

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1813

4 By: Representatives G. Hendrix, Northcutt, Jones, Ammons, Simmons, Ray,
5 Jordan, Von Gremp, and Wallis

6
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For An Act To Be Entitled

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

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Subtitle

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

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

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24 SECTION 1. Declaration of Policy.

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

32 (b) The purpose of this act is to transfer all duties, powers, and
33 functions of the Arkansas Water Well Construction Commission to the Arkansas
34 Soil and Water Conservation Commission in an expeditious, orderly and
35 efficient manner.

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SECTION 2. Transfer of Authority.

The Water Well Construction Commission as now established and constituted, is hereby abolished, effective July 1, 1995. At that time all functions, powers and duties of said commission in relation to the installation, construction, repair, and abandonment of water wells and pumping equipment are hereby transferred to and conferred and imposed upon the Arkansas Soil and Water Conservation Commission. All actions, proceedings and hearings of whatsoever nature pending before the Water Well Construction Commission in matters relating to water wells and pumping equipment, on July 1, 1995, shall be transferred to the Arkansas Soil and Water Conservation Commission, and all such actions, proceedings, and hearings shall survive and be continued, and be heard and determined by and in the name of the Commission, and shall be subject to the same incidents and with the same results as though they had originated with the Commission.

SECTION 3. Transfer of Property, Assets and Appropriations.

Effective July 1, 1995, all assets, properties and appropriations of the Arkansas Water Well Construction Commission are transferred to the Arkansas Soil and Water Conservation Commission. The commission shall take over all records, files, books, papers, maps, furniture, fixtures, equipment and other assets in the custody or under the control of the commission so abolished and shall be deemed to have taken over all executory contracts negotiated by said commission unless it shall have disaffirmed the same within a reasonable time after July 1, 1995, as contrary in its judgment to the best interest of the state. The commission shall have available to it all appropriations made to the Water Well Construction Commission for the 1995-1997 biennium for the carrying out of its duties and responsibilities under Act 641 of 1969, known as the "Arkansas Water Well Construction Act."

SECTION 4. Powers and Duties - General.

Effective on and after July 1, 1995, the Commission shall have the authority and responsibility for the administration of Act 641 of 1969, known as the "Arkansas Water Well Construction Act", and the rules, regulations and orders established thereunder, and shall adopt, and from time to time amend

1 or repeal, necessary rules and regulations governing the installation,
2 construction, repair, and abandonment of water wells and pumping equipment.
3 With respect thereto, it shall:

4 (A) Hire such employees and contract for such legal and engineering
5 services as may be necessary to perform its powers and duties under the
6 provisions of this act and fix their salaries within such limitations as may
7 be provided by law;

8 (B) Issue such orders and take such other actions as may be necessary
9 to enforce the provisions of this act and the rules and regulations adopted
10 pursuant thereto;

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

13 (D) Establish procedures and forms for the submission, review,
14 approval, and rejection of applications, notifications, and reports required
15 under this act;

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

18 (1) Water well drillers in the construction, alteration, and
19 repair of water wells, including proper sealing and abandonment of water
20 wells, and the rules and regulations of this act;

21 (2) Pump installers in the planning, installation, operation,
22 and repair of pumping equipment and water wells including sealing and
23 abandonment, pumping efficiency, and the rules and regulations of this act;
24 and

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

28 (F) Adopt, amend, or repeal, and publish rules and regulations
29 governing examinations;

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

32 (H) Grade all tests and examinations for certificates of
33 registration; and

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

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SECTION 5. Enforcement.

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

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

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

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

(B) The Commission may 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 act or any rule or regulation promulgated by the Commission under the authority of this act. Such injunctions shall be issued without bond.

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

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

(C) 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.

(1) 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

1 application of the Commission, may issue an order to compel the person to
2 comply with the subpoena and to attend before the Commission and produce the
3 documents and give his testimony upon matters, as may be lawfully required.

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

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8 SECTION 6.

9 The Commission shall perform any and all such other duties as are
10 consistent with the purposes of this act.

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12 SECTION 7. Disposition of Funds.

13 All fees, civil penalties, or payments of any type collected by the
14 Commission under this act shall be deposited in one (1) or more banks
15 qualifying for the deposit of public funds to be used by the Commission for
16 the proper administration of this act, which deposits shall be audited under
17 the rules and regulations prescribed by the Department of Finance and
18 Administration.

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20 SECTION 8.

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

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25 SECTION 9.

26 Effective July 1, 1995, A.C.A. 17-43-102(b) is amended to read as
27 follows:

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

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1 SECTION 10. Definitions.

2 Effective July 1, 1995, A.C.A. 17-43-103(1) is amended to read as
3 follows:

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

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7 SECTION 11.

8 The following laws and parts of laws enacted by the General Assembly of
9 the State of Arkansas are hereby repealed, effective July 1, 1995: Arkansas
10 Code §§17-43-201 through 17-43-209.

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12 SECTION 12.

13 Any other laws and parts of laws in conflict with this act are hereby
14 repealed.

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16 SECTION 13.

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

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21 SECTION 14. Severability.

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

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28 SECTION 15. Emergency.

29 It is hereby found and determined by the General Assembly that the
30 herein described transfer be implemented for efficiency and economy.
31 Therefore, an emergency is declared to exist and this act being necessary for
32 the preservation of the public peace, health and safety shall be in full
33 force and effect from and after July 1, 1995.

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