

HOUSE BILL NO. 831

INTRODUCED BY HOLLIDAY, ECK, GALT, IVERSON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

IN THE HOUSE

FEBRUARY 18, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON NATURAL RESOURCES.

FEBRUARY 20, 1987                   COMMITTEE RECOMMEND BILL  
DO NOT PASS. REPORT ADOPTED.

FEBRUARY 21, 1987                   ON MOTION, ADVERSE COMMITTEE  
REPORT REJECTED, BILL PRINTED  
AND PLACED ON SECOND READING.

PRINTING REPORT.

FEBRUARY 23, 1987                   SECOND READING, DO PASS AS AMENDED.

STATEMENT OF INTENT ADOPTED.

FEBRUARY 24, 1987                   ENGROSSING REPORT.

FEBRUARY 25, 1987                   THIRD READING, PASSED.  
AYES, 89; NOES, 6.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON NATURAL RESOURCES.

MARCH 19, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 23, 1987                   SECOND READING, CONCURRED IN.

MARCH 25, 1987                   THIRD READING, CONCURRED IN.  
AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 831  
 2 INTRODUCED BY Jessie Ed. Platt  
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
 4 AND CONSERVATION

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING LAWS RELATING  
 7 TO THE BOARD OF WATER WELL CONTRACTORS; INCREASING THE  
 8 COMPENSATION FOR BOARD MEMBERS TO \$50 A DAY; ALLOWING FOR  
 9 LICENSING OF MONITORING WELL CONSTRUCTORS AND WATER WELL  
 10 PUMP INSTALLERS; REQUIRING BONDS FOR MONITORING WELL  
 11 CONSTRUCTORS AND WATER WELL PUMP INSTALLERS; AMENDING  
 12 SECTIONS 37-43-101, 37-43-102, 37-43-201 THROUGH 37-43-203,  
 13 37-43-301 THROUGH 37-43-303, 37-43-305 THROUGH 37-43-308,  
 14 37-43-312, 37-43-401, AND 37-43-402, MCA; REPEALING SECTION  
 15 37-43-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

18 Section 1. Section 37-43-101, MCA, is amended to read:  
 19 "37-43-101. Purpose. It is the purpose of this chapter  
 20 to reduce and minimize the waste and contamination of  
 21 groundwater resources within this state by reasonable  
 22 regulation and licensing of drillers or makers of water  
 23 wells in this state and monitoring wells and installers of  
 24 pumping equipment and to protect the health and general  
 25 welfare by providing a means for the development of the

1 natural resource of underground water in an orderly,  
 2 sanitary, and reasonable manner. The reasonable regulation  
 3 and licensing of drillers or makers of water wells and  
 4 monitoring wells and installers of pumping equipment is in  
 5 the best interest of the public, and the waste and  
 6 contamination of groundwater resources through inefficient  
 7 or incompetent operations of drillers or makers of water  
 8 wells and monitoring wells and installers of pumping  
 9 equipment is prohibited. For the protection of the public  
 10 and for the conservation of underground water resources, it  
 11 is necessary that standards be set and maintained to insure  
 12 that competency in the drilling and making of water wells  
 13 and monitoring wells and installation of pumping equipment  
 14 in this state is obtained."

15 Section 2. Section 37-43-102, MCA, is amended to read:  
 16 "37-43-102. Definitions. Unless the context requires  
 17 otherwise, in this chapter the following definitions apply:

18 (1) "Apprentice water well driller" means an  
 19 individual who is learning the trade of water well drilling  
 20 and performs labor and services for a licensed water well  
 21 contractor and whose duties are directly related to well  
 22 drilling or drilling rig operation.

23 (2) "Board" means the board of water well  
 24 contractors provided for in 2-15-3307.

25 (3) "Department" means the department of natural



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1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (4) "Monitoring well" means a well that is used for  
4 monitoring groundwater quality or flow direction but is not  
5 used for withdrawing groundwater for purposes other than  
6 water quality sampling or pump testing.

7 (5) "Monitoring well constructor" means a natural  
8 person who drills or supervises the drilling of monitoring  
9 wells.

10 (6) "Pumping equipment" means a pump or other device  
11 used or intended for use in withdrawing or obtaining  
12 groundwater from a well, including but not limited to well  
13 seals and other safeguards to protect groundwater from  
14 contamination.

15 (7) "Pump installer" means a person who installs or  
16 repairs pumping equipment for compensation.

17 {3}(8) "Water well" means an excavation that is  
18 drilled, cored, bored, washed, driven, dug, jetted, or  
19 otherwise constructed and intended for the location,  
20 diversion, artificial recharge, or acquisition of  
21 groundwater. The term does not include spring development or  
22 excavations, by backhoe or otherwise, for recovery and use  
23 of surface waters or for the purpose of stock watering or  
24 irrigation where the depth is 25 feet or less. The term does  
25 not include an excavation made for the purpose of obtaining

1 or prospecting for oil, natural gas, minerals, or products  
2 of mining or quarrying or for inserting media to repressure  
3 oil- or natural-gas-bearing formations or for storing  
4 petroleum, natural gas, or other products.

5 {4}(9) "Water well contractor" or "contractor" means a  
6 natural person who contracts on behalf of a firm,  
7 corporation, partnership, or other business entity to  
8 construct, alter, or rehabilitate a water well on lands  
9 other than his own for compensation.

10 {5}(10) "Water well driller" or "driller" means any  
11 person, other than an apprentice, at a drilling site causing  
12 a water well to be drilled, altered, or rehabilitated."

13 Section 3. Section 37-43-201, MCA, is amended to read:  
14 "37-43-201. Seal Organization -- seal -- compensation  
15 of members. (1) The board shall annually elect a chairman  
16 and vice-chairman.

17 {1}(2) The board shall have a seal with the words  
18 engraved thereon, "Board of Water Well Contractors", and  
19 such seal shall be affixed to all writs, authentication of  
20 records, and other official proceedings of the board. The  
21 courts of this state shall take judicial notice of such  
22 seal.

23 {2}(3) Each appointed member of the board who is not a  
24 government employee shall receive as compensation for his  
25 services the sum of \$20 \$50 per day for each day actually

1 engaged in the performance of the duties of his office,  
 2 including time of travel between his home and the places at  
 3 which he shall perform such duties, together with mileage  
 4 and per diem expenses as provided for in 2-18-501 through  
 5 2-18-503. ~~The state engineer, the director of environmental~~  
 6 ~~sanitation--of--the state board of health, and other~~ members  
 7 who are employees of the state of Montana shall receive no  
 8 extra compensation for their services as members of the  
 9 board."

10 Section 4. Section 37-43-202, MCA, is amended to read:

11 "37-43-202. Powers and duties. (1) The board may  
 12 exercise the authority granted to it by this chapter.

13 (2) The board shall adopt rules and orders to  
 14 effectuate this chapter.

15 (3) The board shall adopt rules to establish mandatory  
 16 water well construction standards and enforcement procedures  
 17 ~~by--January--1,--1987~~. The standards must address the  
 18 protection of the drilling site; specifications for casing  
 19 materials; materials and specifications for well screens;  
 20 casing perforations; well development procedures; proper  
 21 sealing and grouting; temporary capping; cleaning and  
 22 disinfecting; bonds; guaranties; contractors' and drillers'  
 23 qualifications; tests for yield and drawdown; reporting  
 24 procedures and requirements for water quality, well logs,  
 25 location of wells, and information relating to local

1 conditions; well filters; access ports; gravel packing;  
 2 sampling methods; plumbness and alignment of the hole and  
 3 casing; well abandonment procedures; and other necessary and  
 4 appropriate standards.

5 (4) The board shall adopt rules regarding installation  
 6 of pumping equipment by January 1, 1989.

7 (5) The board shall adopt rules regarding the  
 8 construction, use, and abandonment of monitoring wells by  
 9 January 1, 1989.

10 ~~(4)(6)~~ The board may request the department to inspect  
 11 water wells drilled or being drilled, and the department has  
 12 access to these at reasonable times.

13 ~~(5)(7)~~ The board may establish a program for training  
 14 apprentices and licensed or prospective water well  
 15 contractors, water well drillers, monitoring well  
 16 constructors, and pump installers ~~or prospective water well~~  
 17 ~~drillers--and--apprentices~~ to more effectively carry out this  
 18 chapter.

19 ~~(6)(8)~~ The board shall set and enforce standards and  
 20 rules governing the licensing, registration, and conduct of  
 21 water well drillers, and water well contractors, monitoring  
 22 well constructors, and pump installers.

23 ~~(7)(9)~~ The board shall set fees commensurate with  
 24 costs. The board may establish fees, including but not  
 25 limited to fees for application, examination, renewal,

1 reciprocity, late renewal, and continuing education. Board  
 2 costs not related to specific programs may be equitably  
 3 distributed as determined by the board. The board shall  
 4 maintain records sufficient to support the fees charged for  
 5 each program area.

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

11 ~~†9†~~(11) The board shall:

12 (a) authorize the department to issue licenses to  
 13 qualified water well contractors, and water well drillers,  
 14 monitoring well constructors, and pump installers in this  
 15 state;

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

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

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

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

24 ~~†10†~~(12) The board shall pay to the department its  
 25 share of the assessed costs of the department in

1 administering this chapter."

2 Section 5. Section 37-43-203, MCA, is amended to read:

3 "37-43-203. Disciplinary authority -- injunctions. (1)  
 4 The board may adopt rules specifying grounds for  
 5 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~~ The board may maintain an action to enjoin a  
 20 person from engaging in the drilling, making, or  
 21 construction of water wells or monitoring wells or  
 22 installing pumping equipment until a license to practice is  
 23 procured. A person who has been enjoined and who violates  
 24 the injunction is punishable for contempt of court."

25 Section 6. Section 37-43-301, MCA, is amended to read:

1 "37-43-301. Licensed contractor person to supervise  
2 all construction. (1) Any firm, corporation, or partnership  
3 may engage in the business of constructing water wells  
4 provided a licensed water well contractor is placed in  
5 charge of all water well construction.

6 (2) Any firm, corporation, or partnership may engage  
7 in the business of installing pumping equipment provided a  
8 licensed pump installer is in charge of installing the  
9 pumping equipment.

10 (3) The licensed water well contractor must be the  
11 individual who contracts on behalf of the firm, corporation,  
12 or partnership.

13 (4) A licensed water well driller, pursuant to  
14 37-43-305, must be employed by a licensed water well  
15 contractor."

16 Section 7. Section 37-43-302, MCA, is amended to read:

17 "37-43-302. License required. (1) The drilling,  
18 making, or construction of water wells ~~into-the-groundwater~~  
19 ~~resources--of--this--state~~ and monitoring wells and the  
20 installation of pumping equipment is declared to be a  
21 business and activity affecting the public interest,  
22 requiring reasonable standards of competence. Except as  
23 provided in subsection (2), it is unlawful for any water  
24 well contractor, or water well driller, monitoring well  
25 constructor, or pump installer, as defined in this chapter,

1 to construct, alter, or rehabilitate a water well or a  
2 monitoring well or to install pumping equipment without  
3 first having obtained a valid license therefor as provided  
4 for in this chapter. An individual who is licensed as a  
5 water well contractor is not required to have a separate  
6 water well driller's license to perform the actual  
7 construction work on the well.

8 (2) A license is not required for:

9 (a) a person who drills, alters, or rehabilitates a  
10 water or monitoring well on land that is owned or leased by  
11 him, and provided:

12 (i) the land is used by him for farming, ranching, or  
13 agricultural purposes or as his residence; and

14 (ii) the person who obtains a permit from the board;  
15 and

16 (iii) the construction of the well conforms to the  
17 minimum construction standards for water or monitoring wells  
18 and installation of pumping equipment set by board rule; or

19 (b) ~~a--person~~ an apprentice water well driller who  
20 performs labor or services for a licensed water well  
21 contractor or driller in connection with the drilling of a  
22 water well at the direction and under the personal  
23 supervision of a licensed water well contractor or driller;  
24 or

25 (c) a well owner who installs his own pumping

1 equipment in a well used by him on land he owns or leases,  
2 provided:

3 (i) the land is used by the well owner for farming,  
4 ranching, or agricultural purposes or as the well owner's  
5 residence;

6 (ii) the well owner obtains a permit from the board;  
7 and

8 (iii) the pump installation conforms to the minimum  
9 pumping equipment installation standards set by board rule.

10 (3) (a) To obtain a permit under subsection (2)(a) or  
11 (2)(c), a person shall file with the department an  
12 application containing the applicant's name, mailing  
13 address, the location of the proposed well, the nature of  
14 the applicant's ownership interest in the property on which  
15 the well is to be drilled located, the construction or  
16 installation method to be used, and the use for the proposed  
17 well.

18 (b) The board shall promptly issue a permit if it  
19 finds that:

20 (i) the applicant-intends-to-drill-the well is located  
21 on land that he the applicant owns or leases and that he  
22 uses for farming, ranching, or agricultural purposes or as  
23 his residence; and

24 (ii) the construction or installation method to be used  
25 meets the minimum standards for water wells or pumping

1 equipment set by board rule."

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

3 "37-43-303. Application -- fee. (1) Except as provided  
4 in 37-43-302(2), a person desiring to engage in the  
5 drilling, making, or construction, alteration, or  
6 rehabilitation of one or more water or monitoring wells for  
7 underground water or the installation of pumping equipment  
8 in water wells in this state shall first file an application  
9 with the department for a contractor's-or-driller's license,  
10 setting--out--his. The application must set forth the  
11 applicant's qualifications, the equipment proposed to be  
12 used in the contracting, and other matters required by the  
13 board on forms adopted by the board.

14 (2) The department shall charge a fee prescribed by  
15 the board for filing the an application of--a--person. The  
16 application shall not be acted on until the fee has been  
17 paid. Fees collected under this section shall be deposited  
18 in the state special revenue fund for the use of the board.

19 (3) A An appropriate license to-construct-water--wells  
20 shall be issued to an applicant if, in the opinion of the  
21 board, the applicant is qualified to conduct water well or  
22 monitoring well construction operations or pumping equipment  
23 installation. In the granting of licenses, the board shall  
24 have due regard for the interest of this state in the  
25 protection of its underground waters."



1 Section 9. Section 37-43-305, MCA, is amended to read:

2 "37-43-305. Examination and qualifications. (1) Under  
3 board rules pertaining to the business of drilling and  
4 contracting for drilling of water wells which-the-board  
5 adopts and monitoring wells and the business of pump  
6 installation, the department shall inquire by examination or  
7 otherwise into the qualifications of applicants for licenses  
8 ~~to-drill-or-make-wells-for-the-production-of-underground~~  
9 ~~waters-in-this-state~~. Examinations may be oral, written, or  
10 both.

11 (2) The qualifications required-by-the-board for a  
12 water well contractor's license are:

13 (a) familiar knowledge of groundwater laws of this  
14 state and sanitary standards for water well drilling and  
15 construction of water wells;

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

17 (c) knowledge of types of drilling tools and their  
18 uses;

19 (d) knowledge of underground geology in its relation  
20 to well construction;

21 (e) possession of adequate equipment by the applicant  
22 to complete satisfactory water wells under the standards of  
23 the board;

24 (f) financial responsibility of the applicant;

25 (g) successful completion of an examination given by

1 the department; and

2 (h) ~~the-applicant-must-have-completed-a-minimum-of-1~~  
3 year completion of an apprenticeship of 1 year or more under  
4 the direct supervision of a licensed water well contractor.

5 (3) The qualifications for a water well driller's  
6 license are:

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

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

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

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

15 (e) employment by a licensed water well contractor;

16 (f) completion of an apprenticeship of 1 year or more  
17 under the direct supervision of a licensed water well  
18 contractor or driller; and

19 (g) successful completion of an examination given by  
20 the department.

21 (4) The qualifications for a pump installer's license  
22 are:

23 (a) familiar knowledge of groundwater laws of this  
24 state and sanitary standards for pump installation;

25 (b) knowledge of construction, installation, and

1 repair of water well pumps, water pressure storage tanks,  
2 connecting piping, and related appurtenances;

3 (c) possession of adequate equipment by the applicant  
4 to properly install pumping equipment;

5 (d) financial responsibility of the applicant;

6 (e) 1 or more years of experience under the direct  
7 supervision of a licensed pump installer or licensed water  
8 well contractor; and

9 (f) successful completion of an examination given by  
10 the department.

11 (5) The qualifications for a license to construct  
12 monitoring wells are:

13 (a) familiar knowledge of groundwater laws of this  
14 state and sanitary standards for drilling and construction  
15 of monitoring wells;

16 (b) knowledge of types of monitoring well  
17 construction;

18 (c) knowledge of types of drilling tools used for  
19 monitoring wells and their uses;

20 (d) knowledge of geology;

21 (e) financial responsibility of the applicant;

22 (f) 1 or more years of experience in drilling  
23 monitoring wells under the direct supervision of a licensed  
24 monitoring well constructor; and

25 (g) successful completion of an examination related

1 specifically to drilling of monitoring wells given by the  
2 department.

3 †2†(6) The department shall give examinations at times  
4 and places the board determines. Failure of an applicant to  
5 successfully complete the examination disqualifies him from  
6 making further application for a period of 3 months. The  
7 board shall act within a reasonable time on applications for  
8 licenses. An application shall be accompanied by the initial  
9 fee, and failure to successfully meet the requirements of  
10 the board does not entitle the applicant to a refund of the  
11 fee."

12 Section 10. Section 37-43-306, MCA, is amended to  
13 read:

14 "37-43-306. Bond to be required. (1) The department,  
15 on issuance of a contractor's water well contractor's,  
16 monitoring well constructor's, or pump installer's license  
17 under this chapter, shall require, before the person  
18 commences operations in this state, a good and sufficient  
19 surety bond or in-lieu--thereof its equivalent in a  
20 certificate of deposit, cashier's check, bank draft, or  
21 certified check, to be approved by the board, in the penal  
22 sum of \$4,000, conditioned that the licensee will comply  
23 with the rules of the board.

24 (2) A person who is licensed in more than one category  
25 need supply only one surety bond or its equivalent in a

1 certificate of deposit, cashier's check, bank draft, or  
 2 certified check, to be approved by the board, for \$4,000."

3 Section 11. Section 37-43-307, MCA, is amended to  
 4 read:

5 "37-43-307. Annual renewal -- fee -- revocation for  
 6 nonrenewal. (1) The term for licenses issued under this  
 7 chapter is from July 1 of each year through the following  
 8 June 30. After the payment of the initial fee under  
 9 37-43-303, a licensee shall pay, before the first day of  
 10 each license year, a renewal fee as prescribed by the board.

11 (2) If a licensee does not apply for renewal of his  
 12 license before the first day of a license year and remit to  
 13 the department the renewal fee, he shall have his license  
 14 suspended by the board. If the license remains suspended for  
 15 a period of more than 30 days after the first day of a  
 16 license year, it shall be revoked by the board. However, the  
 17 department, prior to this revocation, shall notify the  
 18 licensee of the board's intention to revoke at least 10 days  
 19 prior to the time set for action to be taken by the board on  
 20 the license, by mailing notice to the licensee at the  
 21 address appearing for the licensee in the records and files  
 22 of the department. A license once revoked may not be  
 23 reinstated unless it appears that an injustice has occurred  
 24 indicating to the board that the licensee was not guilty of  
 25 negligence or laches. If a person whose license has been

1 revoked through his own fault desires to engage in the  
 2 business of water well drilling, monitoring well  
 3 construction, or pump installation in this state or  
 4 contracting therefor, he must apply under 37-43-303 and  
 5 37-43-304. Notice of suspension shall be given a licensee  
 6 when the suspension occurs."

7 Section 12. Section 37-43-308, MCA, is amended to  
 8 read:

9 "37-43-308. Reciprocity. If a person holding a license  
 10 entitling him to drill water wells or install pumping  
 11 equipment in another state applies for a Montana water well  
 12 contractor's, water well driller's, or pump installer's  
 13 license, the board may waive the apprenticeship requirements  
 14 and examination requirements if it finds that the standards  
 15 and requirements of the state in which the applicant is  
 16 licensed are equal to or exceed those of Montana. However,  
 17 the board may require the applicant to successfully complete  
 18 an examination based on Montana statutes and rules relating  
 19 to the drilling of water wells and installation of pumping  
 20 equipment in this state."

21 Section 13. Section 37-43-312, MCA, is amended to  
 22 read:

23 "37-43-312. Penalty. Any person who shall willfully  
 24 violate any lawful rule or order of the board or who shall  
 25 engage in the business of drilling, or-making altering, or

1 rehabilitating water wells or monitoring wells or installing  
 2 pumping equipment without first having obtained a license as  
 3 in this chapter required or who shall violate any provision  
 4 of this chapter shall be guilty of a misdemeanor and upon  
 5 conviction shall be subject to a fine of not more than \$500  
 6 or imprisonment in a county jail for a term not exceeding 6  
 7 months, or both. Any violation of this chapter shall be  
 8 prosecuted by the county attorney in the county in which the  
 9 violation occurred or is occurring, and the trial thereof  
 10 shall be held in that county."

11 Section 14. Section 37-43-401, MCA, is amended to  
 12 read:

13 "37-43-401. No action or counterclaim to be maintained  
 14 except by licensee. No action or counterclaim shall be  
 15 maintained by any water well contractor, water well driller,  
 16 monitoring well constructor, or pump installer in any court  
 17 in this state with respect to any agreement, work, labor, or  
 18 materials for which a license is required by this chapter or  
 19 to recover the agreed price or any compensation under any  
 20 such agreement or for any such work, labor, or materials for  
 21 which a license is required by this chapter without alleging  
 22 and proving that such water well contractor, water well  
 23 driller, monitoring well constructor, or pump installer had  
 24 a valid license at the time of making such agreement and of  
 25 supplying such labor, work, or materials."

1 Section 15. Section 37-43-402, MCA, is amended to  
 2 read:

3 "37-43-402. Completion of contracts by successor in  
 4 interest of licensed-contractor licensee. Upon the transfer  
 5 by operation of law to the successor in interest of a  
 6 licensed water well contractor's, monitoring well  
 7 constructor's, or pump installer's rights under a contract  
 8 or agreement for the drilling, or making, or construction of  
 9 a water well or wells, monitoring well or the installation  
 10 of pumping equipment, the successor in interest to such  
 11 rights shall be permitted to engage in the business of  
 12 drilling, making, or construction of water wells or  
 13 monitoring wells or the installation of pumping equipment to  
 14 the extent necessary to perform the obligations of said  
 15 licensed-water-well-contractor licensee under such contract  
 16 or agreement, provided that such engagement in business  
 17 shall be under the supervision of a licensed water well  
 18 contractor, pump installer, or monitoring well constructor."

19 NEW SECTION. Section 16. Initial licensure as a pump  
 20 installer. (1) An applicant who submits an application for a  
 21 pump installer's license before June 1, 1988, shall receive  
 22 a license if the applicant:

23 (a) successfully completes an examination for a pump  
 24 installer's license administered by the board;

25 (b) submits evidence satisfactory to the board

1 demonstrating that he was actively engaged in the business  
2 of installing pumping equipment or employed as a pump  
3 installer for the 2 years immediately preceding July 1,  
4 1987;

5 (c) pays a fee established by the board pursuant to  
6 37-43-303; and

7 (d) provides a bond in compliance with 37-43-306.

8 (2) An applicant who submits an application for a pump  
9 installer's license after May 31, 1988, shall meet the  
10 requirements of 37-43-303, 37-43-305, and 37-43-306.

11 NEW SECTION. Section 17. Initial licensure as a  
12 monitoring well constructor. (1) An applicant who submits an  
13 application for a monitoring well constructor's license  
14 before June 1, 1988, shall receive a license if the  
15 applicant:

16 (a) is a licensed water well contractor or is engaged  
17 in installing monitoring wells;

18 (b) provides verification of 1 or more years'  
19 experience in drilling monitoring wells within the 4 years  
20 preceding the application;

21 (c) pays a fee established by the board under  
22 37-43-303;

23 (d) successfully completes the examination for  
24 monitoring well installation; and

25 (e) provides a bond in compliance with 37-43-306.

1 (2) An applicant who applies for a monitoring well  
2 constructor's license after May 31, 1988, shall meet the  
3 requirements of 37-43-303, 37-43-305, and 37-43-306.

4 NEW SECTION. Section 18. Licensed monitoring well  
5 constructor to supervise all construction of monitoring  
6 wells. (1) Any firm, corporation, or partnership may engage  
7 in the business of constructing or installing monitoring  
8 wells provided a licensed monitoring well constructor is in  
9 charge of all monitoring well installation.

10 (2) The licensed monitoring well constructor must be  
11 physically present at the site throughout the construction  
12 of the monitoring well.

13 NEW SECTION. Section 19. Repealer. Section 37-43-304,  
14 MCA, is repealed.

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

19 NEW SECTION. Section 21. Codification instruction.  
20 Sections 16 through 18 are intended to be codified as an  
21 integral part of Title 37, chapter 43, part 4, and the  
22 provisions of Title 37, chapter 43, part 4, apply to  
23 sections 16 through 18.

24 NEW SECTION. Section 22. Effective date. This act is  
25 effective July 1, 1987.

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB831, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill amends laws relating to the Board of Water Well Contractors; increases board member compensation to \$50 a day; allows for licensing of, and requires bonds for, monitoring well constructors and water well pump installers.

ASSUMPTIONS:

This proposed law does not set fees. The bill would give the Board of Water Well Contractors the authority to set fees for filing applications, taking exams, and obtaining license renewals for pump installers and monitoring well constructors. It is assumed that the Board will set these fees so that, when they are combined with other earmarked revenue, the total will adequately cover the estimated costs of \$48,000 in FY88 and \$43,400 in FY89 to operate the program.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	\$ 30,000	\$ 30,000	\$ 0	\$ 30,000	\$ 30,000	\$ 0
Operating Expenses	10,000	18,200	8,200	10,000	12,950	2,950
TOTAL	\$ 40,000	\$ 48,200	\$ 8,200	\$ 40,000	\$ 42,950	\$ 2,950
<u>Revenues:</u>						
Water Well Special Revenue Account	\$ 30,000	\$ 48,200	\$ 18,200	\$ 30,000	\$ 42,950	\$ 12,950
General Fund	10,000	0	( 10,000)	10,000	0	( 10,000)
TOTAL	\$ 40,000	\$ 48,200	\$ 8,200	\$ 40,000	\$ 42,950	\$ 2,950

*David L. Hunter* DATE 2/23/87

DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

*Gay Holliday* DATE \_\_\_\_\_  
GAY HOLLIDAY, PRIMARY SPONSOR

Fiscal Note for HB831, as introduced.

**HB 831**

COMM. ON  
NATURAL RESOURCES  
RECOMMEND DO NOT PASS  
OBJECTION RAISED TO  
ADVERSE COMMITTEE REPORT  
ON MOTION, PRINTED AND  
PLACED ON SECOND READING

1  
2 INTRODUCED BY House BILL NO. 831  
Luciano Ede. Hall  
3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
4 AND CONSERVATION  
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING LAWS RELATING  
7 TO THE BOARD OF WATER WELL CONTRACTORS; INCREASING THE  
8 COMPENSATION FOR BOARD MEMBERS TO \$50 A DAY; ALLOWING FOR  
9 LICENSING OF MONITORING WELL CONSTRUCTORS AND WATER WELL  
10 PUMP INSTALLERS; REQUIRING BONDS FOR MONITORING WELL  
11 CONSTRUCTORS AND WATER WELL PUMP INSTALLERS; AMENDING  
12 SECTIONS 37-43-101, 37-43-102, 37-43-201 THROUGH 37-43-203,  
13 37-43-301 THROUGH 37-43-303, 37-43-305 THROUGH 37-43-308,  
14 37-43-312, 37-43-401, AND 37-43-402, MCA; REPEALING SECTION  
15 37-43-304, MCA; AND PROVIDING AN EFFECTIVE DATE."  
16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
18 Section 1. Section 37-43-101, MCA, is amended to read:  
19 "37-43-101. Purpose. It is the purpose of this chapter  
20 to reduce and minimize the waste and contamination of  
21 groundwater resources within this state by reasonable  
22 regulation and licensing of drillers or makers of water  
23 wells in this state and monitoring wells and installers of  
24 pumping equipment and to protect the health and general  
25 welfare by providing a means for the development of the

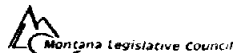
1 natural resource of underground water in an orderly,  
2 sanitary, and reasonable manner. The reasonable regulation  
3 and licensing of drillers or makers of water wells and  
4 monitoring wells and installers of pumping equipment is in  
5 the best interest of the public, and the waste and  
6 contamination of groundwater resources through inefficient  
7 or incompetent operations of drillers or makers of water  
8 wells and monitoring wells and installers of pumping  
9 equipment is prohibited. For the protection of the public  
10 and for the conservation of underground water resources, it  
11 is necessary that standards be set and maintained to insure  
12 that competency in the drilling and making of water wells  
13 and monitoring wells and installation of pumping equipment  
14 in this state is obtained."

15 Section 2. Section 37-43-102, MCA, is amended to read:  
16 "37-43-102. Definitions. Unless the context requires  
17 otherwise, in this chapter the following definitions apply:

18 (1) "Apprentice water well driller" means an  
19 individual who is learning the trade of water well drilling  
20 and performs labor and services for a licensed water well  
21 contractor and whose duties are directly related to well  
22 drilling or drilling rig operation.

23 (2) "Board" means the board of water well  
24 contractors provided for in 2-15-3307.

25 (3) "Department" means the department of natural



1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (4) "Monitoring well" means a well that is used for  
4 monitoring groundwater quality or flow direction but is not  
5 used for withdrawing groundwater for purposes other than  
6 water quality sampling or pump testing.

7 (5) "Monitoring well constructor" means a natural  
8 person who drills or supervises the drilling of monitoring  
9 wells.

10 (6) "Pumping equipment" means a pump or other device  
11 used or intended for use in withdrawing or obtaining  
12 groundwater from a well, including but not limited to well  
13 seals and other safeguards to protect groundwater from  
14 contamination.

15 (7) "Pump installer" means a person who installs or  
16 repairs pumping equipment for compensation.

17 {3}{8} "Water well" means an excavation that is  
18 drilled, cored, bored, washed, driven, dug, jetted, or  
19 otherwise constructed and intended for the location,  
20 diversion, artificial recharge, or acquisition of  
21 groundwater. The term does not include spring development or  
22 excavations, by backhoe or otherwise, for recovery and use  
23 of surface waters or for the purpose of stock watering or  
24 irrigation where the depth is 25 feet or less. The term does  
25 not include an excavation made for the purpose of obtaining

1 or prospecting for oil, natural gas, minerals, or products  
2 of mining or quarrying or for inserting media to repressure  
3 oil- or natural-gas-bearing formations or for storing  
4 petroleum, natural gas, or other products.

5 {4}{9} "Water well contractor" or "contractor" means a  
6 natural person who contracts on behalf of a firm,  
7 corporation, partnership, or other business entity to  
8 construct, alter, or rehabilitate a water well on lands  
9 other than his own for compensation.

10 {5}{10} "Water well driller" or "driller" means any  
11 person, other than an apprentice, at a drilling site causing  
12 a water well to be drilled, altered, or rehabilitated."

13 Section 3. Section 37-43-201, MCA, is amended to read:  
14 "37-43-201. ~~Seal Organization -- seal~~ -- compensation  
15 of members. {1} The board shall annually elect a chairman  
16 and vice-chairman.

17 {1}{2} The board shall have a seal with the words  
18 engraved thereon, "Board of Water Well Contractors", and  
19 such seal shall be affixed to all writs, authentication of  
20 records, and other official proceedings of the board. The  
21 courts of this state shall take judicial notice of such  
22 seal.

23 {2}{3} Each appointed member of the board who is not a  
24 government employee shall receive as compensation for his  
25 services the sum of ~~\$20~~ \$50 per day for each day actually



1 engaged in the performance of the duties of his office,  
 2 including time of travel between his home and the places at  
 3 which he shall perform such duties, together with mileage  
 4 and per diem expenses as provided for in 2-18-501 through  
 5 2-18-503. ~~The state-engineer, the director of environmental~~  
 6 ~~sanitation of the state board of health, and other members~~  
 7 who are employees of the state of Montana shall receive no  
 8 extra compensation for their services as members of the  
 9 board."

10 Section 4. Section 37-43-202, MCA, is amended to read:

11 "37-43-202. Powers and duties. (1) The board may  
 12 exercise the authority granted to it by this chapter.

13 (2) The board shall adopt rules and orders to  
 14 effectuate this chapter.

15 (3) The board shall adopt rules to establish mandatory  
 16 water well construction standards and enforcement procedures  
 17 ~~by January 1, 1987~~. The standards must address the  
 18 protection of the drilling site; specifications for casing  
 19 materials; materials and specifications for well screens;  
 20 casing perforations; well development procedures; proper  
 21 sealing and grouting; temporary capping; cleaning and  
 22 disinfecting; bonds; guaranties; contractors' and drillers'  
 23 qualifications; tests for yield and drawdown; reporting  
 24 procedures and requirements for water quality, well logs,  
 25 location of wells, and information relating to local

1 conditions; well filters; access ports; gravel packing;  
 2 sampling methods; plumbness and alignment of the hole and  
 3 casing; well abandonment procedures; and other necessary and  
 4 appropriate standards.

5 (4) The board shall adopt rules regarding installation  
 6 of pumping equipment by January 1, 1989.

7 (5) The board shall adopt rules regarding the  
 8 construction, use, and abandonment of monitoring wells by  
 9 January 1, 1989.

10 ~~(4)(6)~~ The board may request the department to inspect  
 11 water wells drilled or being drilled, and the department has  
 12 access to these at reasonable times.

13 ~~(5)(7)~~ The board may establish a program for training  
 14 apprentices and licensed or prospective water well  
 15 contractors, water well drillers, monitoring well  
 16 constructors, and pump installers ~~or prospective water well~~  
 17 ~~drillers and apprentices~~ to more effectively carry out this  
 18 chapter.

19 ~~(6)(8)~~ The board shall set and enforce standards and  
 20 rules governing the licensing, registration, and conduct of  
 21 water well drillers, and water well contractors, monitoring  
 22 well constructors, and pump installers.

23 ~~(7)(9)~~ The board shall set fees commensurate with  
 24 costs. The board may establish fees, including but not  
 25 limited to fees for application, examination, renewal,

1 reciprocity, late renewal, and continuing education. Board  
 2 costs not related to specific programs may be equitably  
 3 distributed as determined by the board. The board shall  
 4 maintain records sufficient to support the fees charged for  
 5 each program area.

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

11 ~~(9)~~(11) The board shall:

12 (a) authorize the department to issue licenses to  
 13 qualified water well contractors, and water well drillers,  
 14 monitoring well constructors, and pump installers in this  
 15 state;

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

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

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

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

24 ~~(10)~~(12) The board shall pay to the department its  
 25 share of the assessed costs of the department in

1 administering this chapter."

2 Section 5. Section 37-43-203, MCA, is amended to read:

3 "37-43-203. Disciplinary authority -- injunctions. (1)  
 4 The board may adopt rules specifying grounds for  
 5 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 The board may maintain an action to enjoin a  
 20 person from engaging in the drilling, making, or  
 21 construction of water wells or monitoring wells or  
 22 installing pumping equipment until a license to practice is  
 23 procured. A person who has been enjoined and who violates  
 24 the injunction is punishable for contempt of court."

25 Section 6. Section 37-43-301, MCA, is amended to read:

1       "37-43-301. Licensed contractor person to supervise  
2 all construction. (1) Any firm, corporation, or partnership  
3 may engage in the business of constructing water wells  
4 provided a licensed water well contractor is placed in  
5 charge of all water well construction.

6       (2) Any firm, corporation, or partnership may engage  
7 in the business of installing pumping equipment provided a  
8 licensed pump installer is in charge of installing the  
9 pumping equipment.

10       (3) The licensed water well contractor must be the  
11 individual who contracts on behalf of the firm, corporation,  
12 or partnership.

13       (4) A licensed water well driller, pursuant to  
14 37-43-305, must be employed by a licensed water well  
15 contractor."

16       Section 7. Section 37-43-302, MCA, is amended to read:

17       "37-43-302. License required. (1) The drilling,  
18 making, or construction of water wells ~~into-the-groundwater~~  
19 ~~resources--of--this--state~~ and monitoring wells and the  
20 installation of pumping equipment is declared to be a  
21 business and activity affecting the public interest,  
22 requiring reasonable standards of competence. Except as  
23 provided in subsection (2), it is unlawful for any water  
24 well contractor, or water well driller, monitoring well  
25 constructor, or pump installer, as defined in this chapter,

1 to construct, alter, or rehabilitate a water well or a  
2 monitoring well or to install pumping equipment without  
3 first having obtained a valid license therefor as provided  
4 for in this chapter. An individual who is licensed as a  
5 water well contractor is not required to have a separate  
6 water well driller's license to perform the actual  
7 construction work on the well.

8       (2) A license is not required for:

9       (a) a person who drills, alters, or rehabilitates a  
10 water or monitoring well on land that is owned or leased by  
11 him, and provided:

12       (i) the land is used by him for farming, ranching, or  
13 agricultural purposes or as his residence; and

14       (ii) the person who obtains a permit from the board;  
15 and

16       (iii) the construction of the well conforms to the  
17 minimum construction standards for water or monitoring wells  
18 and installation of pumping equipment set by board rule; or

19       (b) ~~a--person~~ an apprentice water well driller who  
20 performs labor or services for a licensed water well  
21 contractor or driller in connection with the drilling of a  
22 water well at the direction and under the personal  
23 supervision of a licensed water well contractor or driller;  
24 or

25       (c) a well owner who installs his own pumping

1 equipment in a well used by him on land he owns or leases,  
2 provided:

3 (i) the land is used by the well owner for farming,  
4 ranching, or agricultural purposes or as the well owner's  
5 residence;

6 (ii) the well owner obtains a permit from the board;  
7 and

8 (iii) the pump installation conforms to the minimum  
9 pumping equipment installation standards set by board rule.

10 (3) (a) To obtain a permit under subsection (2)(a) or  
11 (2)(c), a person shall file with the department an  
12 application containing the applicant's name, mailing  
13 address, the location of the proposed well, the nature of  
14 the applicant's ownership interest in the property on which  
15 the well is to be drilled located, the construction or  
16 installation method to be used, and the use for the proposed  
17 well.

18 (b) The board shall promptly issue a permit if it  
19 finds that:

20 (i) the applicant-intends-to-drill-the well is located  
21 on land that he the applicant owns or leases and that he  
22 uses for farming, ranching, or agricultural purposes or as  
23 his residence; and

24 (ii) the construction or installation method to be used  
25 meets the minimum standards for water wells or pumping

1 equipment set by board rule."

2 Section 8. Section 37-43-303, MCA, is amended to read:  
3 "37-43-303. Application -- fee. (1) Except as provided  
4 in 37-43-302(2), a person desiring to engage in the  
5 drilling, making, or construction, alteration, or  
6 rehabilitation of one or more water or monitoring wells for  
7 underground water or the installation of pumping equipment  
8 in water wells in this state shall first file an application  
9 with the department for a contractor's-or-driller's license;  
10 setting--out--his. The application must set forth the  
11 applicant's qualifications, the equipment proposed to be  
12 used in the contracting, and other matters required by the  
13 board on forms adopted by the board.

14 (2) The department shall charge a fee prescribed by  
15 the board for filing the an application of--a--person. The  
16 application shall not be acted on until the fee has been  
17 paid. Fees collected under this section shall be deposited  
18 in the state special revenue fund for the use of the board.

19 (3) A An appropriate license to-construct-water--wells  
20 shall be issued to an applicant if, in the opinion of the  
21 board, the applicant is qualified to conduct water well or  
22 monitoring well construction operations or pumping equipment  
23 installation. In the granting of licenses, the board shall  
24 have due regard for the interest of this state in the  
25 protection of its underground waters."

1 Section 9. Section 37-43-305, MCA, is amended to read:

2 "37-43-305. Examination and qualifications. (1) Under  
3 board rules pertaining to the business of drilling and  
4 contracting for drilling of water wells which the board  
5 adopts and monitoring wells and the business of pump  
6 installation, the department shall inquire by examination or  
7 otherwise into the qualifications of applicants for licenses  
8 ~~to drill or make wells for the production of underground~~  
9 ~~waters in this state.~~ Examinations may be oral, written, or  
10 both.

11 (2) The qualifications ~~required by the board~~ for a  
12 water well contractor's license are:

13 (a) familiar knowledge of groundwater laws of this  
14 state and sanitary standards for water well drilling and  
15 construction of water wells;

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

17 (c) knowledge of types of drilling tools and their  
18 uses;

19 (d) knowledge of underground geology in its relation  
20 to well construction;

21 (e) possession of adequate equipment by the applicant  
22 to complete satisfactory water wells under the standards of  
23 the board;

24 (f) financial responsibility of the applicant;

25 (g) successful completion of an examination given by

1 the department; and

2 ~~(h) the applicant must have completed a minimum of 1~~  
3 ~~year completion of an apprenticeship of 1 year or more~~  
4 ~~under the direct supervision of a licensed water well contractor.~~

5 (3) The qualifications for a water well driller's  
6 license are:

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

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

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

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

15 (e) employment by a licensed water well contractor;

16 (f) completion of an apprenticeship of 1 year or more  
17 under the direct supervision of a licensed water well  
18 contractor or driller; and

19 (g) successful completion of an examination given by  
20 the department.

21 (4) The qualifications for a pump installer's license  
22 are:

23 (a) familiar knowledge of groundwater laws of this  
24 state and sanitary standards for pump installation;

25 (b) knowledge of construction, installation, and

1 repair of water well pumps, water pressure storage tanks,  
2 connecting piping, and related appurtenances;

3 (c) possession of adequate equipment by the applicant  
4 to properly install pumping equipment;

5 (d) financial responsibility of the applicant;

6 (e) 1 or more years of experience under the direct  
7 supervision of a licensed pump installer or licensed water  
8 well contractor; and

9 (f) successful completion of an examination given by  
10 the department.

11 (5) The qualifications for a license to construct  
12 monitoring wells are:

13 (a) familiar knowledge of groundwater laws of this  
14 state and sanitary standards for drilling and construction  
15 of monitoring wells;

16 (b) knowledge of types of monitoring well  
17 construction;

18 (c) knowledge of types of drilling tools used for  
19 monitoring wells and their uses;

20 (d) knowledge of geology;

21 (e) financial responsibility of the applicant;

22 (f) 1 or more years of experience in drilling  
23 monitoring wells under the direct supervision of a licensed  
24 monitoring well constructor; and

25 (g) successful completion of an examination related

1 specifically to drilling of monitoring wells given by the  
2 department.

3 ~~(2)~~(6) The department shall give examinations at times  
4 and places the board determines. Failure of an applicant to  
5 successfully complete the examination disqualifies him from  
6 making further application for a period of 3 months. The  
7 board shall act within a reasonable time on applications for  
8 licenses. An application shall be accompanied by the initial  
9 fee, and failure to successfully meet the requirements of  
10 the board does not entitle the applicant to a refund of the  
11 fee."

12 Section 10. Section 37-43-306, MCA, is amended to  
13 read:

14 "37-43-306. Bond to be required. (1) The department,  
15 on issuance of a ~~contractor's~~ water well contractor's,  
16 monitoring well constructor's, or pump installer's license  
17 under this chapter, shall require, before the person  
18 commences operations in this state, a good and sufficient  
19 surety bond or ~~in-lieu--thereof~~ its equivalent in a  
20 certificate of deposit, cashier's check, bank draft, or  
21 certified check, to be approved by the board, in the ~~penal~~  
22 sum of \$4,000, conditioned that the licensee will comply  
23 with the rules of the board.

24 (2) A person who is licensed in more than one category  
25 need supply only one surety bond or its equivalent in a

1 certificate of deposit, cashier's check, bank draft, or  
 2 certified check, to be approved by the board, for \$4,000."

3 Section 11. Section 37-43-307, MCA, is amended to  
 4 read:

5 "37-43-307. Annual renewal -- fee -- revocation for  
 6 nonrenewal. (1) The term for licenses issued under this  
 7 chapter is from July 1 of each year through the following  
 8 June 30. After the payment of the initial fee under  
 9 37-43-303, a licensee shall pay, before the first day of  
 10 each license year, a renewal fee as prescribed by the board.

11 (2) If a licensee does not apply for renewal of his  
 12 license before the first day of a license year and remit to  
 13 the department the renewal fee, he shall have his license  
 14 suspended by the board. If the license remains suspended for  
 15 a period of more than 30 days after the first day of a  
 16 license year, it shall be revoked by the board. However, the  
 17 department, prior to this revocation, shall notify the  
 18 licensee of the board's intention to revoke at least 10 days  
 19 prior to the time set for action to be taken by the board on  
 20 the license, by mailing notice to the licensee at the  
 21 address appearing for the licensee in the records and files  
 22 of the department. A license once revoked may not be  
 23 reinstated unless it appears that an injustice has occurred  
 24 indicating to the board that the licensee was not guilty of  
 25 negligence or laches. If a person whose license has been

1 revoked through his own fault desires to engage in the  
 2 business of water well drilling, monitoring well  
 3 construction, or pump installation in this state or  
 4 contracting therefor, he must apply under 37-43-303 and  
 5 ~~37-43-304~~. Notice of suspension shall be given a licensee  
 6 when the suspension occurs."

7 Section 12. Section 37-43-308, MCA, is amended to  
 8 read:

9 "37-43-308. Reciprocity. If a person holding a license  
 10 entitling him to drill water wells or install pumping  
 11 equipment in another state applies for a Montana water well  
 12 contractor's, water well driller's, or pump installer's  
 13 license, the board may waive the apprenticeship requirements  
 14 and examination requirements if it finds that the standards  
 15 and requirements of the state in which the applicant is  
 16 licensed are equal to or exceed those of Montana. However,  
 17 the board may require the applicant to successfully complete  
 18 an examination based on Montana statutes and rules relating  
 19 to the drilling of water wells and installation of pumping  
 20 equipment in this state."

21 Section 13. Section 37-43-312, MCA, is amended to  
 22 read:

23 "37-43-312. Penalty. Any person who shall willfully  
 24 violate any lawful rule or order of the board or who shall  
 25 engage in the business of drilling, or-making altering, or

1 rehabilitating water wells or monitoring wells or installing  
 2 pumping equipment without first having obtained a license as  
 3 in this chapter required or who shall violate any provision  
 4 of this chapter shall be guilty of a misdemeanor and upon  
 5 conviction shall be subject to a fine of not more than \$500  
 6 or imprisonment in a county jail for a term not exceeding 6  
 7 months, or both. Any violation of this chapter shall be  
 8 prosecuted by the county attorney in the county in which the  
 9 violation occurred or is occurring, and the trial thereof  
 10 shall be held in that county."

11 Section 14. Section 37-43-401, MCA, is amended to  
 12 read:

13 "37-43-401. No action or counterclaim to be maintained  
 14 except by licensee. No action or counterclaim shall be  
 15 maintained by any water well contractor, water well driller,  
 16 monitoring well constructor, or pump installer in any court  
 17 in this state with respect to any agreement, work, labor, or  
 18 materials for which a license is required by this chapter or  
 19 to recover the agreed price or any compensation under any  
 20 such agreement or for any such work, labor, or materials for  
 21 which a license is required by this chapter without alleging  
 22 and proving that such water well contractor, water well  
 23 driller, monitoring well constructor, or pump installer had  
 24 a valid license at the time of making such agreement and of  
 25 supplying such labor, work, or materials."

1 Section 15. Section 37-43-402, MCA, is amended to  
 2 read:

3 "37-43-402. Completion of contracts by successor in  
 4 interest of ~~licensed-contractor~~ licensee. Upon the transfer  
 5 by operation of law to the successor in interest of a  
 6 licensed water well contractor's, monitoring well  
 7 constructor's, or pump installer's rights under a contract  
 8 or agreement for the drilling, or making, or construction of  
 9 a water well or ~~wells~~, monitoring well or the installation  
 10 of pumping equipment, the successor in interest to such  
 11 rights shall be permitted to engage in the business of  
 12 drilling, making, or construction of water wells or  
 13 monitoring wells or the installation of pumping equipment to  
 14 the extent necessary to perform the obligations of said  
 15 ~~licensed-water-well-contractor~~ licensee under such contract  
 16 or agreement, provided that such engagement in business  
 17 shall be under the supervision of a licensed water well  
 18 contractor, pump installer, or monitoring well constructor."

19 NEW SECTION. Section 16. Initial licensure as a pump  
 20 installer. (1) An applicant who submits an application for a  
 21 pump installer's license before June 1, 1988, shall receive  
 22 a license if the applicant:

23 (a) successfully completes an examination for a pump  
 24 installer's license administered by the board;

25 (b) submits evidence satisfactory to the board



1 demonstrating that he was actively engaged in the business  
2 of installing pumping equipment or employed as a pump  
3 installer for the 2 years immediately preceding July 1,  
4 1987;

5 (c) pays a fee established by the board pursuant to  
6 37-43-303; and

7 (d) provides a bond in compliance with 37-43-306.

8 (2) An applicant who submits an application for a pump  
9 installer's license after May 31, 1988, shall meet the  
10 requirements of 37-43-303, 37-43-305, and 37-43-306.

11 NEW SECTION. Section 17. Initial licensure as a  
12 monitoring well constructor. (1) An applicant who submits an  
13 application for a monitoring well constructor's license  
14 before June 1, 1988, shall receive a license if the  
15 applicant:

16 (a) is a licensed water well contractor or is engaged  
17 in installing monitoring wells;

18 (b) provides verification of 1 or more years'  
19 experience in drilling monitoring wells within the 4 years  
20 preceding the application;

21 (c) pays a fee established by the board under  
22 37-43-303;

23 (d) successfully completes the examination for  
24 monitoring well installation; and

25 (e) provides a bond in compliance with 37-43-306.

1 (2) An applicant who applies for a monitoring well  
2 constructor's license after May 31, 1988, shall meet the  
3 requirements of 37-43-303, 37-43-305, and 37-43-306.

4 NEW SECTION. Section 18. Licensed monitoring well  
5 constructor to supervise all construction of monitoring  
6 wells. (1) Any firm, corporation, or partnership may engage  
7 in the business of constructing or installing monitoring  
8 wells provided a licensed monitoring well constructor is in  
9 charge of all monitoring well installation.

10 (2) The licensed monitoring well constructor must be  
11 physically present at the site throughout the construction  
12 of the monitoring well.

13 NEW SECTION. Section 19. Repealer. Section 37-43-304,  
14 MCA, is repealed.

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

19 NEW SECTION. Section 21. Codification instruction.  
20 Sections 16 through 18 are intended to be codified as an  
21 integral part of Title 37, chapter 43, part 4, and the  
22 provisions of Title 37, chapter 43, part 4, apply to  
23 sections 16 through 18.

24 NEW SECTION. Section 22. Effective date. This act is  
25 effective July 1, 1987.

-End-

-22-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 831

3

4 A statement of intent is required for this bill because  
5 it requires the board of water well contractors to adopt  
6 rules to implement the provisions of this act.

7 This bill authorizes the board to license and provide  
8 training for persons constructing monitoring wells and to  
9 adopt rules regarding the construction, use, and abandonment  
10 of monitoring wells. The board's present jurisdiction is  
11 over wells intended for the location, diversion, artificial  
12 recharge, or acquisition of ground water. This bill is  
13 intended to clarify that the board's jurisdiction extends to  
14 wells that monitor ground water movement and quality.  
15 Monitoring wells can affect the ground water resource no  
16 less than production wells, and the increased use of  
17 monitoring wells requires that the board certify monitoring  
18 well constructors and adopt rules for monitoring well  
19 construction.

## 1 HOUSE BILL NO. 831

2 INTRODUCED BY HOLLIDAY, ECK, GALT, IVERSON  
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
 4 AND CONSERVATION  
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING LAWS RELATING  
 7 TO THE BOARD OF WATER WELL CONTRACTORS; INCREASING THE  
 8 COMPENSATION FOR BOARD MEMBERS TO \$50 A DAY; ALLOWING FOR  
 9 LICENSING OF MONITORING WELL CONSTRUCTORS ~~AND WATER-WELL~~  
 10 ~~PUMP--INSTALLERS~~; REQUIRING BONDS FOR MONITORING WELL  
 11 CONSTRUCTORS ~~AND--WATER--WELL--PUMP--INSTALLERS~~; AMENDING  
 12 SECTIONS 37-43-101, 37-43-102, 37-43-201 THROUGH 37-43-203,  
 13 37-43-301 THROUGH 37-43-303, 37-43-305 THROUGH 37-43-308,  
 14 37-43-312, 37-43-401, AND 37-43-402, MCA; REPEALING SECTION  
 15 37-43-304, MCA; AND PROVIDING AN EFFECTIVE DATE."  
 16

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

18 Section 1. Section 37-43-101, MCA, is amended to read:

19 "37-43-101. Purpose. It is the purpose of this chapter  
 20 to reduce and minimize the waste and contamination of  
 21 groundwater resources within this state by reasonable  
 22 regulation and licensing of drillers or makers of water  
 23 wells ~~in-this-state~~ and monitoring wells and--installers--of  
 24 pumping--equipment and to protect the health and general  
 25 welfare by providing a means for the development of the

1 natural resource of underground water in an orderly,  
 2 sanitary, and reasonable manner. The reasonable regulation  
 3 and licensing of drillers or makers of water wells and  
 4 monitoring wells and--installers--of--pumping--equipment is in  
 5 the best interest of the public, and the waste and  
 6 contamination of groundwater resources through inefficient  
 7 or incompetent operations of drillers or makers of water  
 8 wells and monitoring wells and--installers--of--pumping  
 9 equipment is prohibited. For the protection of the public  
 10 and for the conservation of underground water resources, it  
 11 is necessary that standards be set and maintained to insure  
 12 that competency in the drilling and making of water wells  
 13 and monitoring wells and--installation--of--pumping--equipment  
 14 in this state is obtained."

15 Section 2. Section 37-43-102, MCA, is amended to read:

16 "37-43-102. Definitions. Unless the context requires  
 17 otherwise, in this chapter the following definitions apply:

18 (1) "Apprentice water well driller" means an  
 19 individual who is learning the trade of water well drilling  
 20 and performs labor and services for a licensed water well  
 21 contractor and whose duties are directly related to well  
 22 drilling or drilling rig operation.

23 ~~(1)~~(2) "Board" means the board of water well  
 24 contractors provided for in 2-15-3307.

25 ~~(2)~~(3) "Department" means the department of natural

1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 {4} "Monitoring well" means a well that is used for  
4 monitoring groundwater quality or flow direction but is not  
5 used for withdrawing groundwater for purposes other than  
6 water quality sampling or pump testing.

7 {5} "Monitoring well constructor" means a natural  
8 person who drills or supervises the drilling of monitoring  
9 wells.

10 {6}--"Pumping equipment" means a pump or other device  
11 used or intended for use in withdrawing or obtaining  
12 groundwater from a well, including but not limited to well  
13 seals and other safeguards to protect groundwater from  
14 contamination.

15 {7}--"Pump installer" means a person who installs or  
16 repairs pumping equipment for compensation.

17 {3}{8}{6} "Water well" means an excavation that is  
18 drilled, cored, bored, washed, driven, dug, jetted, or  
19 otherwise constructed and intended for the location,  
20 diversion, artificial recharge, or acquisition of  
21 groundwater. The term does not include spring development or  
22 excavations, by backhoe or otherwise, for recovery and use  
23 of surface waters or for the purpose of stock watering or  
24 irrigation where the depth is 25 feet or less. The term does  
25 not include an excavation made for the purpose of obtaining

1 or prospecting for oil, natural gas, minerals, or products  
2 of mining or quarrying or for inserting media to repressure  
3 oil- or natural-gas-bearing formations or for storing  
4 petroleum, natural gas, or other products.

5 {4}{9}{7} "Water well contractor" or "contractor"  
6 means a natural person who contracts on behalf of a firm,  
7 corporation, partnership, or other business entity to  
8 construct, alter, or rehabilitate a water well on lands  
9 other than his own for compensation.

10 {5}{10}{8} "Water well driller" or "driller" means any  
11 person, other than an apprentice, at a drilling site causing  
12 a water well to be drilled, altered, or rehabilitated."

13 Section 3. Section 37-43-201, MCA, is amended to read:  
14 "37-43-201. ~~Seal~~ Organization -- seal -- compensation  
15 of members. {1} The board shall annually elect a chairman  
16 and vice-chairman.

17 {1}{2} The board shall have a seal with the words  
18 engraved thereon, "Board of Water Well Contractors", and  
19 such seal shall be affixed to all writs, authentication of  
20 records, and other official proceedings of the board. The  
21 courts of this state shall take judicial notice of such  
22 seal.

23 {2}{3} Each appointed member of the board who is not a  
24 government employee shall receive as compensation for his  
25 services the sum of ~~\$20~~ \$50 per day for each day actually

1 engaged in the performance of the duties of his office,  
 2 including time of travel between his home and the places at  
 3 which he shall perform such duties, together with mileage  
 4 and per diem expenses as provided for in 2-18-501 through  
 5 2-18-503. ~~The state engineer, the director of environmental~~  
 6 ~~sanitation of the state board of health, and other members~~  
 7 who are employees of the state of Montana shall receive no  
 8 extra compensation for their services as members of the  
 9 board."

10 Section 4. Section 37-43-202, MCA, is amended to read:

11 "37-43-202. Powers and duties. (1) The board may  
 12 exercise the authority granted to it by this chapter.

13 (2) The board shall adopt rules and orders to  
 14 effectuate this chapter.

15 (3) The board shall adopt rules to establish mandatory  
 16 water well construction standards and enforcement procedures  
 17 ~~by January 1, 1987.~~ The standards must address the  
 18 protection of the drilling site; specifications for casing  
 19 materials; materials and specifications for well screens;  
 20 casing perforations; well development procedures; proper  
 21 sealing and grouting; temporary capping; cleaning and  
 22 disinfecting; bonds; guaranties; contractors' and drillers'  
 23 qualifications; tests for yield and drawdown; reporting  
 24 procedures and requirements for water quality, well logs,  
 25 location of wells, and information relating to local

1 conditions; well filters; access ports; gravel packing;  
 2 sampling methods; plumbness and alignment of the hole and  
 3 casing; well abandonment procedures; and other necessary and  
 4 appropriate standards.

5 ~~(4) The board shall adopt rules regarding installation~~  
 6 ~~of pumping equipment by January 1, 1989.~~

7 (5)(4) The board shall adopt rules regarding the  
 8 construction, use, and abandonment of monitoring wells by  
 9 January 1, 1989.

10 ~~(4)(6)(5)~~ The board may request the department to  
 11 inspect water wells drilled or being drilled, and the  
 12 department has access to these at reasonable times.

13 ~~(5)(7)(6)~~ The board may establish a program for  
 14 training apprentices and licensed or prospective water well  
 15 contractors, water well drillers, AND monitoring well  
 16 constructors, and pump installers ~~or prospective water well~~  
 17 ~~drillers and apprentices~~ to more effectively carry out this  
 18 chapter.

19 ~~(6)(8)(7)~~ The board shall set and enforce standards  
 20 and rules governing the licensing, registration, and conduct  
 21 of water well drillers, and water well contractors, AND  
 22 monitoring well constructors, and pump installers.

23 ~~(7)(9)(8)~~ The board shall set fees commensurate with  
 24 costs. The board may establish fees, including but not  
 25 limited to fees for application, examination, renewal,

1 reciprocity, late renewal, and continuing education. Board  
 2 costs not related to specific programs may be equitably  
 3 distributed as determined by the board. The board shall  
 4 maintain records sufficient to support the fees charged for  
 5 each program area.

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

11 ~~(9)~~(10) The board shall:

12 (a) authorize the department to issue licenses to  
 13 qualified water well contractors, and water well drillers,  
 14 AND monitoring well constructors,--and--pump--installers in  
 15 this state;

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

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

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

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

24 ~~(10)~~(12)(11) The board shall pay to the department its  
 25 share of the assessed costs of the department in

1 administering this chapter."

2 Section 5. Section 37-43-203, MCA, is amended to read:

3 "37-43-203. Disciplinary authority -- injunctions. (1)  
 4 The board may adopt rules specifying grounds for  
 5 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 The board may maintain an action to enjoin a  
 20 person from engaging in the drilling, making, or  
 21 construction of water wells or monitoring wells or  
 22 installing-pumping-equipment until a license to practice is  
 23 procured. A person who has been enjoined and who violates  
 24 the injunction is punishable for contempt of court."

25 Section 6. Section 37-43-301, MCA, is amended to read:

1 "37-43-301. Licensed contractor person to supervise  
 2 all construction. (1) Any firm, corporation, or partnership  
 3 may engage in the business of constructing water wells  
 4 provided a licensed water well contractor is placed in  
 5 charge of all water well construction.

6 ~~(2) Any firm, corporation, or partnership may engage~~  
 7 ~~in the business of installing pumping equipment provided a~~  
 8 ~~licensed pump installer is in charge of installing the~~  
 9 ~~pumping equipment.~~

10 (3)(2) The licensed water well contractor must be the  
 11 individual who contracts on behalf of the firm, corporation,  
 12 or partnership.

13 (4)(3) A licensed water well driller, pursuant to  
 14 37-43-305, must be employed by a licensed water well  
 15 contractor."

16 Section 7. Section 37-43-302, MCA, is amended to read:

17 "37-43-302. License required. (1) The drilling,  
 18 making, or construction of water wells ~~into the groundwater~~  
 19 ~~resources of this state~~ and monitoring wells ~~and the~~  
 20 ~~installation of pumping equipment~~ is declared to be a  
 21 business and activity affecting the public interest,  
 22 requiring reasonable standards of competence. Except as  
 23 provided in subsection (2), it is unlawful for any water  
 24 well contractor, or water well driller, OR monitoring well  
 25 constructor, or pump installer as defined in this chapter,

1 to construct, alter, or rehabilitate a water well or a  
 2 monitoring well ~~or to install pumping equipment~~ without  
 3 first having obtained a valid license therefor as provided  
 4 for in this chapter. An individual who is licensed as a  
 5 water well contractor is not required to have a separate  
 6 water well driller's license to perform the actual  
 7 construction work on the well.

8 (2) A license is not required for:

9 (a) a person who drills, alters, or rehabilitates a  
 10 water or monitoring well on land that is owned or leased by  
 11 him, and provided:

12 (i) the land is used by him for farming, ranching, or  
 13 agricultural purposes or as his residence; and

14 (ii) the person who obtains a permit from the board;  
 15 and

16 (iii) the construction of the well conforms to the  
 17 minimum construction standards for water or monitoring wells  
 18 and installation of pumping equipment set by board rule; or

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

25 ~~(c) a well owner who installs his own pumping~~

1 ~~equipment--in--a--well--used--by--him--on--land--he--owns--or--leases,~~  
2 ~~provided:~~

3 ~~(i)--the--land--is--used--by--the--well--owner--for--farming,~~  
4 ~~ranching,--or--agricultural--purposes--or--as--the--well--owner's~~  
5 ~~residence;~~

6 ~~(ii)--the--well--owner--obtains--a--permit--from--the--board;~~  
7 ~~and~~

8 ~~(iii)--the--pump--installation--conforms--to--the--minimum~~  
9 ~~pumping--equipment--installation--standards--set--by--board--rule.~~

10 (3) (a) To obtain a permit under subsection (2)(a) ~~or~~  
11 ~~(2)(c)~~, a person shall file with the department an  
12 application containing the applicant's name, mailing  
13 address, the location of the proposed well, the nature of  
14 the applicant's ownership interest in the property on which  
15 the well is to be drilled located, the construction or  
16 installation method to be used, and the use for the proposed  
17 well.

18 (b) The board shall promptly issue a permit if it  
19 finds that:

20 (i) the applicant intends to drill the well is located  
21 on land that he the applicant owns or leases and that he  
22 uses for farming, ranching, or agricultural purposes or as  
23 his residence; and

24 (ii) the construction or installation method to be used  
25 meets the minimum standards for water wells or--pumping

1 equipment set by board rule."

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

3 "37-43-303. Application -- fee. (1) Except as provided  
4 in 37-43-302(2), a person desiring to engage in the  
5 drilling, making, or construction, alteration, or  
6 rehabilitation of one or more water or monitoring wells for  
7 underground water or--the--installation--of--pumping--equipment  
8 in--water--wells in this state shall first file an application  
9 with the department for a contractor's--or--driller's license,  
10 setting---out--his. The application must set forth the  
11 applicant's qualifications, the equipment proposed to be  
12 used in the contracting, and other matters required by the  
13 board on forms adopted by the board.

14 (2) The department shall charge a fee prescribed by  
15 the board for filing the an application of--a--person. The  
16 application shall not be acted on until the fee has been  
17 paid. Fees collected under this section shall be deposited  
18 in the state special revenue fund for the use of the board.

19 (3) A An appropriate license to--construct--water--wells  
20 shall be issued to an applicant if, in the opinion of the  
21 board, the applicant is qualified to conduct water well or  
22 monitoring well construction operations or--pumping--equipment  
23 installation. In the granting of licenses, the board shall  
24 have due regard for the interest of this state in the  
25 protection of its underground waters."



1 Section 9. Section 37-43-305, MCA, is amended to read:

2 "37-43-305. Examination and qualifications. (1) Under  
3 board rules pertaining to the business of drilling and  
4 contracting for drilling of water wells ~~which--the--board~~  
5 ~~adopts and monitoring wells and--the--business--of--pump~~  
6 ~~installation~~, the department shall inquire by examination or  
7 otherwise into the qualifications of applicants for licenses  
8 ~~to-drill-or-make-wells-for--the--production--of--underground~~  
9 ~~waters-in-this-state~~. Examinations may be oral, written, or  
10 both.

11 (2) The qualifications ~~required--by--the--board~~ for a  
12 water well contractor's license are:

13 (a) familiar knowledge of groundwater laws of this  
14 state and sanitary standards for water well drilling and  
15 construction of water wells;

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

17 (c) knowledge of types of drilling tools and their  
18 uses;

19 (d) knowledge of underground geology in its relation  
20 to well construction;

21 (e) possession of adequate equipment by the applicant  
22 to complete satisfactory water wells under the standards of  
23 the board;

24 (f) financial responsibility of the applicant;

25 (g) successful completion of an examination given by

1 the department; and

2 (h) ~~the--applicant--must--have--completed--a--minimum--of--1~~  
3 ~~year~~ completion of an apprenticeship of 1 year or more under  
4 the direct supervision of a licensed water well contractor.

5 (3) The qualifications for a water well driller's  
6 license are:

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

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

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

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

15 (e) employment by a licensed water well contractor;

16 (f) completion of an apprenticeship of 1 year or more  
17 under the direct supervision of a licensed water well  
18 contractor or driller; and

19 (g) successful completion of an examination given by  
20 the department.

21 ~~(4)--The--qualifications--for--a--pump--installer's--license~~  
22 ~~are:~~

23 ~~(a)--familiar--knowledge--of--groundwater--laws--of--this~~  
24 ~~state--and--sanitary--standards--for--pump--installation;~~

25 ~~(b)--knowledge--of--construction;--installation;--and~~

1 repair of water well pumps, water pressure storage tanks,  
2 connecting piping, and related appurtenances;

3 (c) possession of adequate equipment by the applicant  
4 to properly install pumping equipment;

5 (d) financial responsibility of the applicant;

6 (e) 1 or more years of experience under the direct  
7 supervision of a licensed pump installer or licensed water  
8 well contractor; and

9 (f) successful completion of an examination given by  
10 the department;

11 (5)(4) The qualifications for a license to construct  
12 monitoring wells are:

13 (a) familiar knowledge of groundwater laws of this  
14 state and sanitary standards for drilling and construction  
15 of monitoring wells;

16 (b) knowledge of types of monitoring well  
17 construction;

18 (c) knowledge of types of drilling tools used for  
19 monitoring wells and their uses;

20 (d) knowledge of geology;

21 (e) financial responsibility of the applicant;

22 (f) 1 or more years of experience in drilling  
23 monitoring wells under the direct supervision of a licensed  
24 monitoring well constructor; and

25 (g) successful completion of an examination related

1 specifically to drilling of monitoring wells given by the  
2 department.

3 (2)(6)(5) The department shall give examinations at  
4 times and places the board determines. Failure of an  
5 applicant to successfully complete the examination  
6 disqualifies him from making further application for a  
7 period of 3 months. The board shall act within a reasonable  
8 time on applications for licenses. An application shall be  
9 accompanied by the initial fee, and failure to successfully  
10 meet the requirements of the board does not entitle the  
11 applicant to a refund of the fee."

12 Section 10. Section 37-43-306, MCA, is amended to  
13 read:

14 "37-43-306. Bond to be required. (1) The department,  
15 on issuance of a contractor's water well contractor's, OR  
16 monitoring well constructor's, or pump installer's license  
17 under this chapter, shall require, before the person  
18 commences operations in this state, a good and sufficient  
19 surety bond or in lieu thereof its equivalent in a  
20 certificate of deposit, cashier's check, bank draft, or  
21 certified check, to be approved by the board, in the penat  
22 sum of \$4,000, conditioned that the licensee will comply  
23 with the rules of the board.

24 (2) A person who is licensed in more than one category  
25 need supply only one surety bond or its equivalent in a

1 certificate of deposit, cashier's check, bank draft, or  
 2 certified check, to be approved by the board, for \$4,000."

3 Section 11. Section 37-43-307, MCA, is amended to  
 4 read:

5 "37-43-307. Annual renewal -- fee -- revocation for  
 6 nonrenewal. (1) The term for licenses issued under this  
 7 chapter is from July 1 of each year through the following  
 8 June 30. After the payment of the initial fee under  
 9 37-43-303, a licensee shall pay, before the first day of  
 10 each license year, a renewal fee as prescribed by the board.

11 (2) If a licensee does not apply for renewal of his  
 12 license before the first day of a license year and remit to  
 13 the department the renewal fee, he shall have his license  
 14 suspended by the board. If the license remains suspended for  
 15 a period of more than 30 days after the first day of a  
 16 license year, it shall be revoked by the board. However, the  
 17 department, prior to this revocation, shall notify the  
 18 licensee of the board's intention to revoke at least 10 days  
 19 prior to the time set for action to be taken by the board on  
 20 the license, by mailing notice to the licensee at the  
 21 address appearing for the licensee in the records and files  
 22 of the department. A license once revoked may not be  
 23 reinstated unless it appears that an injustice has occurred  
 24 indicating to the board that the licensee was not guilty of  
 25 negligence or laches. If a person whose license has been

1 revoked through his own fault desires to engage in the  
 2 business of water well drilling, OR monitoring well  
 3 construction,--or--pump--installation in this state or  
 4 contracting therefor, he must apply under 37-43-303 and  
 5 37-43-304. Notice of suspension shall be given a licensee  
 6 when the suspension occurs."

7 Section 12. Section 37-43-308, MCA, is amended to  
 8 read:

9 "37-43-308. Reciprocity. If a person holding a license  
 10 entitling him to drill water wells or--install--pumping  
 11 equipment in another state applies for a Montana water well  
 12 contractor's, OR water well driller's,--or--pump--installer's  
 13 license, the board may waive the apprenticeship requirements  
 14 and examination requirements if it finds that the standards  
 15 and requirements of the state in which the applicant is  
 16 licensed are equal to or exceed those of Montana. However,  
 17 the board may require the applicant to successfully complete  
 18 an examination based on Montana statutes and rules relating  
 19 to the drilling of water wells and--installation--of--pumping  
 20 equipment in this state."

21 Section 13. Section 37-43-312, MCA, is amended to  
 22 read:

23 "37-43-312. Penalty. Any person who shall willfully  
 24 violate any lawful rule or order of the board or who shall  
 25 engage in the business of drilling, or--making altering, or

1 rehabilitating water wells or monitoring wells or installing  
 2 pumping equipment without first having obtained a license as  
 3 in this chapter required or who shall violate any provision  
 4 of this chapter shall be guilty of a misdemeanor and upon  
 5 conviction shall be subject to a fine of not more than \$500  
 6 or imprisonment in a county jail for a term not exceeding 6  
 7 months, or both. Any violation of this chapter shall be  
 8 prosecuted by the county attorney in the county in which the  
 9 violation occurred or is occurring, and the trial thereof  
 10 shall be held in that county."

11 Section 14. Section 37-43-401, MCA, is amended to  
 12 read:

13 "37-43-401. No action or counterclaim to be maintained  
 14 except by licensee. No action or counterclaim shall be  
 15 maintained by any water well contractor, water well driller,  
 16 OR monitoring well constructor, or pump installer in any  
 17 court in this state with respect to any agreement, work,  
 18 labor, or materials for which a license is required by this  
 19 chapter or to recover the agreed price or any compensation  
 20 under any such agreement or for any such work, labor, or  
 21 materials for which a license is required by this chapter  
 22 without alleging and proving that such water well  
 23 contractor, water well driller, OR monitoring well  
 24 constructor, or pump installer had a valid license at the  
 25 time of making such agreement and of supplying such labor,

1 work, or materials."

2 Section 15. Section 37-43-402, MCA, is amended to  
 3 read:

4 "37-43-402. Completion of contracts by successor in  
 5 interest of licensed contractor licensee. Upon the transfer  
 6 by operation of law to the successor in interest of a  
 7 licensed water well contractor's, OR monitoring well  
 8 constructor's, or pump installer's rights under a contract  
 9 or agreement for the drilling, or making, or construction of  
 10 a water well or wells, monitoring well or the installation  
 11 of pumping equipment, the successor in interest to such  
 12 rights shall be permitted to engage in the business of  
 13 drilling, making, or construction of water wells or  
 14 monitoring wells or the installation of pumping equipment to  
 15 the extent necessary to perform the obligations of said  
 16 licensed water well contractor licensee under such contract  
 17 or agreement, provided that such engagement in business  
 18 shall be under the supervision of a licensed water well  
 19 contractor, pump installer, or monitoring well constructor."

20 NEW SECTION: Section 16. Initial licensure as a pump  
 21 installer. (1) An applicant who submits an application for  
 22 a pump installer's license before June 1, 1988, shall  
 23 receive a license if the applicant:

24 (a) successfully completes an examination for a pump  
 25 installer's license administered by the board;

1 (b) submits evidence satisfactory to the board  
 2 demonstrating that he was actively engaged in the business  
 3 of installing pumping equipment or employed as a pump  
 4 installer for the 2 years immediately preceding July 17  
 5 1987;

6 (c) pays a fee established by the board pursuant to  
 7 37-43-303; and

8 (d) provides a bond in compliance with 37-43-306.

9 (2) An applicant who submits an application for a pump  
 10 installer's license after May 31, 1987, shall meet the  
 11 requirements of 37-43-303, 37-43-305, and 37-43-306.

12 NEW SECTION. Section 16. Initial licensure as a  
 13 monitoring well constructor. (1) An applicant who submits an  
 14 application for a monitoring well constructor's license  
 15 before June 1, 1988, shall receive a license if the  
 16 applicant:

17 (a) is a licensed water well contractor or is engaged  
 18 in installing monitoring wells;

19 (b) provides verification of 1 or more years'  
 20 experience in drilling monitoring wells within the 4 years  
 21 preceding the application;

22 (c) pays a fee established by the board under  
 23 37-43-303;

24 (d) successfully completes the examination for  
 25 monitoring well installation; and

1 (e) provides a bond in compliance with 37-43-306.

2 (2) An applicant who applies for a monitoring well  
 3 constructor's license after May 31, 1988, shall meet the  
 4 requirements of 37-43-303, 37-43-305, and 37-43-306.

5 NEW SECTION. Section 17. Licensed monitoring well  
 6 constructor to supervise all construction of monitoring  
 7 wells. (1) Any firm, corporation, or partnership may engage  
 8 in the business of constructing or installing monitoring  
 9 wells provided a licensed monitoring well constructor is in  
 10 charge of all monitoring well installation.

11 (2) The licensed monitoring well constructor must be  
 12 physically present at the site throughout the construction  
 13 of the monitoring well.

14 NEW SECTION. Section 18. Repealer. Section 37-43-304,  
 15 MCA, is repealed.

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

20 NEW SECTION. Section 20. Codification instruction.  
 21 Sections 16 through ~~18~~ AND 17 are intended to be codified as  
 22 an integral part of Title 37, chapter 43, part 4, and the  
 23 provisions of Title 37, chapter 43, part 4, apply to  
 24 sections 16 through ~~18~~ AND 17.

25 NEW SECTION. Section 21. Effective date. This act is

HB 0831/02

1 effective July 1, 1987.

-End-

## 1 HOUSE BILL NO. 831

2 INTRODUCED BY HOLLIDAY, ECK, GALT, IVERSON

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES

4 AND CONSERVATION

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING LAWS RELATING  
7 TO THE BOARD OF WATER WELL CONTRACTORS; INCREASING THE  
8 COMPENSATION FOR BOARD MEMBERS TO \$50 A DAY; ALLOWING FOR  
9 LICENSING OF MONITORING WELL CONSTRUCTORS ~~AND WATER WELL~~  
10 ~~PUMP--INSTALLERS~~; REQUIRING BONDS FOR MONITORING WELL  
11 CONSTRUCTORS ~~AND--WATER--WELL--PUMP--INSTALLERS~~; AMENDING  
12 SECTIONS 37-43-101, 37-43-102, 37-43-201 THROUGH 37-43-203,  
13 37-43-301 THROUGH 37-43-303, 37-43-305 THROUGH 37-43-308,  
14 37-43-312, 37-43-401, AND 37-43-402, MCA; REPEALING SECTION  
15 37-43-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

18 Section 1. Section 37-43-101, MCA, is amended to read:

19 "37-43-101. Purpose. It is the purpose of this chapter  
20 to reduce and minimize the waste and contamination of  
21 groundwater resources within this state by reasonable  
22 regulation and licensing of drillers or makers of water  
23 wells in this state and monitoring wells and--installers--of  
24 pumping--equipment and to protect the health and general  
25 welfare by providing a means for the development of the

1 natural resource of underground water in an orderly,  
2 sanitary, and reasonable manner. The reasonable regulation  
3 and licensing of drillers or makers of water wells and  
4 monitoring wells and--installers--of--pumping--equipment is in  
5 the best interest of the public, and the waste and  
6 contamination of groundwater resources through inefficient  
7 or incompetent operations of drillers or makers of water  
8 wells and monitoring wells and--installers--of--pumping  
9 equipment is prohibited. For the protection of the public  
10 and for the conservation of underground water resources, it  
11 is necessary that standards be set and maintained to insure  
12 that competency in the drilling and making of water wells  
13 and monitoring wells and--installation--of--pumping--equipment  
14 in this state is obtained."

15 Section 2. Section 37-43-102, MCA, is amended to read:

16 "37-43-102. Definitions. Unless the context requires  
17 otherwise, in this chapter the following definitions apply:  
18 (1) "Apprentice water well driller" means an  
19 individual who is learning the trade of water well drilling  
20 and performs labor and services for a licensed water well  
21 contractor and whose duties are directly related to well  
22 drilling or drilling rig operation.

23 (2) "Board" means the board of water well  
24 contractors provided for in 2-15-3307.

25 (3) "Department" means the department of natural

1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (4) "Monitoring well" means a well that is used for  
4 monitoring groundwater quality or flow direction but is not  
5 used for withdrawing groundwater for purposes other than  
6 water quality sampling or pump testing.

7 (5) "Monitoring well constructor" means a natural  
8 person who drills or supervises the drilling of monitoring  
9 wells.

10 ~~(6) "Pumping equipment" means a pump or other device~~  
11 ~~used or intended for use in withdrawing or obtaining~~  
12 ~~groundwater from a well, including but not limited to well~~  
13 ~~seals and other safeguards to protect groundwater from~~  
14 ~~contamination.~~

15 ~~(7) "Pump installer" means a person who installs or~~  
16 ~~repairs pumping equipment for compensation.~~

17 ~~(3)(8)(6)~~ "Water well" means an excavation that is  
18 drilled, cored, bored, washed, driven, dug, jetted, or  
19 otherwise constructed and intended for the location,  
20 diversion, artificial recharge, or acquisition of  
21 groundwater. The term does not include spring development or  
22 excavations, by backhoe or otherwise, for recovery and use  
23 of surface waters or for the purpose of stock watering or  
24 irrigation where the depth is 25 feet or less. The term does  
25 not include an excavation made for the purpose of obtaining

1 or prospecting for oil, natural gas, minerals, or products  
2 of mining or quarrying or for inserting media to repressure  
3 oil- or natural-gas-bearing formations or for storing  
4 petroleum, natural gas, or other products.

5 ~~(4)(9)(7)~~ "Water well contractor" or "contractor"  
6 means a natural person who contracts on behalf of a firm,  
7 corporation, partnership, or other business entity to  
8 construct, alter, or rehabilitate a water well on lands  
9 other than his own for compensation.

10 ~~(5)(10)(8)~~ "Water well driller" or "driller" means any  
11 person, other than an apprentice, at a drilling site causing  
12 a water well to be drilled, altered, or rehabilitated."

13 Section 3. Section 37-43-201, MCA, is amended to read:

14 "37-43-201. Seal Organization -- seal -- compensation  
15 of members. (1) The board shall annually elect a chairman  
16 and vice-chairman.

17 ~~(1)(2)~~ The board shall have a seal with the words  
18 engraved thereon, "Board of Water Well Contractors", and  
19 such seal shall be affixed to all writs, authentication of  
20 records, and other official proceedings of the board. The  
21 courts of this state shall take judicial notice of such  
22 seal.

23 ~~(2)(3)~~ Each appointed member of the board who is not a  
24 government employee shall receive as compensation for his  
25 services the sum of \$20 ~~\$50~~ per day for each day actually



1 engaged in the performance of the duties of his office,  
 2 including time of travel between his home and the places at  
 3 which he shall perform such duties, together with mileage  
 4 and per diem expenses as provided for in 2-18-501 through  
 5 2-18-503. ~~The state engineer, the director of environmental~~  
 6 ~~sanitation--of--the state board of health, and other members~~  
 7 who are employees of the state of Montana shall receive no  
 8 extra compensation for their services as members of the  
 9 board."

10 Section 4. Section 37-43-202, MCA, is amended to read:

11 "37-43-202. Powers and duties. (1) The board may  
 12 exercise the authority granted to it by this chapter.

13 (2) The board shall adopt rules and orders to  
 14 effectuate this chapter.

15 (3) The board shall adopt rules to establish mandatory  
 16 water well construction standards and enforcement procedures  
 17 ~~by--January--17--1987~~. The standards must address the  
 18 protection of the drilling site; specifications for casing  
 19 materials; materials and specifications for well screens;  
 20 casing perforations; well development procedures; proper  
 21 sealing and grouting; temporary capping; cleaning and  
 22 disinfecting; bonds; guaranties; contractors' and drillers'  
 23 qualifications; tests for yield and drawdown; reporting  
 24 procedures and requirements for water quality, well logs,  
 25 location of wells, and information relating to local

1 conditions; well filters; access ports; gravel packing;  
 2 sampling methods; plumbness and alignment of the hole and  
 3 casing; well abandonment procedures; and other necessary and  
 4 appropriate standards.

5 ~~(4)--The board shall adopt rules regarding installation~~  
 6 ~~of pumping equipment by January 17, 1989.~~

7 (5)(4) The board shall adopt rules regarding the  
 8 construction, use, and abandonment of monitoring wells by  
 9 January 1, 1989.

10 ~~(4)(6)(5)~~ The board may request the department to  
 11 inspect water wells drilled or being drilled, and the  
 12 department has access to these at reasonable times.

13 ~~(5)(7)(6)~~ The board may establish a program for  
 14 training apprentices and licensed or prospective water well  
 15 contractors, water well drillers, AND monitoring well  
 16 constructors, and pump installers or ~~prospective water well~~  
 17 ~~drillers--and apprentices~~ to more effectively carry out this  
 18 chapter.

19 ~~(6)(8)(7)~~ The board shall set and enforce standards  
 20 and rules governing the licensing, registration, and conduct  
 21 of water well drillers, and water well contractors, AND  
 22 monitoring well constructors, and pump installers.

23 ~~(7)(9)(8)~~ The board shall set fees commensurate with  
 24 costs. The board may establish fees, including but not  
 25 limited to fees for application, examination, renewal,

1 reciprocity, late renewal, and continuing education. Board  
2 costs not related to specific programs may be equitably  
3 distributed as determined by the board. The board shall  
4 maintain records sufficient to support the fees charged for  
5 each program area.

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

11 ~~(9)~~(10) The board shall:

12 (a) authorize the department to issue licenses to  
13 qualified water well contractors, and water well drillers,  
14 AND monitoring well constructors~~and pump installers~~ in  
15 this state;

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

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

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

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

24 ~~(10)~~(11) The board shall pay to the department its  
25 share of the assessed costs of the department in

1 administering this chapter."

2 Section 5. Section 37-43-203, MCA, is amended to read:

3 "37-43-203. Disciplinary authority -- injunctions. (1)  
4 The board may adopt rules specifying grounds for  
5 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 The board may maintain an action to enjoin a  
20 person from engaging in the drilling, making, or  
21 construction of water wells or monitoring wells or  
22 installing-pumping-equipment until a license to practice is  
23 procured. A person who has been enjoined and who violates  
24 the injunction is punishable for contempt of court."

25 Section 6. Section 37-43-301, MCA, is amended to read:

1 "37-43-301. Licensed contractor person to supervise  
 2 all construction. (1) Any firm, corporation, or partnership  
 3 may engage in the business of constructing water wells  
 4 provided a licensed water well contractor is placed in  
 5 charge of all water well construction.

6 ~~{2}--Any firm, corporation, or partnership may engage~~  
 7 ~~in the business of installing pumping equipment provided a~~  
 8 ~~licensed pump installer is in charge of installing the~~  
 9 ~~pumping equipment.~~

10 {3}(2) The licensed water well contractor must be the  
 11 individual who contracts on behalf of the firm, corporation,  
 12 or partnership.

13 ~~{4}(3)~~ A licensed water well driller, pursuant to  
 14 37-43-305, must be employed by a licensed water well  
 15 contractor."

16 Section 7. Section 37-43-302, MCA, is amended to read:

17 "37-43-302. License required. (1) The drilling,  
 18 making, or construction of water wells ~~into the groundwater~~  
 19 ~~resources of this state~~ and monitoring wells ~~and the~~  
 20 ~~installation of pumping equipment~~ is declared to be a  
 21 business and activity affecting the public interest,  
 22 requiring reasonable standards of competence. Except as  
 23 provided in subsection (2), it is unlawful for any water  
 24 well contractor, or water well driller, OR monitoring well  
 25 constructor, ~~or pump installer~~, as defined in this chapter,

1 to construct, alter, or rehabilitate a water well or a  
 2 monitoring well ~~or to install pumping equipment~~ without  
 3 first having obtained a valid license therefor as provided  
 4 for in this chapter. An individual who is licensed as a  
 5 water well contractor is not required to have a separate  
 6 water well driller's license to perform the actual  
 7 construction work on the well.

8 (2) A license is not required for:

9 (a) a person who drills, alters, or rehabilitates a  
 10 water or monitoring well on land that is owned or leased by  
 11 him, and provided:

12 (i) the land is used by him for farming, ranching, or  
 13 agricultural purposes or as his residence; and

14 (ii) the person who obtains a permit from the board;  
 15 and

16 (iii) the construction of the well conforms to the  
 17 minimum construction standards for water or monitoring wells  
 18 and installation of pumping equipment set by board rule; or

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

25 ~~{c}--a well owner who installs his own pumping~~

1 ~~equipment--in--a--well--used--by--him--on--land--he--owns--or--leases,~~  
2 ~~provided:~~

3 ~~(i)--the--land--is--used--by--the--well--owner--for--farming,~~  
4 ~~ranching,--or--agricultural--purposes--or--as--the--well--owner's~~  
5 ~~residence;~~

6 ~~(ii)--the--well--owner--obtains--a--permit--from--the--board;~~  
7 ~~and~~

8 ~~(iii)--the--pump--installation--conforms--to--the--minimum~~  
9 ~~pumping--equipment--installation--standards--set--by--board--rule.~~

10 (3) (a) To obtain a permit under subsection (2)(a) ~~or~~  
11 ~~(2)(c),~~ a person shall file with the department an  
12 application containing the applicant's name, mailing  
13 address, the location of the proposed well, the nature of  
14 the applicant's ownership interest in the property on which  
15 the well is to be drilled located, the construction or  
16 installation method to be used, and the use for the proposed  
17 well.

18 (b) The board shall promptly issue a permit if it  
19 finds that:

20 (i) ~~the applicant intends to drill the well is~~ located  
21 on land that he the applicant owns or leases and that he  
22 uses for farming, ranching, or agricultural purposes or as  
23 his residence; and

24 (ii) the construction or installation method to be used  
25 meets the minimum standards for water wells ~~or--pumping~~

1 equipment set by board rule."

2 Section 8. Section 37-43-303, MCA, is amended to read:  
3 "37-43-303. Application -- fee. (1) Except as provided  
4 in 37-43-302(2), a person desiring to engage in the  
5 drilling, making, or construction, alteration, or  
6 rehabilitation of one or more water or monitoring wells for  
7 underground water ~~or the installation of pumping equipment~~  
8 in water wells in this state shall first file an application  
9 with the department for a contractor's or driller's license,  
10 setting out his. The application must set forth the  
11 applicant's qualifications, the equipment proposed to be  
12 used in the contracting, and other matters required by the  
13 board on forms adopted by the board.

14 (2) The department shall charge a fee prescribed by  
15 the board for filing the an application of a person. The  
16 application shall not be acted on until the fee has been  
17 paid. Fees collected under this section shall be deposited  
18 in the state special revenue fund for the use of the board.

19 (3) A An appropriate license to construct water wells  
20 shall be issued to an applicant if, in the opinion of the  
21 board, the applicant is qualified to conduct water well or  
22 monitoring well construction operations ~~or pumping equipment~~  
23 installation. In the granting of licenses, the board shall  
24 have due regard for the interest of this state in the  
25 protection of its underground waters."

1 Section 9. Section 37-43-305, MCA, is amended to read:

2 "37-43-305. Examination and qualifications. (1) Under  
 3 board rules pertaining to the business of drilling and  
 4 contracting for drilling of water wells ~~which--the--board~~  
 5 ~~adopts and monitoring wells and--the--business--of--pump~~  
 6 ~~installation~~, the department shall inquire by examination or  
 7 otherwise into the qualifications of applicants for licenses  
 8 ~~to-drill-or-make-wells-for--the--production--of--underground~~  
 9 ~~waters-in-this-state~~. Examinations may be oral, written, or  
 10 both.

11 (2) The qualifications ~~required--by--the-board~~ for a  
 12 water well contractor's license are:

13 (a) familiar knowledge of groundwater laws of this  
 14 state and sanitary standards for water well drilling and  
 15 construction of water wells;

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

17 (c) knowledge of types of drilling tools and their  
 18 uses;

19 (d) knowledge of underground geology in its relation  
 20 to well construction;

21 (e) possession of adequate equipment by the applicant  
 22 to complete satisfactory water wells under the standards of  
 23 the board;

24 (f) financial responsibility of the applicant;

25 (g) successful completion of an examination given by

1 the department; and

2 (h) ~~the--applicant--must-have-completed-a-minimum-of-1~~  
 3 ~~year completion of an~~ apprenticeship of 1 year or more under  
 4 the direct supervision of a licensed water well contractor.

5 (3) The qualifications for a water well driller's  
 6 license are:

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

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

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

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

15 (e) employment by a licensed water well contractor;

16 (f) completion of an apprenticeship of 1 year or more  
 17 under the direct supervision of a licensed water well  
 18 contractor or driller; and

19 (g) successful completion of an examination given by  
 20 the department.

21 ~~(4)--The--qualifications--for--a--pump--installer's--license~~  
 22 ~~are:~~

23 ~~(a)--familiar--knowledge--of--groundwater--laws--of--this~~  
 24 ~~state--and--sanitary--standards--for--pump--installation;~~

25 ~~(b)--knowledge--of--construction--installation--and~~

repair of water well pumps; water pressure storage tanks;  
connecting piping; and related appurtenances;

(c) possession of adequate equipment by the applicant  
to properly install pumping equipment;

(d) financial responsibility of the applicant;

(e) 1 or more years of experience under the direct  
supervision of a licensed pump installer or licensed water  
well contractor; and

(f) successful completion of an examination given by  
the department;

(5)(4) The qualifications for a license to construct  
monitoring wells are:

(a) familiar knowledge of groundwater laws of this  
state and sanitary standards for drilling and construction  
of monitoring wells;

(b) knowledge of types of monitoring well  
construction;

(c) knowledge of types of drilling tools used for  
monitoring wells and their uses;

(d) knowledge of geology;

(e) financial responsibility of the applicant;

(f) 1 or more years of experience in drilling  
monitoring wells under the direct supervision of a licensed  
monitoring well constructor; and

(g) successful completion of an examination related

specifically to drilling of monitoring wells given by the  
department.

(2)(6)(5) The department shall give examinations at  
times and places the board determines. Failure of an  
applicant to successfully complete the examination  
disqualifies him from making further application for a  
period of 3 months. The board shall act within a reasonable  
time on applications for licenses. An application shall be  
accompanied by the initial fee, and failure to successfully  
meet the requirements of the board does not entitle the  
applicant to a refund of the fee."

Section 10. Section 37-43-306, MCA, is amended to  
 read:

"37-43-306. Bond to be required. (1) The department,  
 on issuance of a contractor's water well contractor's; OR  
monitoring well constructor's; or pump installer's license  
 under this chapter, shall require, before the person  
 commences operations in this state, a good and sufficient  
 surety bond or in-lieu--thereof its equivalent in a  
 certificate of deposit, cashier's check, bank draft, or  
 certified check, to be approved by the board, in the penal  
 sum of \$4,000, conditioned that the licensee will comply  
 with the rules of the board.

(2) A person who is licensed in more than one category  
need supply only one surety bond or its equivalent in a

1 certificate of deposit, cashier's check, bank draft, or  
 2 certified check, to be approved by the board, for \$4,000."

3 Section 11. Section 37-43-307, MCA, is amended to  
 4 read:

5 "37-43-307. Annual renewal -- fee -- revocation for  
 6 nonrenewal. (1) The term for licenses issued under this  
 7 chapter is from July 1 of each year through the following  
 8 June 30. After the payment of the initial fee under  
 9 37-43-303, a licensee shall pay, before the first day of  
 10 each license year, a renewal fee as prescribed by the board.

11 (2) If a licensee does not apply for renewal of his  
 12 license before the first day of a license year and remit to  
 13 the department the renewal fee, he shall have his license  
 14 suspended by the board. If the license remains suspended for  
 15 a period of more than 30 days after the first day of a  
 16 license year, it shall be revoked by the board. However, the  
 17 department, prior to this revocation, shall notify the  
 18 licensee of the board's intention to revoke at least 10 days  
 19 prior to the time set for action to be taken by the board on  
 20 the license, by mailing notice to the licensee at the  
 21 address appearing for the licensee in the records and files  
 22 of the department. A license once revoked may not be  
 23 reinstated unless it appears that an injustice has occurred  
 24 indicating to the board that the licensee was not guilty of  
 25 negligence or laches. If a person whose license has been

1 revoked through his own fault desires to engage in the  
 2 business of water well drilling, OR monitoring well  
 3 construction--or--pump--installation in this state or  
 4 contracting therefor, he must apply under 37-43-303 and  
 5 ~~37-43-304~~. Notice of suspension shall be given a licensee  
 6 when the suspension occurs."

7 Section 12. Section 37-43-308, MCA, is amended to  
 8 read:

9 "37-43-308. Reciprocity. If a person holding a license  
 10 entitling him to drill water wells or--install--pumping  
 11 equipment in another state applies for a Montana water well  
 12 contractor's, OR water well driller's, or--pump--installer's  
 13 license, the board may waive the apprenticeship requirements  
 14 and examination requirements if it finds that the standards  
 15 and requirements of the state in which the applicant is  
 16 licensed are equal to or exceed those of Montana. However,  
 17 the board may require the applicant to successfully complete  
 18 an examination based on Montana statutes and rules relating  
 19 to the drilling of water wells and--installation--of--pumping  
 20 equipment in this state."

21 Section 13. Section 37-43-312, MCA, is amended to  
 22 read:

23 "37-43-312. Penalty. Any person who shall willfully  
 24 violate any lawful rule or order of the board or who shall  
 25 engage in the business of drilling, or--making MAKING,

1 altering, or rehabilitating water wells or monitoring wells  
 2 or---installing---pumping---equipment without first having  
 3 obtained a license as in this chapter required or who shall  
 4 violate any provision of this chapter shall be guilty of a  
 5 misdemeanor and upon conviction shall be subject to a fine  
 6 of not more than \$500 or imprisonment in a county jail for a  
 7 term not exceeding 6 months, or both. Any violation of this  
 8 chapter shall be prosecuted by the county attorney in the  
 9 county in which the violation occurred or is occurring, and  
 10 the trial thereof shall be held in that county."

11 Section 14. Section 37-43-401, MCA, is amended to  
 12 read:

13 "37-43-401. No action or counterclaim to be maintained  
 14 except by licensee. No action or counterclaim shall be  
 15 maintained by any water well contractor, water well driller,  
 16 OR monitoring well constructor, or pump installer in any  
 17 court in this state with respect to any agreement, work,  
 18 labor, or materials for which a license is required by this  
 19 chapter or to recover the agreed price or any compensation  
 20 under any such agreement or for any such work, labor, or  
 21 materials for which a license is required by this chapter  
 22 without alleging and proving that such water well  
 23 contractor, water well driller, OR monitoring well  
 24 constructor, or pump installer had a valid license at the  
 25 time of making such agreement and of supplying such labor,

1 work, or materials."

2 Section 15. Section 37-43-402, MCA, is amended to  
 3 read:

4 "37-43-402. Completion of contracts by successor in  
 5 interest of licensed-contractor licensee. Upon the transfer  
 6 by operation of law to the successor in interest of a  
 7 licensed water well contractor's, OR monitoring well  
 8 constructor's, or pump installer's rights under a contract  
 9 or agreement for the drilling, or making, or construction of  
 10 a water well or wells, monitoring well or the installation  
 11 of pumping equipment, the successor in interest to such  
 12 rights shall be permitted to engage in the business of  
 13 drilling, making, or construction of water wells or  
 14 monitoring wells or the installation of pumping equipment to  
 15 the extent necessary to perform the obligations of said  
 16 licensed water well contractor licensee under such contract  
 17 or agreement, provided that such engagement in business  
 18 shall be under the supervision of a licensed water well  
 19 contractor, pump installer, or monitoring well constructor."

20 ~~NEW SECTION--Section 16--Initial licensure as a pump~~  
 21 ~~installer--(1) An applicant who submits an application for~~  
 22 ~~a pump installer's license before June 17, 1988, shall~~  
 23 ~~receive a license if the applicant:~~

24 ~~(a) successfully completes an examination for a pump~~  
 25 ~~installer's license administered by the board;~~



1        ~~{b}--submits--evidence--satisfactory---to---the---board~~  
 2        ~~demonstrating--that--he--was--actively--engaged--in--the--business~~  
 3        ~~of--installing--pumping--equipment--or--employed--as--a--pump~~  
 4        ~~installer--for--the--2--years--immediately--preceding--July--1,~~  
 5        ~~1987;~~

6        ~~{c}--pays--a--fee--established--by--the--board--pursuant--to~~  
 7        ~~37-43-303;--and~~

8        ~~{d}--provides--a--bond--in--compliance--with--37-43-306;~~

9        ~~{2}--An--applicant--who--submits--an--application--for--a--pump~~  
 10       ~~installer's--license--after--May--31,--1988,--shall--meet--the~~  
 11       ~~requirements--of--37-43-303;--37-43-305;--and--37-43-306.~~

12        ~~NEW SECTION. Section 16. Initial licensure as a~~  
 13        ~~monitoring well constructor. (1) An applicant who submits an~~  
 14        ~~application for a monitoring well constructor's license~~  
 15        ~~before June 1, 1988, shall receive a license if the~~  
 16        ~~applicant:~~

17        ~~(a) is a licensed water well contractor or is engaged~~  
 18        ~~in installing monitoring wells;~~

19        ~~(b) provides verification of 1 or more years'~~  
 20        ~~experience in drilling monitoring wells within the 4 years~~  
 21        ~~preceding the application;~~

22        ~~(c) pays a fee established by the board under~~  
 23        ~~37-43-303;~~

24        ~~(d) successfully completes the examination for~~  
 25        ~~monitoring well installation; and~~

1        (e) provides a bond in compliance with 37-43-306.

2        (2) An applicant who applies for a monitoring well  
 3        constructor's license after May 31, 1988, shall meet the  
 4        requirements of 37-43-303, 37-43-305, and 37-43-306.

5        ~~NEW SECTION. Section 17. Licensed monitoring well~~  
 6        ~~constructor to supervise all construction of monitoring~~  
 7        ~~wells. (1) Any firm, corporation, or partnership may engage~~  
 8        ~~in the business of constructing or installing monitoring~~  
 9        ~~wells provided a licensed monitoring well constructor is in~~  
 10       ~~charge of all monitoring well installation.~~

11        (2) The licensed monitoring well constructor must be  
 12        physically present at the site throughout the construction  
 13        of the monitoring well.

14        ~~NEW SECTION. Section 18. Repealer. Section 37-43-304,~~  
 15        ~~MCA, is repealed.~~

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

20        ~~NEW SECTION. Section 20. Codification instruction.~~  
 21        ~~Sections 16 through-18 AND 17 are intended to be codified as~~  
 22        ~~an integral part of Title 37, chapter 43, part 4 3, and the~~  
 23        ~~provisions of Title 37, chapter 43, part 4 3, apply to~~  
 24        ~~sections 16 through-18 AND 17.~~

25        ~~NEW SECTION. Section 21. Effective date. This act is~~

HB 0831/03

1 effective July 1, 1987.

-End-

# STANDING COMMITTEE REPORT

## SENATE

March 18

1987

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 831

THIRD reading copy ( BLUE )  
color

REQUIRES LICENSING OF WELL PUMP INSTALLERS & MONITORING WELL  
CONSTRUCTORS

HOLLIDAY (GALT)

Respectfully report as follows: That HOUSE BILL No. 831

BE AMENDED AS FOLLOWS:

1. Page 18, line 25.  
Following: "~~7-er-making~~"  
Insert: "making,"

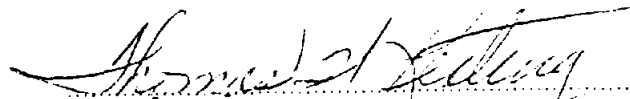
2. Page 22, line 22.  
Following: "part"  
Strike: "4"  
Insert: "3"

3. Page 22, line 23.  
Following: "part"  
Strike: "4"  
Insert: "3"

AND AS AMENDED  
BE CONCURRED IN

XXXXX  
DO PASS

XXXXXXXXX  
DO NOT PASS



SENATOR THOMAS F. KEATING, Chairman.

3-18-87  
3:44