

HOUSE BILL NO. 739

INTRODUCED BY IVERSON, HOLLIDAY, GALT

IN THE HOUSE

| | |
|-------------------|---|
| February 9, 1985 | Introduced and referred to Committee on State Administration. |
| February 11, 1985 | Fiscal Note requested. |
| February 15, 1985 | Fiscal Note returned. |
| February 20, 1985 | Committee recommend bill do pass as amended. Report adopted. |
| | Statement of Intent attached. |
| | Bill printed and placed on members' desks. |
| February 21, 1985 | Second reading, do pass. |
| | On motion, taken from second reading and rereferred to Committee on Appropriations. |
| February 22, 1985 | Considered correctly engrossed. |
| March 22, 1985 | Committee recommend bill do pass. |
| | Bill printed and placed on members' desks. |
| March 23, 1985 | Second reading, do pass. |
| | Considered correctly engrossed. |
| March 25, 1985 | Third reading, passed. |
| | Transmitted to Senate. |

IN THE SENATE

March 26, 1985 Introduced and referred to
 Committee on State
 Administration.

March 28, 1985 Committee recommend bill be
 concurred in as amended.
 Report adopted.

 Statement of Intent amended.

March 29, 1985 On motion, rules temporarily
 suspended in order that all
 bills considered on second
 reading on the 70th
 Legislative Day advance to
 third reading that same day.

April 1, 1985 Second reading, concurred in.

 Third reading, concurred in.
 Ayes, 36; Noes, 14.

 Returned to House with
 amendments and with amended
 Statement of Intent.

IN THE HOUSE

April 2, 1985 Received from Senate.

April 8, 1985 Second reading, amendments
 concurred in.

 On motion, rules suspended and
 bill placed on third reading
 this day.

 Third reading, amendments
 concurred in.

 Sent to enrolling.

April 11, 1985 Correctly enrolled.

| | |
|----------------|---|
| April 12, 1985 | Signed by Speaker. |
| April 15, 1985 | Signed by President. |
| April 17, 1985 | Delivered to Governor. |
| April 22, 1985 | Returned from Governor with recommended amendments. |
| April 23, 1985 | Second reading, Governor's amendments concurred in. |
| | Third reading, Governor's amendments concurred in. |
| | Governor's amendments transmitted to Senate. |

IN THE SENATE

| | |
|----------------|---|
| April 24, 1985 | Received from House. |
| | Second reading, Governor's amendments concurred in. |
| April 25, 1985 | Third reading, Governor's amendments concurred in. |
| | Returned to House. |

IN THE HOUSE

| | |
|----------------|------------------------------|
| April 25, 1985 | Received from Senate. |
| | Sent to enrolling. |
| | Reported correctly enrolled. |

1 (3) The board shall adopt rules to establish mandatory
 2 water well construction standards and enforcement procedures
 3 by January 1, 1987. The standards must address the
 4 protection of the drilling site; specifications for casing
 5 materials; materials and specifications for well screens;
 6 casing perforations; well development procedures; proper
 7 sealing and grouting; temporary capping; cleaning and
 8 disinfecting; contract bonds; guarantees; contractors' and
 9 drillers' qualifications; tests for yield and drawdown;
 10 reporting procedures and requirements for water quality,
 11 well logs, location of wells, and information relating to
 12 local conditions; well filters; access ports; gravel
 13 packing; sampling methods; plumbness and alignment of the
 14 hole and casing; well abandonment procedures; and other
 15 necessary and appropriate standards.

16 (4) The board may request the department to inspect
 17 water wells drilled or being drilled, and the department has
 18 access to these at reasonable times.

19 (5) The board may, ~~subject to 37-1-101 and~~
 20 ~~37-1-121,~~ establish a program for training water well
 21 drillers or prospective water well drillers and apprentices
 22 to more effectively carry out this chapter.

23 (6) The board shall set and enforce standards and
 24 rules governing the licensing, registration, and conduct of
 25 water well drillers and water well contractors.

1 (7) The board shall set fees commensurate with costs.
 2 The board may establish fees, including but not limited to
 3 fees for application, examination, renewal, reciprocity,
 4 late renewal, and continuing education. Board costs not
 5 related to specific programs may be equitably distributed as
 6 determined by the board. The board shall maintain records
 7 sufficient to support the fees charged for each program
 8 area.

9 (8) The rules of the board shall be compiled in
 10 printed form for distribution to interested persons, for
 11 which the department may charge a fee. Sums realized from
 12 these sales shall be deposited in the state special revenue
 13 fund for the use of the board, ~~subject to 37-1-101(6).~~

14 (9) The board shall:

15 (a) authorize the department to issue licenses to
 16 qualified water well contractors and drillers in this state;

17 (b) cause examinations to be made of applicants for
 18 licenses;

19 (c) deny, revoke, or suspend licenses for good cause,
 20 after notice and opportunity to be heard;

21 (d) reinstate licenses previously revoked when
 22 justification is shown to the satisfaction of the board; and

23 (e) generally perform duties which will carry out this
 24 chapter.

25 (10) The board shall pay to the department its share of

1 the assessed costs of the department in administering this
2 chapter."

3 NEW SECTION. Section 3. Disciplinary authority --
4 injunctions. (1) The board may adopt rules specifying
5 grounds for disciplinary action and rules providing for:

- 6 (a) revocation of a license;
- 7 (b) suspension of its judgment of revocation on terms
8 and conditions determined by the board;
- 9 (c) suspension of the right to practice for a period
10 not exceeding 1 year;
- 11 (d) placing a licensee on probation;
- 12 (e) reprimand or censure of a licensee; or
- 13 (f) taking any other action in relation to
14 disciplining a licensee as the board in its discretion
15 considers proper.

16 (2) Any disciplinary action by the board must be
17 conducted as a contested case hearing under the provisions
18 of the Montana Administrative Procedure Act.

19 (3) A board may maintain an action to enjoin a person
20 from engaging in the drilling, making, or construction of
21 water wells until a license to practice is procured. A
22 person who has been enjoined and who violates the injunction
23 is punishable for contempt of court.

24 Section 4. Section 37-43-302, MCA, is amended to read:

25 "37-43-302. License required. (1) The drilling,

1 making, or construction of water wells into the groundwater
2 resources of this state is declared to be a business and
3 activity affecting the public interest, requiring reasonable
4 standards of competence. It Except as provided in subsection
5 (2), it is unlawful for any contractor or driller, as
6 defined in this chapter, to construct a water well without
7 first having obtained a valid license therefor as provided
8 for in this chapter.

9 (2) A license is not required for:

10 (a) a person who drills a water well on land that is
11 owned or leased by him and is used by him for farming,
12 ranching, or agricultural purposes or as his residence and
13 who obtains a permit from the board; or

14 (b) a person who performs labor or services for a
15 licensed water well contractor or driller in connection with
16 the drilling of a water well at the direction and under the
17 personal supervision of a licensed water well contractor or
18 driller."

19 Section 5. Section 37-43-303, MCA, is amended to read:

20 "37-43-303. Application -- fee. (1) A Except as
21 provided in 37-43-302(2), a person desiring to engage in the
22 drilling, making, or construction of one or more wells for
23 underground water in this state shall first file an
24 application with the department for a contractor's or
25 driller's license, setting out his qualifications, the

1 equipment proposed to be used in the contracting, and other
2 matters required by the board on forms adopted by the board.

3 (2) The department shall charge a fee prescribed by
4 the board for filing the application of a person. The
5 application shall not be acted on until the fee has been
6 paid. Fees collected under this section shall be deposited
7 in the state special revenue fund for the use of the board,
8 ~~subject to 37-1-101(6).~~

9 (3) A license to construct water wells shall be issued
10 to an applicant if, in the opinion of the board, the
11 applicant is qualified to conduct water well construction
12 operations. In the granting of licenses, the board shall
13 have due regard for the interest of this state in the
14 protection of its underground waters."

15 Section 6. Section 37-43-304, MCA, is amended to read:

16 "37-43-304. Temporary license pending examination. A
17 temporary water well contractor's or driller's license may
18 be issued to a person who, by evidence satisfactory to the
19 board, is found to possess the qualifications numbered (a)
20 through (f) in 37-43-305(1) and who has applied for a
21 license under this chapter. The temporary license entitles
22 the holder to engage in the business of drilling, making, or
23 constructing water wells until the time of the next
24 examination given under 37-43-305. On the applicant's
25 successfully meeting the board's requirements on

1 examination, the temporary license shall be returned to the
2 department and a regular license issued. If the holder of a
3 temporary license fails, after notice of the holding of an
4 examination, to submit himself for examination or to meet
5 the board's requirements, the temporary license expires and
6 shall be returned to the department for cancellation."

7 Section 7. Section 37-43-305, MCA, is amended to read:

8 "37-43-305. Examination and qualifications. (1) Under
9 rules pertaining to the business of drilling and contracting
10 for drilling of water wells which the board adopts, the
11 department shall ~~subject to 37-1-101(4)~~, inquire by
12 examination or otherwise into the qualifications of
13 applicants for licenses to drill or make wells for the
14 production of underground waters in this state.
15 Examinations may be oral, written, or both. The
16 qualifications required by the board are:

17 (a) familiar knowledge of groundwater laws of this
18 state and sanitary standards for water well drilling and
19 construction of water wells;

20 (b) knowledge of types of water well construction;

21 (c) knowledge of types of drilling tools and their
22 uses;

23 (d) knowledge of underground geology in its relation
24 to well construction;

25 (e) possession of adequate equipment by the applicant

1 to complete satisfactory water wells under the standards of
2 the board;

3 (f) financial responsibility of the applicant;

4 (g) successful completion of an examination given by
5 the department; and

6 (h) the applicant must have completed a minimum of 1
7 year apprenticeship under the direct supervision of a
8 licensed water well contractor.

9 (2) The department shall give examinations at times
10 and places the board determines. Failure of an applicant to
11 successfully complete the examination disqualifies him from
12 making further application for a period of 3 months. The
13 board shall act within a reasonable time on applications for
14 licenses. An application shall be accompanied by the initial
15 fee, and failure to successfully meet the requirements of
16 the board does not entitle the applicant to a refund of the
17 fee."

18 Section 8. Section 37-43-306, MCA, is amended to read:

19 "37-43-306. Bond to be required. The department, on
20 issuance of a contractor's license under this chapter, shall
21 require, before the person commences operations in this
22 state, a good and sufficient surety bond or in lieu thereof
23 its equivalent in a certificate of deposit, cashier's check,
24 bank draft, or certified check, to be approved by the board,
25 in the penal sum of ~~\$47,000~~ \$10,000 conditioned that the

1 licensee will comply with the rules of the board, and
2 ~~reasonable--requirements--made--by--the--board--in--connection~~
3 ~~with--the--drilling--of--an--individual--well.~~ The bond shall
4 indemnify the property owner whenever a well is drilled or
5 constructed against such damages as may arise as a result of
6 improper drilling or construction of an individual well.
7 Partial or complete forfeiture of the bond must be
8 determined by the appropriate court of civil jurisdiction."

9 NEW SECTION. Section 9. Appropriation. There is
10 appropriated from the general fund to the Department of
11 Natural Resources and Conservation for the biennium ending
12 June 30, 1987, \$13,000 to provide staff to assist the Board
13 of Water Well Contractors in carrying out the provisions of
14 this act.

15 NEW SECTION. Section 10. Repealer. Section 37-43-103,
16 MCA, is repealed.

17 NEW SECTION. Section 11. Extension of authority. Any
18 existing authority of the board of water well contractors to
19 make rules on the subject of the provisions of this act is
20 extended to the provisions of this act.

21 NEW SECTION. Section 12. Codification instruction.
22 Section 2-15-1862 is intended to be renumbered and
23 recodified as an integral part of Title 2, chapter 15, part
24 33.

25 NEW SECTION. Section 13. Effective date. This act is

LC 1238/01

1 effective July 1, 1985.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 381-85

Form BD-15

In compliance with a written request received February 11, 19 85, there is hereby submitted a Fiscal Note for H.B. 739 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

To transfer the administration of the Board of Water Well Contractors from the Department of Commerce to the Department of Natural Resources and Conservation; redefining contractor and defining driller; prescribing additional duties and powers of the board, adoption of water well construction standards, requiring a license for water well drillers, increasing bonding requirements and providing an appropriation.

ASSUMPTIONS:

- 1) Fees will be commensurate with costs to administer the program. (See Technical Note)
- 2) Additional responsibilities required in the proposed bill will require 1.50 FTE and operational costs above current expenditure levels.
- 3) The general fund appropriation is required and must be used for personal service expenditures only.
- 4) The general fund appropriation is split equally between the fiscal years.

FISCAL IMPACT:

| | <u>Current</u> | <u>FY 86 Proposed</u> | <u>Increase</u> | <u>Current</u> | <u>FY 87 Proposed</u> | <u>Increase</u> |
|--------------------|----------------|---------------------------|-----------------|----------------|---------------------------|-----------------|
| Expenditures: | | | | | | |
| Personal Services | \$ 18,679 | \$ 31,631 | \$ 12,952 | \$ 18,686 | \$ 31,631 | \$ 12,945 |
| Operating Expenses | <u>12,075</u> | <u>17,760</u> | <u>5,685</u> | <u>12,097</u> | <u>15,610</u> | <u>3,513</u> |
| | \$ 30,754 | \$ 49,391 | \$ 18,637 | \$ 30,783 | \$ 47,241 | \$ 16,458 |
| General Fund | \$ -0- | 6,500 | 6,500 | -0- | 6,500 | 6,500 |
| State Special | | | | | | |
| Revenue Fund | \$ 30,754 | \$ 42,891 | \$ 12,137 | \$ 30,783 | \$ 40,741 | \$ 9,958 |

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 15, 1985
HB 739

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LOCAL IMPACT:

None

TECHNICAL NOTE:

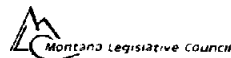
Section 9 of the proposed bill appropriates \$13,000 general fund to pay for staff to assist the board.
Section 2(7) authorizes the board to set fees commensurate with costs.

The above sections appear to be in conflict.

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 STATEMENT OF INTENT
2 HOUSE BILL 739
3 House State Administration Committee
4

5 A statement of intent is required for this bill because
6 the bill amends 37-43-202 to require the board of water well
7 contractors to adopt rules for specific water well
8 construction standards. It is intended that any existing
9 standards be substantially reviewed, modified, and
10 incorporated into the new standards. It is further intended
11 that the new standards should be modeled after the existing
12 water well construction standards adopted by the Montana
13 well drillers association and the United States
14 environmental protection agency.



SECOND READING
HB 739

1 HOUSE BILL NO. 739

2 INTRODUCED BY IVERSON, HOLLIDAY, GALT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE
5 ADMINISTRATION OF THE BOARD OF WATER WELL CONTRACTORS FROM
6 THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL
7 RESOURCES AND CONSERVATION; REDEFINING "WATER WELL
8 CONTRACTOR" AND PROVIDING A DEFINITION OF "WATER WELL
9 DRILLER"; PRESCRIBING ADDITIONAL DUTIES AND POWERS OF THE
10 BOARD; REQUIRING THE ADOPTION OF WATER WELL CONSTRUCTION
11 STANDARDS; REQUIRING A LICENSE FOR WATER WELL DRILLERS;
12 ~~INCREASING BOND REQUIREMENTS~~; PROVIDING AN APPROPRIATION;
13 AMENDING SECTIONS 37-43-102, 37-43-202, AND 37-43-302
14 THROUGH 37-43-306, MCA; REPEALING SECTION 37-43-103, MCA;
15 AND PROVIDING AN EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 37-43-102, MCA, is amended to read:

19 "37-43-102. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:21 (1) "Board" means the board of water well contractors
22 provided for in [2-15-1862].23 (2) "Department" means the department of ~~commerce~~
24 natural resources and conservation provided for in Title 2,
25 chapter 15, part ~~is~~ 33.

1 (3) "Water well" means an excavation that is drilled,
2 cored, bored, washed, driven, dug, jettted, or otherwise
3 constructed and intended for the location, diversion,
4 artificial recharge, or acquisition of groundwater. The term
5 does not include spring development or excavations, by
6 backhoe or otherwise, for recovery and use of surface waters
7 or for the purpose of stock watering or irrigation where the
8 depth is 25 feet or less. The term does not include an
9 excavation made for the purpose of obtaining or prospecting
10 for oil, natural gas, minerals, or products of mining or
11 quarrying or for inserting media to repressure oil- or
12 natural-gas-bearing formations or for storing petroleum,
13 natural gas, or other products.

14 (4) "Water well contractor" or "contractor" means a
15 natural person who constructs contracts on behalf of a firm,
16 corporation, partnership, or other business entity to
17 construct a water well on lands other than his own for
18 compensation.

19 (5) "Water well driller" or "driller" means any person
20 at a drilling site causing a water well to be drilled."

21 Section 2. Section 37-43-202, MCA, is amended to read:

22 "37-43-202. Powers and duties. (1) The board may
23 exercise the authority granted to it by this chapter.24 (2) The board shall adopt rules and orders to
25 effectuate this chapter.

1 (3) The board shall adopt rules to establish mandatory
 2 water well construction standards and enforcement procedures
 3 by January 1, 1987. The standards must address the
 4 protection of the drilling site; specifications for casing
 5 materials; materials and specifications for well screens;
 6 casing perforations; well development procedures; proper
 7 sealing and grouting; temporary capping; cleaning and
 8 disinfecting; contract bonds; guarantees; contractors' and
 9 drillers' qualifications; tests for yield and drawdown;
 10 reporting procedures and requirements for water quality,
 11 well logs, location of wells, and information relating to
 12 local conditions; well filters; access ports; gravel
 13 packing; sampling methods; plumbness and alignment of the
 14 hole and casing; well abandonment procedures; and other
 15 necessary and appropriate standards. THE RULES ADOPTED BY
 16 THE BOARD MUST CONFORM WITH RULES ADOPTED BY THE DEPARTMENT
 17 OF HEALTH AND ENVIRONMENTAL SCIENCES THAT PERTAIN TO THE
 18 LOCATION, CONSTRUCTION, AND SANITARY PROTECTION OF WATER
 19 WELLS.

20 ~~(3)~~(4) The board may request the department to inspect
 21 water wells drilled or being drilled, and the department has
 22 access to these at reasonable times.

23 ~~(4)~~(5) The board may, ~~subject to 37-1-101 and~~
 24 ~~37-1-121,~~ establish a program for training water well
 25 drillers or prospective water well drillers and apprentices

1 to more effectively carry out this chapter.

2 (6) The board shall set and enforce standards and
 3 rules governing the licensing, registration, and conduct of
 4 water well drillers and water well contractors.

5 (7) The board shall set fees commensurate with costs.
 6 The board may establish fees, including but not limited to
 7 fees for application, examination, renewal, reciprocity,
 8 late renewal, and continuing education. Board costs not
 9 related to specific programs may be equitably distributed as
 10 determined by the board. The board shall maintain records
 11 sufficient to support the fees charged for each program
 12 area.

13 ~~(5)~~(8) The rules of the board shall be compiled in
 14 printed form for distribution to interested persons, for
 15 which the department may charge a fee. Sums realized from
 16 these sales shall be deposited in the state special revenue
 17 fund for the use of the board, ~~subject to 37-1-101~~(6).

18 ~~(6)~~(9) The board shall:

19 (a) authorize the department to issue licenses to
 20 qualified water well contractors and drillers in this state;

21 (b) cause examinations to be made of applicants for
 22 licenses;

23 (c) deny, revoke, or suspend licenses for good cause,
 24 after notice and opportunity to be heard;

25 (d) reinstate licenses previously revoked when

1 justification is shown to the satisfaction of the board; and

2 (e) generally perform duties which will carry out this
3 chapter.

4 (10) The board shall pay to the department its share of
5 the assessed costs of the department in administering this
6 chapter."

7 NEW SECTION. Section 3. Disciplinary authority --
8 injunctions. (1) The board may adopt rules specifying
9 grounds for disciplinary action and rules providing for:

10 (a) revocation of a license;

11 (b) suspension of its judgment of revocation on terms
12 and conditions determined by the board;

13 (c) suspension of the right to practice for a period
14 not exceeding 1 year;

15 (d) placing a licensee on probation;

16 (e) reprimand or censure of a licensee; or

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18 disciplining a licensee as the board in its discretion
19 considers proper.

20 (2) Any disciplinary action by the board must be
21 conducted as a contested case hearing under the provisions
22 of the Montana Administrative Procedure Act.

23 (3) A board may maintain an action to enjoin a person
24 from engaging in the drilling, making, or construction of
25 water wells until a license to practice is procured. A

1 person who has been enjoined and who violates the injunction
2 is punishable for contempt of court.

3 Section 4. Section 37-43-302, MCA, is amended to read:

4 "37-43-302. License required. (1) The drilling,
5 making, or construction of water wells into the groundwater
6 resources of this state is declared to be a business and
7 activity affecting the public interest, requiring reasonable
8 standards of competence. ~~It~~ Except as provided in subsection
9 (2), it is unlawful for any contractor or driller, as
10 defined in this chapter, to construct a water well without
11 first having obtained a valid license therefor as provided
12 for in this chapter.

13 (2) A license is not required for:

14 (a) a person who drills a water well on land that is
15 owned or leased by him and is used by him for farming,
16 ranching, or agricultural purposes or as his residence and
17 who obtains a permit from the board; or

18 (b) a person who performs labor or services for a
19 licensed water well contractor or driller in connection with
20 the drilling of a water well at the direction and under the
21 personal supervision of a licensed water well contractor or
22 driller."

23 Section 5. Section 37-43-303, MCA, is amended to read:

24 "37-43-303. Application -- fee. (1) A Except as
25 provided in 37-43-302(2), a person desiring to engage in the

1 drilling, making, or construction of one or more wells for
 2 underground water in this state shall first file an
 3 application with the department for a contractor's or
 4 driller's license, setting out his qualifications, the
 5 equipment proposed to be used in the contracting, and other
 6 matters required by the board on forms adopted by the board.

7 (2) The department shall charge a fee prescribed by
 8 the board for filing the application of a person. The
 9 application shall not be acted on until the fee has been
 10 paid. Fees collected under this section shall be deposited
 11 in the state special revenue fund for the use of the board,
 12 ~~subject to 37-1-101(6).~~

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 14 to an applicant if, in the opinion of the board, the
 15 applicant is qualified to conduct water well construction
 16 operations. In the granting of licenses, the board shall
 17 have due regard for the interest of this state in the
 18 protection of its underground waters."

19 Section 6. Section 37-43-304, MCA, is amended to read:

20 "37-43-304. Temporary license pending examination. A
 21 temporary water well contractor's or driller's license may
 22 be issued to a person who, by evidence satisfactory to the
 23 board, is found to possess the qualifications numbered (a)
 24 through (f) in 37-43-305(1) and who has applied for a
 25 license under this chapter. The temporary license entitles

1 the holder to engage in the business of drilling, making, or
 2 constructing water wells until the time of the next
 3 examination given under 37-43-305. On the applicant's
 4 successfully meeting the board's requirements on
 5 examination, the temporary license shall be returned to the
 6 department and a regular license issued. If the holder of a
 7 temporary license fails, after notice of the holding of an
 8 examination, to submit himself for examination or to meet
 9 the board's requirements, the temporary license expires and
 10 shall be returned to the department for cancellation."

11 Section 7. Section 37-43-305, MCA, is amended to read:

12 "37-43-305. Examination and qualifications. (1) Under
 13 rules pertaining to the business of drilling and contracting
 14 for drilling of water wells which the board adopts, the
 15 department shall, ~~subject to 37-1-101(4),~~ inquire by
 16 examination or otherwise into the qualifications of
 17 applicants for licenses to drill or make wells for the
 18 production of underground waters in this state.
 19 Examinations may be oral, written, or both. The
 20 qualifications required by the board are:

- 21 (a) familiar knowledge of groundwater laws of this
 22 state and sanitary standards for water well drilling and
 23 construction of water wells;
 24 (b) knowledge of types of water well construction;
 25 (c) knowledge of types of drilling tools and their

1 uses;

2 (d) knowledge of underground geology in its relation
3 to well construction;

4 (e) possession of adequate equipment by the applicant
5 to complete satisfactory water wells under the standards of
6 the board;

7 (f) financial responsibility of the applicant;

8 (g) successful completion of an examination given by
9 the department; and

10 (h) the applicant must have completed a minimum of 1
11 year apprenticeship under the direct supervision of a
12 licensed water well contractor.

13 (2) The department shall give examinations at times
14 and places the board determines. Failure of an applicant to
15 successfully complete the examination disqualifies him from
16 making further application for a period of 3 months. The
17 board shall act within a reasonable time on applications for
18 licenses. An application shall be accompanied by the initial
19 fee, and failure to successfully meet the requirements of
20 the board does not entitle the applicant to a refund of the
21 fee."

22 Section 8. Section 37-43-306, MCA, is amended to read:

23 "37-43-306. Bond to be required. The department, on
24 issuance of a contractor's license under this chapter, shall
25 require, before the person commences operations in this

1 state, a good and sufficient surety bond or in lieu thereof
2 its equivalent in a certificate of deposit, cashier's check,
3 bank draft, or certified check, to be approved by the board,
4 in the penal sum of ~~\$4,000~~, ~~\$10,000~~ \$4,000, conditioned that
5 the licensee will comply with the rules of the board, and
6 ~~reasonable requirements made by the board in connection~~
7 ~~with the drilling of an individual well. The bond shall~~
8 ~~indemnify the property owner whenever a well is drilled or~~
9 ~~constructed against such damages as may arise as a result of~~
10 ~~improper drilling or construction of an individual well.~~
11 ~~Partial or complete forfeiture of the bond must be~~
12 ~~determined by the appropriate court of civil jurisdiction."~~

13 NEW SECTION. Section 9. Appropriation. There is
14 appropriated from the general fund to the Department of
15 Natural Resources and Conservation for the biennium ending
16 June 30, 1987, \$13,000 to provide staff to assist the Board
17 of Water Well Contractors in carrying out the provisions of
18 this act.

19 NEW SECTION. Section 10. Repealer. Section 37-43-103,
20 MCA, is repealed.

21 NEW SECTION. Section 11. Extension of authority. Any
22 existing authority of the board of water well contractors to
23 make rules on the subject of the provisions of this act is
24 extended to the provisions of this act.

25 NEW SECTION. Section 12. Codification instruction.

1 Section 2-15-1862 is intended to be renumbered and
2 recodified as an integral part of Title 2, chapter 15, part
3 33.

4 NEW SECTION. Section 13. Effective date. This act is
5 effective July 1, 1985.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 739

3 House State Administration Committee

4

5 A statement of intent is required for this bill because
6 the bill amends 37-43-202 to require the board of water well
7 contractors to adopt rules for specific water well
8 construction standards. It is intended that any existing
9 standards be substantially reviewed, modified, and
10 incorporated into the new standards. It is further intended
11 that the new standards should be modeled after the existing
12 water well construction standards adopted by the Montana
13 well drillers association and the United States
14 environmental protection agency.

THIRD READING

HB739

1 HOUSE BILL NO. 739

2 INTRODUCED BY IVERSON, HOLLIDAY, GALT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE
5 ADMINISTRATION OF THE BOARD OF WATER WELL CONTRACTORS FROM
6 THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL
7 RESOURCES AND CONSERVATION; REDEFINING "WATER WELL
8 CONTRACTOR" AND PROVIDING A DEFINITION OF "WATER WELL
9 DRILLER"; PRESCRIBING ADDITIONAL DUTIES AND POWERS OF THE
10 BOARD; REQUIRING THE ADOPTION OF WATER WELL CONSTRUCTION
11 STANDARDS; REQUIRING A LICENSE FOR WATER WELL DRILLERS;
12 INCREASING-BOND-REQUIREMENTS; PROVIDING AN APPROPRIATION;
13 AMENDING SECTIONS 37-43-102, 37-43-202, AND 37-43-302
14 THROUGH 37-43-306, MCA; REPEALING SECTION 37-43-103, MCA;
15 AND PROVIDING AN EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 37-43-102, MCA, is amended to read:

19 "37-43-102. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:21 (1) "Board" means the board of water well contractors
22 provided for in [2-15-1862].23 (2) "Department" means the department of commerce
24 natural resources and conservation provided for in Title 2,
25 chapter 15, part ~~18~~ 33.

1 (3) "Water well" means an excavation that is drilled,
2 cored, bored, washed, driven, dug, jetted, or otherwise
3 constructed and intended for the location, diversion,
4 artificial recharge, or acquisition of groundwater. The term
5 does not include spring development or excavations, by
6 backhoe or otherwise, for recovery and use of surface waters
7 or for the purpose of stock watering or irrigation where the
8 depth is 25 feet or less. The term does not include an
9 excavation made for the purpose of obtaining or prospecting
10 for oil, natural gas, minerals, or products of mining or
11 quarrying or for inserting media to repressure oil- or
12 natural-gas-bearing formations or for storing petroleum,
13 natural gas, or other products.

14 (4) "Water well contractor" or "contractor" means a
15 natural person who constructs contracts on behalf of a firm,
16 corporation, partnership, or other business entity to
17 construct a water well on lands other than his own for
18 compensation.

19 (5) "Water well driller" or "driller" means any person
20 at a drilling site causing a water well to be drilled."

21 Section 2. Section 37-43-202, MCA, is amended to read:

22 "37-43-202. Powers and duties. (1) The board may
23 exercise the authority granted to it by this chapter.24 (2) The board shall adopt rules and orders to
25 effectuate this chapter.

1 (3) The board shall adopt rules to establish mandatory
 2 water well construction standards and enforcement procedures
 3 by January 1, 1987. The standards must address the
 4 protection of the drilling site; specifications for casing
 5 materials; materials and specifications for well screens;
 6 casing perforations; well development procedures; proper
 7 sealing and grouting; temporary capping; cleaning and
 8 disinfecting; contract bonds; guarantees; contractors' and
 9 drillers' qualifications; tests for yield and drawdown;
 10 reporting procedures and requirements for water quality,
 11 well logs, location of wells, and information relating to
 12 local conditions; well filters; access ports; gravel
 13 packing; sampling methods; plumbness and alignment of the
 14 hole and casing; well abandonment procedures; and other
 15 necessary and appropriate standards. THE RULES ADOPTED BY
 16 THE BOARD MUST CONFORM WITH RULES ADOPTED BY THE DEPARTMENT
 17 OF HEALTH AND ENVIRONMENTAL SCIENCES THAT PERTAIN TO THE
 18 LOCATION, CONSTRUCTION, AND SANITARY PROTECTION OF WATER
 19 WELLS.

20 ~~(3)~~(4) The board may request the department to inspect
 21 water wells drilled or being drilled, and the department has
 22 access to these at reasonable times.

23 ~~(4)~~(5) The board may ~~subject to 37-1-101~~ and
 24 ~~37-1-121~~ establish a program for training water well
 25 drillers or prospective water well drillers and apprentices

1 to more effectively carry out this chapter.

2 (6) The board shall set and enforce standards and
 3 rules governing the licensing, registration, and conduct of
 4 water well drillers and water well contractors.

5 (7) The board shall set fees commensurate with costs.
 6 The board may establish fees, including but not limited to
 7 fees for application, examination, renewal, reciprocity,
 8 late renewal, and continuing education. Board costs not
 9 related to specific programs may be equitably distributed as
 10 determined by the board. The board shall maintain records
 11 sufficient to support the fees charged for each program
 12 area.

13 ~~(5)~~(8) The rules of the board shall be compiled in
 14 printed form for distribution to interested persons, for
 15 which the department may charge a fee. Sums realized from
 16 these sales shall be deposited in the state special revenue
 17 fund for the use of the board ~~subject to 37-1-101~~(6).

18 ~~(6)~~(9) The board shall:

19 (a) authorize the department to issue licenses to
 20 qualified water well contractors and drillers in this state;

21 (b) cause examinations to be made of applicants for
 22 licenses;

23 (c) deny, revoke, or suspend licenses for good cause,
 24 after notice and opportunity to be heard;

25 (d) reinstate licenses previously ~~revoked~~ when

1 justification is shown to the satisfaction of the board; and

2 (e) generally perform duties which will carry out this
3 chapter.

4 (10) The board shall pay to the department its share of
5 the assessed costs of the department in administering this
6 chapter."

7 NEW SECTION. Section 3. Disciplinary authority --
8 injunctions. (1) The board may adopt rules specifying
9 grounds for disciplinary action and rules providing for:

10 (a) revocation of a license;

11 (b) suspension of its judgment of revocation on terms
12 and conditions determined by the board;

13 (c) suspension of the right to practice for a period
14 not exceeding 1 year;

15 (d) placing a licensee on probation;

16 (e) reprimand or censure of a licensee; or

17 (f) taking any other action in relation to
18 disciplining a licensee as the board in its discretion
19 considers proper.

20 (2) Any disciplinary action by the board must be
21 conducted as a contested case hearing under the provisions
22 of the Montana Administrative Procedure Act.

23 (3) A board may maintain an action to enjoin a person
24 from engaging in the drilling, making, or construction of
25 water wells until a license to practice is procured. A

1 person who has been enjoined and who violates the injunction
2 is punishable for contempt of court.

3 Section 4. Section 37-43-302, MCA, is amended to read:

4 "37-43-302. License required. (1) The drilling,
5 making, or construction of water wells into the groundwater
6 resources of this state is declared to be a business and
7 activity affecting the public interest, requiring reasonable
8 standards of competence. ~~It~~ Except as provided in subsection
9 (2), it is unlawful for any contractor or driller, as
10 defined in this chapter, to construct a water well without
11 first having obtained a valid license therefor as provided
12 for in this chapter.

13 (2) A license is not required for:

14 (a) a person who drills a water well on land that is
15 owned or leased by him and is used by him for farming,
16 ranching, or agricultural purposes or as his residence and
17 who obtains a permit from the board; or

18 (b) a person who performs labor or services for a
19 licensed water well contractor or driller in connection with
20 the drilling of a water well at the direction and under the
21 personal supervision of a licensed water well contractor or
22 driller."

23 Section 5. Section 37-43-303, MCA, is amended to read:

24 "37-43-303. Application -- fee. (1) A Except as
25 provided in 37-43-302(2), a person desiring to engage in the

1 drilling, making, or construction of one or more wells for
 2 underground water in this state shall first file an
 3 application with the department for a contractor's or
 4 driller's license, setting out his qualifications, the
 5 equipment proposed to be used in the contracting, and other
 6 matters required by the board on forms adopted by the board.

7 (2) The department shall charge a fee prescribed by
 8 the board for filing the application of a person. The
 9 application shall not be acted on until the fee has been
 10 paid. Fees collected under this section shall be deposited
 11 in the state special revenue fund for the use of the board
 12 ~~subject-to-37-1-101(6)~~.

13 (3) A license to construct water wells shall be issued
 14 to an applicant if, in the opinion of the board, the
 15 applicant is qualified to conduct water well construction
 16 operations. In the granting of licenses, the board shall
 17 have due regard for the interest of this state in the
 18 protection of its underground waters."

19 Section 6. Section 37-43-304, MCA, is amended to read:

20 "37-43-304. Temporary license pending examination. A
 21 temporary water well contractor's or driller's license may
 22 be issued to a person who, by evidence satisfactory to the
 23 board, is found to possess the qualifications numbered (a)
 24 through (f) in 37-43-305(1) and who has applied for a
 25 license under this chapter. The temporary license entitles

1 the holder to engage in the business of drilling, making, or
 2 constructing water wells until the time of the next
 3 examination given under 37-43-305. On the applicant's
 4 successfully meeting the board's requirements on
 5 examination, the temporary license shall be returned to the
 6 department and a regular license issued. If the holder of a
 7 temporary license fails, after notice of the holding of an
 8 examination, to submit himself for examination or to meet
 9 the board's requirements, the temporary license expires and
 10 shall be returned to the department for cancellation."

11 Section 7. Section 37-43-305, MCA, is amended to read:

12 "37-43-305. Examination and qualifications. (1) Under
 13 rules pertaining to the business of drilling and contracting
 14 for drilling of water wells which the board adopts, the
 15 department shall ~~subject-to-37-1-101(4)~~ inquire by
 16 examination or otherwise into the qualifications of
 17 applicants for licenses to drill or make wells for the
 18 production of underground waters in this state.
 19 Examinations may be oral, written, or both. The
 20 qualifications required by the board are:

- 21 (a) familiar knowledge of groundwater laws of this
 22 state and sanitary standards for water well drilling and
 23 construction of water wells;
 24 (b) knowledge of types of water well construction;
 25 (c) knowledge of types of drilling tools and their

1 uses;

2 (d) knowledge of underground geology in its relation
3 to well construction;

4 (e) possession of adequate equipment by the applicant
5 to complete satisfactory water wells under the standards of
6 the board;

7 (f) financial responsibility of the applicant;

8 (g) successful completion of an examination given by
9 the department; and

10 (h) the applicant must have completed a minimum of 1
11 year apprenticeship under the direct supervision of a
12 licensed water well contractor.

13 (2) The department shall give examinations at times
14 and places the board determines. Failure of an applicant to
15 successfully complete the examination disqualifies him from
16 making further application for a period of 3 months. The
17 board shall act within a reasonable time on applications for
18 licenses. An application shall be accompanied by the initial
19 fee, and failure to successfully meet the requirements of
20 the board does not entitle the applicant to a refund of the
21 fee."

22 Section 8. Section 37-43-306, MCA, is amended to read:

23 "37-43-306. Bond to be required. The department, on
24 issuance of a contractor's license under this chapter, shall
25 require, before the person commences operations in this

1 state, a good and sufficient surety bond or in lieu thereof
2 its equivalent in a certificate of deposit, cashier's check,
3 bank draft, or certified check, to be approved by the board,
4 in the penal sum of \$4,000; ~~\$10,000~~ \$4,000, conditioned that
5 the licensee will comply with the rules of the board, and
6 ~~reasonable requirements made by the board in connection~~
7 ~~with the drilling of an individual well. The bond shall~~
8 ~~indemnify the property owner whenever a well is drilled or~~
9 ~~constructed against such damages as may arise as a result of~~
10 ~~improper drilling or construction of an individual well.~~
11 ~~Partial or complete forfeiture of the bond must be~~
12 ~~determined by the appropriate court of civil jurisdiction."~~

13 NEW SECTION. Section 9. Appropriation. There is
14 appropriated from the general fund to the Department of
15 Natural Resources and Conservation for the biennium ending
16 June 30, 1987, \$13,000 to provide staff to assist the Board
17 of Water Well Contractors in carrying out the provisions of
18 this act.

19 NEW SECTION. Section 10. Repealer. Section 37-43-103,
20 MCA, is repealed.

21 NEW SECTION. Section 11. Extension of authority. Any
22 existing authority of the board of water well contractors to
23 make rules on the subject of the provisions of this act is
24 extended to the provisions of this act.

25 NEW SECTION. Section 12. Codification instruction.

1 Section 2-15-1862 is intended to be renumbered and
2 recodified as an integral part of Title 2, chapter 15, part
3 33.

4 NEW SECTION. Section 13. Effective date. This act is
5 effective July 1, 1985.

-End-

SENATE

STANDING COMMITTEE REPORT

March 28, 1985

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE BILL No. 739

third reading copy (blue color)

(Senator Galt)

TRANSFER OF THE BOARD OF WATER WELL DRILLERS TO DEPT. NAT. RES. AND CONSER.

Respectfully report as follows: That HOUSE BILL No. 739

be amended as follows:

1. STATEMENT OF INTENT, page 1.

Following: Line 14

Insert: "It is the intent of the legislature that the act of transferring the board of water well contractors from the department of commerce to the department of natural resources and conservation may not be construed to abridge or otherwise restrict the existing authority and autonomy of the board of water well contractors."

2. Page 3, lines 15 through 19.

Following: "standards." on line 15

Strike: the remainder of line 15 through line 19

ND AS AMENDED

E CONCURRED IN

XXXXXX

XXXXXX

Handwritten signature of Jack Gaffey, Chairman.

1 STATEMENT OF INTENT

2 HOUSE BILL 739

3 House State Administration Committee

4
5 A statement of intent is required for this bill because
6 the bill amends 37-43-202 to require the board of water well
7 contractors to adopt rules for specific water well
8 construction standards. It is intended that any existing
9 standards be substantially reviewed, modified, and
10 incorporated into the new standards. It is further intended
11 that the new standards should be modeled after the existing
12 water well construction standards adopted by the Montana
13 well drillers association and the United States
14 environmental protection agency. IT IS THE INTENT OF THE
15 LEGISLATURE THAT THE ACT OF TRANSFERRING THE BOARD OF WATER
16 WELL CONTRACTORS FROM THE DEPARTMENT OF COMMERCE TO THE
17 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY NOT BE
18 CONSTRUED TO ABRIDGE OR OTHERWISE RESTRICT THE EXISTING
19 AUTHORITY AND AUTONOMY OF THE BOARD OF WATER WELL
20 CONTRACTORS.

1 HOUSE BILL NO. 739

2 INTRODUCED BY IVERSON, HOLLIDAY, GALT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE
5 ADMINISTRATION OF THE BOARD OF WATER WELL CONTRACTORS FROM
6 THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL
7 RESOURCES AND CONSERVATION; REDEFINING "WATER WELL
8 CONTRACTOR" AND PROVIDING A DEFINITION OF "WATER WELL
9 DRILLER"; PRESCRIBING ADDITIONAL DUTIES AND POWERS OF THE
10 BOARD; REQUIRING THE ADOPTION OF WATER WELL CONSTRUCTION
11 STANDARDS; REQUIRING A LICENSE FOR WATER WELL DRILLERS;
12 INCREASING BOND REQUIREMENTS; PROVIDING AN APPROPRIATION;
13 AMENDING SECTIONS 37-43-102, 37-43-202, AND 37-43-302
14 THROUGH 37-43-306, MCA; REPEALING SECTION 37-43-103, MCA;
15 AND PROVIDING AN EFFECTIVE DATE."

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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20 otherwise, in this chapter the following definitions apply:21 (1) "Board" means the board of water well contractors
22 provided for in [2-15-1862].23 (2) "Department" means the department of commerce
24 natural resources and conservation provided for in Title 2,
25 chapter 15, part ~~8~~ 33.

1 (3) "Water well" means an excavation that is drilled,
2 cored, bored, washed, driven, dug, jetted, or otherwise
3 constructed and intended for the location, diversion,
4 artificial recharge, or acquisition of groundwater. The term
5 does not include spring development or excavations, by
6 backhoe or otherwise, for recovery and use of surface waters
7 or for the purpose of stock watering or irrigation where the
8 depth is 25 feet or less. The term does not include an
9 excavation made for the purpose of obtaining or prospecting
10 for oil, natural gas, minerals, or products of mining or
11 quarrying or for inserting media to repressure oil- or
12 natural-gas-bearing formations or for storing petroleum,
13 natural gas, or other products.

14 (4) "Water well contractor" or "contractor" means a
15 natural person who constructs contracts on behalf of a firm,
16 corporation, partnership, or other business entity to
17 construct a water well on lands other than his own for
18 compensation.

19 (5) "Water well driller" or "driller" means any person
20 at a drilling site causing a water well to be drilled."

21 Section 2. Section 37-43-202, MCA, is amended to read:

22 "37-43-202. Powers and duties. (1) The board may
23 exercise the authority granted to it by this chapter.24 (2) The board shall adopt rules and orders to
25 effectuate this chapter.

1 (3) The board shall adopt rules to establish mandatory
 2 water well construction standards and enforcement procedures
 3 by January 1, 1987. The standards must address the
 4 protection of the drilling site; specifications for casing
 5 materials; materials and specifications for well screens;
 6 casing perforations; well development procedures; proper
 7 sealing and grouting; temporary capping; cleaning and
 8 disinfecting; contract bonds; guarantees; contractors' and
 9 drillers' qualifications; tests for yield and drawdown;
 10 reporting procedures and requirements for water quality,
 11 well logs, location of wells, and information relating to
 12 local conditions; well filters; access ports; gravel
 13 packing; sampling methods; plumbness and alignment of the
 14 hole and casing; well abandonment procedures; and other
 15 necessary and appropriate standards. ~~THE--RULES--ADOPTED--BY~~
 16 ~~THE--BOARD--MUST--CONFORM--WITH--RULES--ADOPTED--BY--THE--DEPARTMENT~~
 17 ~~OF--HEALTH--AND--ENVIRONMENTAL--SCIENCES--THAT--PERTAIN--TO--THE~~
 18 ~~LOCATION,--CONSTRUCTION,--AND--SANITARY--PROTECTION--OF--WATER~~
 19 ~~WELLS.~~

20 (3)(4) The board may request the department to inspect
 21 water wells drilled or being drilled, and the department has
 22 access to these at reasonable times.

23 (4)(5) The board may, ~~subject to 37-1-101 and~~
 24 ~~37-1-121,~~ establish a program for training water well
 25 drillers or prospective water well drillers and apprentices

1 to more effectively carry out this chapter.

2 (6) The board shall set and enforce standards and
 3 rules governing the licensing, registration, and conduct of
 4 water well drillers and water well contractors.

5 (7) The board shall set fees commensurate with costs.
 6 The board may establish fees, including but not limited to
 7 fees for application, examination, renewal, reciprocity,
 8 late renewal, and continuing education. Board costs not
 9 related to specific programs may be equitably distributed as
 10 determined by the board. The board shall maintain records
 11 sufficient to support the fees charged for each program
 12 area.

13 (5)(8) The rules of the board shall be compiled in
 14 printed form for distribution to interested persons, for
 15 which the department may charge a fee. Sums realized from
 16 these sales shall be deposited in the state special revenue
 17 fund for the use of the board, ~~subject to 37-1-101(6).~~

18 (6)(9) The board shall:

19 (a) authorize the department to issue licenses to
 20 qualified water well contractors and drillers in this state;

21 (b) cause examinations to be made of applicants for
 22 licenses;

23 (c) deny, revoke, or suspend licenses for good cause,
 24 after notice and opportunity to be heard;

25 (d) reinstate licenses previously revoked when

1 justification is shown to the satisfaction of the board; and

2 (e) generally perform duties which will carry out this
3 chapter.

4 (10) The board shall pay to the department its share of
5 the assessed costs of the department in administering this
6 chapter."

7 NEW SECTION. Section 3. Disciplinary authority --
8 injunctions. (1) The board may adopt rules specifying
9 grounds for disciplinary action and rules providing for:

- 10 (a) revocation of a license;
- 11 (b) suspension of its judgment of revocation on terms
- 12 and conditions determined by the board;
- 13 (c) suspension of the right to practice for a period
- 14 not exceeding 1 year;
- 15 (d) placing a licensee on probation;
- 16 (e) reprimand or censure of a licensee; or
- 17 (f) taking any other action in relation to

18 disciplining a licensee as the board in its discretion
19 considers proper.

20 (2) Any disciplinary action by the board must be
21 conducted as a contested case hearing under the provisions
22 of the Montana Administrative Procedure Act.

23 (3) A board may maintain an action to enjoin a person
24 from engaging in the drilling, making, or construction of
25 water wells until a license to practice is procured. A

1 person who has been enjoined and who violates the injunction
2 is punishable for contempt of court.

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5 making, or construction of water wells into the groundwater
6 resources of this state is declared to be a business and
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9 (2), it is unlawful for any contractor or driller, as
10 defined in this chapter, to construct a water well without
11 first having obtained a valid license therefor as provided
12 for in this chapter.

13 (2) A license is not required for:

14 (a) a person who drills a water well on land that is
15 owned or leased by him and is used by him for farming,
16 ranching, or agricultural purposes or as his residence and
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18 (b) a person who performs labor or services for a
19 licensed water well contractor or driller in connection with
20 the drilling of a water well at the direction and under the
21 personal supervision of a licensed water well contractor or
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23 Section 5. Section 37-43-303, MCA, is amended to read:
24 "37-43-303. Application -- fee. (1) A ~~Except as~~
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1 drilling, making, or construction of one or more wells for
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 4 driller's license, setting out his qualifications, the
 5 equipment proposed to be used in the contracting, and other
 6 matters required by the board on forms adopted by the board.

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 8 the board for filing the application of a person. The
 9 application shall not be acted on until the fee has been
 10 paid. Fees collected under this section shall be deposited
 11 in the state special revenue fund for the use of the board,
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13 (3) A license to construct water wells shall be issued
 14 to an applicant if, in the opinion of the board, the
 15 applicant is qualified to conduct water well construction
 16 operations. In the granting of licenses, the board shall
 17 have due regard for the interest of this state in the
 18 protection of its underground waters."

19 Section 6. Section 37-43-304, MCA, is amended to read:

20 "37-43-304. Temporary license pending examination. A
 21 temporary water well contractor's or driller's license may
 22 be issued to a person who, by evidence satisfactory to the
 23 board, is found to possess the qualifications numbered (a)
 24 through (f) in 37-43-305(1) and who has applied for a
 25 license under this chapter. The temporary license entitles

1 the holder to engage in the business of drilling, making, or
 2 constructing water wells until the time of the next
 3 examination given under 37-43-305. On the applicant's
 4 successfully meeting the board's requirements on
 5 examination, the temporary license shall be returned to the
 6 department and a regular license issued. If the holder of a
 7 temporary license fails, after notice of the holding of an
 8 examination, to submit himself for examination or to meet
 9 the board's requirements, the temporary license expires and
 10 shall be returned to the department for cancellation."

11 Section 7. Section 37-43-305, MCA, is amended to read:

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 13 rules pertaining to the business of drilling and contracting
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 17 applicants for licenses to drill or make wells for the
 18 production of underground waters in this state.
 19 Examinations may be oral, written, or both. The
 20 qualifications required by the board are:

21 (a) familiar knowledge of groundwater laws of this
 22 state and sanitary standards for water well drilling and
 23 construction of water wells;

24 (b) knowledge of types of water well construction;

25 (c) knowledge of types of drilling tools and their

1 uses;

2 (d) knowledge of underground geology in its relation
3 to well construction;

4 (e) possession of adequate equipment by the applicant
5 to complete satisfactory water wells under the standards of
6 the board;

7 (f) financial responsibility of the applicant;

8 (g) successful completion of an examination given by
9 the department; and

10 (h) the applicant must have completed a minimum of 1
11 year apprenticeship under the direct supervision of a
12 licensed water well contractor.

13 (2) The department shall give examinations at times
14 and places the board determines. Failure of an applicant to
15 successfully complete the examination disqualifies him from
16 making further application for a period of 3 months. The
17 board shall act within a reasonable time on applications for
18 licenses. An application shall be accompanied by the initial
19 fee, and failure to successfully meet the requirements of
20 the board does not entitle the applicant to a refund of the
21 fee."

22 Section 8. Section 37-43-306, MCA, is amended to read:

23 "37-43-306. Bond to be required. The department, on
24 issuance of a contractor's license under this chapter, shall
25 require, before the person commences operations in this

1 state, a good and sufficient surety bond or in lieu thereof
2 its equivalent in a certificate of deposit, cashier's check,
3 bank draft, or certified check, to be approved by the board,
4 in the penal sum of ~~\$47,000~~, ~~\$107,000~~ \$4,000, conditioned that
5 the licensee will comply with the rules of the board, and
6 ~~reasonable requirements made by the board in connection~~
7 ~~with the drilling of an individual well. The bond shall~~
8 ~~indemnify the property owner whenever a well is drilled or~~
9 ~~constructed against such damages as may arise as a result of~~
10 ~~improper drilling or construction of an individual well.~~
11 ~~Partial or complete forfeiture of the bond must be~~
12 ~~determined by the appropriate court of civil jurisdiction."~~

13 NEW SECTION. Section 9. Appropriation. There is
14 appropriated from the general fund to the Department of
15 Natural Resources and Conservation for the biennium ending
16 June 30, 1987, \$13,000 to provide staff to assist the Board
17 of Water Well Contractors in carrying out the provisions of
18 this act.

19 NEW SECTION. Section 10. Repealer. Section 37-43-103,
20 MCA, is repealed.

21 NEW SECTION. Section 11. Extension of authority. Any
22 existing authority of the board of water well contractors to
23 make rules on the subject of the provisions of this act is
24 extended to the provisions of this act.

25 NEW SECTION. Section 12. Codification instruction.

1 Section 2-15-1862 is intended to be renumbered and
2 recodified as an integral part of Title 2, chapter 15, part
3 33.

4 NEW SECTION. Section 13. Effective date. This act is
5 effective July 1, 1985.

-End-

GOVERNOR'S PROPOSED AMENDMENT
TO HOUSE BILL NO. 739,
REFERENCE COPY
April 22, 1985

1. Page 6, line 23.

Following: Line 22

Insert: "(3)(a) To obtain a permit under 2(a), a person shall file with the department an application containing the applicant's name, mailing address, the location of the proposed well, the nature of the applicant's ownership interest in the property on which the well is to be drilled, and the use for the proposed well.

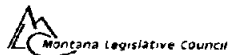
(b) The board shall promptly issue a permit if it finds that the applicant intends to drill the well on land that he owns or leases and that he uses for farming, ranching, or agricultural purposes or as his residence."

1 STATEMENT OF INTENT

2 HOUSE BILL 739

3 House State Administration Committee

4
5 A statement of intent is required for this bill because
6 the bill amends 37-43-202 to require the board of water well
7 contractors to adopt rules for specific water well
8 construction standards. It is intended that any existing
9 standards be substantially reviewed, modified, and
10 incorporated into the new standards. It is further intended
11 that the new standards should be modeled after the existing
12 water well construction standards adopted by the Montana
13 well drillers association and the United States
14 environmental protection agency. IT IS THE INTENT OF THE
15 LEGISLATURE THAT THE ACT OF TRANSFERRING THE BOARD OF WATER
16 WELL CONTRACTORS FROM THE DEPARTMENT OF COMMERCE TO THE
17 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY NOT BE
18 CONSTRUED TO ABRIDGE OR OTHERWISE RESTRICT THE EXISTING
19 AUTHORITY AND AUTONOMY OF THE BOARD OF WATER WELL
20 CONTRACTORS.



REFERENCE BILL: INCLUDES GOVERNOR'S
AMENDMENTS DATED 4-22-85

HB 739

1 HOUSE BILL NO. 739

2 INTRODUCED BY IVERSON, HOLLIDAY, GALT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE
5 ADMINISTRATION OF THE BOARD OF WATER WELL CONTRACTORS FROM
6 THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL
7 RESOURCES AND CONSERVATION; REDEFINING "WATER WELL
8 CONTRACTOR" AND PROVIDING A DEFINITION OF "WATER WELL
9 DRILLER"; PRESCRIBING ADDITIONAL DUTIES AND POWERS OF THE
10 BOARD; REQUIRING THE ADOPTION OF WATER WELL CONSTRUCTION
11 STANDARDS; REQUIRING A LICENSE FOR WATER WELL DRILLERS;
12 INCREASING BOND REQUIREMENTS; PROVIDING AN APPROPRIATION;
13 AMENDING SECTIONS 37-43-102, 37-43-202, AND 37-43-302
14 THROUGH 37-43-306, MCA; REPEALING SECTION 37-43-103, MCA;
15 AND PROVIDING AN EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 37-43-102, MCA, is amended to read:

19 "37-43-102. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:21 (1) "Board" means the board of water well contractors
22 provided for in [2-15-1862].23 (2) "Department" means the department of ~~commerce~~
24 natural resources and conservation provided for in Title 2,
25 chapter 15, part ~~18~~ 33.

1 (3) "Water well" means an excavation that is drilled,
2 cored, bored, washed, driven, dug, jetted, or otherwise
3 constructed and intended for the location, diversion,
4 artificial recharge, or acquisition of groundwater. The term
5 does not include spring development or excavations, by
6 backhoe or otherwise, for recovery and use of surface waters
7 or for the purpose of stock watering or irrigation where the
8 depth is 25 feet or less. The term does not include an
9 excavation made for the purpose of obtaining or prospecting
10 for oil, natural gas, minerals, or products of mining or
11 quarrying or for inserting media to repressure oil- or
12 natural-gas-bearing formations or for storing petroleum,
13 natural gas, or other products.

14 (4) "Water well contractor" or "contractor" means a
15 natural person who constructs contracts on behalf of a firm,
16 corporation, partnership, or other business entity to
17 construct a water well on lands other than his own for
18 compensation.

19 (5) "Water well driller" or "driller" means any person
20 at a drilling site causing a water well to be drilled."

21 Section 2. Section 37-43-202, MCA, is amended to read:

22 "37-43-202. Powers and duties. (1) The board may
23 exercise the authority granted to it by this chapter.24 (2) The board shall adopt rules and orders to
25 effectuate this chapter.

1 (3) The board shall adopt rules to establish mandatory
 2 water well construction standards and enforcement procedures
 3 by January 1, 1987. The standards must address the
 4 protection of the drilling site; specifications for casing
 5 materials; materials and specifications for well screens;
 6 casing perforations; well development procedures; proper
 7 sealing and grouting; temporary capping; cleaning and
 8 disinfecting; contract bonds; guarantees; contractors' and
 9 drillers' qualifications; tests for yield and drawdown;
 10 reporting procedures and requirements for water quality,
 11 well logs, location of wells, and information relating to
 12 local conditions; well filters; access ports; gravel
 13 packing; sampling methods; plumbness and alignment of the
 14 hole and casing; well abandonment procedures; and other
 15 necessary and appropriate standards. THE--RULES--ADOPTED--BY
 16 THE--BOARD--MUST--CONFORM--WITH--RULES--ADOPTED--BY--THE--DEPARTMENT
 17 OF--HEALTH--AND--ENVIRONMENTAL--SCIENCES--THAT--PERTAIN--TO--THE
 18 LOCATION,--CONSTRUCTION,--AND--SANITARY--PROTECTION--OF--WATER
 19 WELLS;

20 (4) The board may request the department to inspect
 21 water wells drilled or being drilled, and the department has
 22 access to these at reasonable times.

23 (5) The board may, ~~subject to 37-1-101 and~~
 24 ~~37-1-121,~~ establish a program for training water well
 25 drillers or prospective water well drillers and apprentices

1 to more effectively carry out this chapter.

2 (6) The board shall set and enforce standards and
 3 rules governing the licensing, registration, and conduct of
 4 water well drillers and water well contractors.

5 (7) The board shall set fees commensurate with costs.
 6 The board may establish fees, including but not limited to
 7 fees for application, examination, renewal, reciprocity,
 8 late renewal, and continuing education. Board costs not
 9 related to specific programs may be equitably distributed as
 10 determined by the board. The board shall maintain records
 11 sufficient to support the fees charged for each program
 12 area.

13 (8) The rules of the board shall be compiled in
 14 printed form for distribution to interested persons, for
 15 which the department may charge a fee. Sums realized from
 16 these sales shall be deposited in the state special revenue
 17 fund for the use of the board, ~~subject to 37-1-101(6).~~

18 (9) The board shall:

19 (a) authorize the department to issue licenses to
 20 qualified water well contractors and drillers in this state;

21 (b) cause examinations to be made of applicants for
 22 licenses;

23 (c) deny, revoke, or suspend licenses for good cause,
 24 after notice and opportunity to be heard;

25 (d) reinstate licenses previously revoked when

1 justification is shown to the satisfaction of the board; and

2 (e) generally perform duties which will carry out this
3 chapter.

4 (10) The board shall pay to the department its share of
5 the assessed costs of the department in administering this
6 chapter."

7 NEW SECTION. Section 3. Disciplinary authority --
8 injunctions. (1) The board may adopt rules specifying
9 grounds for disciplinary action and rules providing for:

10 (a) revocation of a license;

11 (b) suspension of its judgment of revocation on terms
12 and conditions determined by the board;

13 (c) suspension of the right to practice for a period
14 not exceeding 1 year;

15 (d) placing a licensee on probation;

16 (e) reprimand or censure of a licensee; or

17 (f) taking any other action in relation to
18 disciplining a licensee as the board in its discretion
19 considers proper.

20 (2) Any disciplinary action by the board must be
21 conducted as a contested case hearing under the provisions
22 of the Montana Administrative Procedure Act.

23 (3) A board may maintain an action to enjoin a person
24 from engaging in the drilling, making, or construction of
25 water wells until a license to practice is procured. A

1 person who has been enjoined and who violates the injunction
2 is punishable for contempt of court.

3 Section 4. Section 37-43-302, MCA, is amended to read:

4 "37-43-302. License required. (1) The drilling,
5 making, or construction of water wells into the groundwater
6 resources of this state is declared to be a business and
7 activity affecting the public interest, requiring reasonable
8 standards of competence. ~~It~~ Except as provided in subsection
9 (2), it is unlawful for any contractor or driller, as
10 defined in this chapter, to construct a water well without
11 first having obtained a valid license therefor as provided
12 for in this chapter.

13 (2) A license is not required for:

14 (a) a person who drills a water well on land that is
15 owned or leased by him and is used by him for farming,
16 ranching, or agricultural purposes or as his residence and
17 who obtains a permit from the board; or

18 (b) a person who performs labor or services for a
19 licensed water well contractor or driller in connection with
20 the drilling of a water well at the direction and under the
21 personal supervision of a licensed water well contractor or
22 driller.

23 (3) (A) TO OBTAIN A PERMIT UNDER SUBSECTION (2)(A), A
24 PERSON SHALL FILE WITH THE DEPARTMENT AN APPLICATION
25 CONTAINING THE APPLICANT'S NAME, MAILING ADDRESS, THE

1 LOCATION OF THE PROPOSED WELL, THE NATURE OF THE APPLICANT'S
 2 OWNERSHIP INTEREST IN THE PROPERTY ON WHICH THE WELL IS TO
 3 BE DRILLED, AND THE USE FOR THE PROPOSED WELL.

4 (B) THE BOARD SHALL PROMPTLY ISSUE A PERMIT IF IT
 5 FINDS THAT THE APPLICANT INTENDS TO DRILL THE WELL ON LAND
 6 THAT HE OWNS OR LEASES AND THAT HE USES FOR FARMING,
 7 RANCHING, OR AGRICULTURAL PURPOSES OR AS HIS RESIDENCE."

8 Section 5. Section 37-43-303, MCA, is amended to read:

9 "37-43-303. Application -- fee. (1) A Except as
 10 provided in 37-43-302(2), a person desiring to engage in the
 11 drilling, making, or construction of one or more wells for
 12 underground water in this state shall first file an
 13 application with the department for a contractor's or
 14 driller's license, setting out his qualifications, the
 15 equipment proposed to be used in the contracting, and other
 16 matters required by the board on forms adopted by the board.

17 (2) The department shall charge a fee prescribed by
 18 the board for filing the application of a person. The
 19 application shall not be acted on until the fee has been
 20 paid. Fees collected under this section shall be deposited
 21 in the state special revenue fund for the use of the board;
 22 ~~subject to 37-1-101(6).~~

23 (3) A license to construct water wells shall be issued
 24 to an applicant if, in the opinion of the board, the
 25 applicant is qualified to conduct water well construction

1 operations. In the granting of licenses, the board shall
 2 have due regard for the interest of this state in the
 3 protection of its underground waters."

4 Section 6. Section 37-43-304, MCA, is amended to read:

5 "37-43-304. Temporary license pending examination. A
 6 temporary water well contractor's or driller's license may
 7 be issued to a person who, by evidence satisfactory to the
 8 board, is found to possess the qualifications numbered (a)
 9 through (f) in 37-43-305(1) and who has applied for a
 10 license under this chapter. The temporary license entitles
 11 the holder to engage in the business of drilling, making, or
 12 constructing water wells until the time of the next
 13 examination given under 37-43-305. On the applicant's
 14 successfully meeting the board's requirements on
 15 examination, the temporary license shall be returned to the
 16 department and a regular license issued. If the holder of a
 17 temporary license fails, after notice of the holding of an
 18 examination, to submit himself for examination or to meet
 19 the board's requirements, the temporary license expires and
 20 shall be returned to the department for cancellation."

21 Section 7. Section 37-43-305, MCA, is amended to read:

22 "37-43-305. Examination and qualifications. (1) Under
 23 rules pertaining to the business of drilling and contracting
 24 for drilling of water wells which the board adopts, the
 25 department shall ~~subject to 37-1-101(4);~~ inquire by

1 examination or otherwise into the qualifications of
 2 applicants for licenses to drill or make wells for the
 3 production of underground waters in this state.
 4 Examinations may be oral, written, or both. The
 5 qualifications required by the board are:

6 (a) familiar knowledge of groundwater laws of this
 7 state and sanitary standards for water well drilling and
 8 construction of water wells;

9 (b) knowledge of types of water well construction;

10 (c) knowledge of types of drilling tools and their
 11 uses;

12 (d) knowledge of underground geology in its relation
 13 to well construction;

14 (e) possession of adequate equipment by the applicant
 15 to complete satisfactory water wells under the standards of
 16 the board;

17 (f) financial responsibility of the applicant;

18 (g) successful completion of an examination given by
 19 the department; and

20 (h) the applicant must have completed a minimum of 1
 21 year apprenticeship under the direct supervision of a
 22 licensed water well contractor.

23 (2) The department shall give examinations at times
 24 and places the board determines. Failure of an applicant to
 25 successfully complete the examination disqualifies him from

1 making further application for a period of 3 months. The
 2 board shall act within a reasonable time on applications for
 3 licenses. An application shall be accompanied by the initial
 4 fee, and failure to successfully meet the requirements of
 5 the board does not entitle the applicant to a refund of the
 6 fee."

7 Section 8. Section 37-43-306, MCA, is amended to read:

8 "37-43-306. Bond to be required. The department, on
 9 issuance of a contractor's license under this chapter, shall
 10 require, before the person commences operations in this
 11 state, a good and sufficient surety bond or in lieu thereof
 12 its equivalent in a certificate of deposit, cashier's check,
 13 bank draft, or certified check, to be approved by the board,
 14 in the penal sum of ~~\$4,000~~ \$10,000 ~~\$4,000~~, conditioned that
 15 the licensee will comply with the rules of the board, and
 16 ~~reasonable requirements made by the board in connection~~
 17 ~~with the drilling of an individual well. The bond shall~~
 18 ~~indemnify the property owner whenever a well is drilled or~~
 19 ~~constructed against such damages as may arise as a result of~~
 20 ~~improper drilling or construction of an individual well.~~
 21 ~~Partial or complete forfeiture of the bond must be~~
 22 ~~determined by the appropriate court of civil jurisdiction."~~

23 NEW SECTION. Section 9. Appropriation. There is
 24 appropriated from the general fund to the Department of
 25 Natural Resources and Conservation for the biennium ending

1 June 30, 1987, \$13,000 to provide staff to assist the Board
2 of Water Well Contractors in carrying out the provisions of
3 this act.

4 NEW SECTION. Section 10. Repealer. Section 37-43-103,
5 MCA, is repealed.

6 NEW SECTION. Section 11. Extension of authority. Any
7 existing authority of the board of water well contractors to
8 make rules on the subject of the provisions of this act is
9 extended to the provisions of this act.

10 NEW SECTION. Section 12. Codification instruction.
11 Section 2-15-1862 is intended to be renumbered and
12 recodified as an integral part of Title 2, chapter 15, part
13 33.

14 NEW SECTION. Section 13. Effective date. This act is
15 effective July 1, 1985.

-End-