as herein defined as heat-pump wells; but such terms do not include an excavation made for the purpose of obtaining or for prospecting for oil, natural gas, minerals, or products of mining or quarrying, or for inserting media to repressure oil or natural gas bearing formation or for storing petroleum, natural gas, or other products.

(f) "Water Well Contractor" means any person who engages in the business of constructing, altering, or repairing any water well, or the installation or repair of pumping equipment exclusive of surveying or other acts preparatory to the construction of a water well.

(g) "Water Well Driller" means any natural person, whether or not connected with a firm, partnership, corporation, or other public or private association, who engages for compensation in the construction, alteration or repair of any water well in this State.

(h) "Heatpump Wells" means any excavation that is drilled, redrilled, cored, bored, washed, driven, dug, jetted or otherwise artificially constructed for the purpose of obtaining or exchanging geothermal energy for use with ground water source air conditioning or heatpump systems. The excavation may have pipes installed inside the excavation to circulate or discharge various fluids for the above said use and purpose and the well may or may not be back-filled after excavation.

(i) "Pumping Equipment" means all machinery and parts of pumps such as, deep well turbine pumps with right angle gear drive, vertical hollow shaft motors, jet pumps and motors, submersible pumps and motors, and other parts and fittings installed and or attached to the well; excluding cooling units, horizontal electric motors, heat pump circulating pipe and stationary diesel or gas engines.

(j) "Pump Installer" means any natural person, whether or not connected with a firm, partnership, corporation, public or private association, who engages for compensation in the alteration or repair of a water well, and installs or repairs pumping equipment."

(k) "Heat Pump Circulating Pipe" are pipes that circulate fluid in heat pump wells and are a part of heat pump well construction but not considered

pumping equipment.

SECTION 3. Section 6 of Act 641 of 1969, the same being Arkansas Statute 21-2006, is hereby amended to read as follows:

"Section 6. AUTHORITY OF THE COMMITTEE. The Committee shall be responsible for the administration of this Act 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:

(a) hold public hearings in accordance with the Administrative Procedures Act of 1967;

(b) issue such orders and take such other actions as may be necessary to enforce the provisions of this Act and the Rules and Regulations adopted pursuant thereto;

(c) establish procedures and forms for the submission, review, approval and rejection of applications, notifications, and reports required under this Act;

(d) prepare subject matter for examinations to test the knowledge and skills of:

(1) 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 Act;

(2) 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 Act;

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

(e) adopt, amend or repeal, and publish rules and regulations governing examinations;

(f) hold examinations of applicants for certificates of registration at least once a year;

(g) grade all tests and examinations for certificates of registration;

(h) perform such other duties as are consistent with the purposes of this Act;

(i) issue licenses, permits, or certificates for the type or class of well construction or repair or pump installation."

SECTION 4. Section 10 of Act 641 of 1969, as amended, the same being Arkansas Statute 21-21010, is hereby amended to read as follows:

"Section 10. CERTIFICATES OF REGISTRATION. (a) Upon proper application to the Committee, any natural person shall be entitled to be registered and to be issued a certificate of registration, as a certified water well driller who shall furnish to the Committee proof that he is not less than eighteen (18) years of age, is a citizen of the United States or has declared his intention to become a citizen, is of good moral character, has knowledge of the rules and regulations adopted under this Act, and has had no less than two (2) years experience in the work for which he is applying for a certificate of registration. The Committee shall provide an examination which each such applicant must pass in order to qualify for such certificate of registration.

(b) Any person who was engaged in business as a water well driller for a period of two (2) years immediately prior to the date of enactment hereof shall, upon application made within ninety (90) days of the date of enactment hereof accompanied by satisfactory proof that he was so engaged and accompanied by payment of the required fees, be registered and issued a certificate of registration as provided in Subsection (a) of this Section, without fulfilling the requirement that he pass any examination prescribed pursuant thereto.

(c) Certificates of registration issued pursuant to this Section are not transferable and shall expire on July 31 of each year. A certificate of registration may be renewed without examination by making application therefor and paying the applicable fee. Provided, if any person issued a water well driller certificate of registration hereunder shall fail to make application for renewal thereof within one (1) year after the expiration of such certificate of registration, the certificate of registration of such person shall be renewed only upon application, examination and payment of the applicable fee plus a penalty of twenty-five dollars (\$25.00).

(d) The Committee, upon application therefor and upon the payment of the proper registration fee, may issue a certificate of registration as a registered water well driller to any person who holds a certificate of qualification or registration issued to him by proper authority in any state or territory or possession of the United States, or of any other country, if the registration standard under which said certificate was issued is of a standard

not lower than that specified by the provisions of this Act, and the rules of the Water Well Drillers Board promulgated pursuant to the provisions hereof, and if that particular state, territory, or possession of the United States, or country extends similar privileges to the persons registered under the provisions of this Act.

(e) Any person who was engaged in business of pump installation for a period of two (2) years immediately prior to the date of enactment hereof shall, upon application and payment of required fees within 90 days of an effective date, to be promulgated by the Committee on Water Well Construction, be registered or certified as provided in subsection (a) of this section without fulfilling the requirement that the applicant pass any examination prescribed pursuant thereto."

SECTION 5. Subsection (a) of Section 11 of Act 641 of 1969, as amended, the same being Arkansas Statute 21-2011(a), is hereby amended to read as follows:

"(a) The Committee may adopt, and from time to time, amend or repeal, rules and regulations governing applications for water well contractor licenses provided that the Committee shall license, as a water well contractor, any person properly making applications therefor on a form prepared and furnished by the Committee."

SECTION 6. Subsection (c) of Section 11 of Act 641 of 1969, as amended, the same being Arkansas Statute 21-2011(c), is hereby amended to read as follows:

"(c) All water well contractors shall abide by the licensing laws of Arkansas and shall post a water well contractors bond. The Committee shall establish and promulgate rules establishing the amount of water well contractor's bonds based on a contractor's past performance or violations of the rules and regulations of the Water Well Act, construction methods, type or class of construction, and business practices. In no instance shall this bond be less than two thousand dollars (\$2,000.00) unless exempted by other provisions of this act."

SECTION 7. Section 12 of Act Act 641 of 1969, the same being Arkansas Statute 21-2012, is hereby amended to read as follows:

"Section 12. VIOLATIONS. It shall be unlawful, and a violation of this Act unless exempted under the provisions of Section 19 and Section 20 of Act 641 of 1969: (a) for any person to engage in the construction, alteration or repair, or installation of a pump or water well unless the same is performed under the supervision of an individual licensed or certified by the Committee in the construction, alteration, repair or installation of water wells and pump equipment;

(b) for any water well contractor to fail to deliver, within thirty (30) days after completion of the construction of a water well, to the Committee upon forms supplied by the Committee a 'Report on Water Well Construction' containing such information as may be requested by appropriate rules and regulations of the Committee;

(c) for any person to install, construct, repair or alter a water well or water well pumping equipment which is not in compliance with appropriate Rules and Regulations or is a Health Hazard;

(d) for a person to operate a rig without a permit as prescribed in Section 9 of Act 641 of 1969, as amended;

(e) for a person to enter into a contract for the construction of a water well or pump installation or hold himself out in the business as a water well contractor without posting bond or bond fee and holding a license as provided in Section 11 of Act 641 of 1969, as amended by this Act;

(f) every day, or any part thereof, in which such violation(s) occurs shall constitute a separate offense."

SECTION 8. EXEMPTIONS. (a) Where the Committee finds that compliance with all requirements of this Act would result in undue hardship, an exemption from any one or more such requirements may be granted by the Committee to the extent such exemption can be granted without impairing the intent and purpose of this Act.

(b) A county, municipality, or other political subdivision of the State engaged in well drilling shall be exempt from paying the license or rig fees for such operations performed for said political subdivision by employees of and with equipment owned by the governmental entity.

(c) Persons who exclusively install pumping equipment for:

(1) Individual household wells used primarily for domestic use, or

(2) Wells having a maximum potential flow rate of less than fifty thousand gallons per day shall be exempt.

SECTION 9. Nothing in this Act nor any rule, regulation or order pursuant thereto shall prevent a person who has not obtained a license pursuant to Section 10 or Section 11 of this Act from constructing, altering or repairing a water well or installing or repairing a pump or pumping equipment for use by him on his own land; nor shall this Act apply to any person owning, operating and maintaining on the effective date of this Act any such well unless it constitutes a public health hazard.

SECTION 10. All laws or parts of laws in conflict with this Act are hereby repealed.

SECTION 11. It is hereby found and determined by the General Assembly that this Act should go into effect at the beginning of the next fiscal year; that the next fiscal year begins on July 1, 1987; that unless this Emergency Clause is adopted, this Act may not go into effect until after July 1, 1987. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987.

/s/ Gibson

