

ENROLLED ACT NO. 68, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

AN ACT relating to professions and occupations; providing for the certification of water well drilling contractors and water well pump installation contractors; providing definitions; creating a board of examining water well drilling contractors and water well pump installation contractors; providing duties and powers of the board; establishing certification procedures; providing for fees; providing for examinations and continuing education; providing for landowner exemptions as specified; providing for revocation or suspension of certificate; granting rulemaking authority; providing an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 33-42-101 through 33-42-111 are created to read:

CHAPTER 42
WATER WELL DRILLING CONTRACTORS AND
WATER WELL PUMP INSTALLATION CONTRACTORS

33-42-101. Short title.

This act shall be known and may be cited as the "Water Well Drilling Contractors and Water Well Pump Installation Contractors Act."

33-42-102. Definitions.

(a) As used in this act:

(i) "Board" means the state board of examining water well drilling contractors and water well pump installation contractors;

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(ii) "Underground water" means any water, including hot water and geothermal steam, under the surface of the land or under the bed of any stream, lake or reservoir;

(iii) "Water well drilling contractor" means any person responsible for or causing the construction, equipping, test pumping or development of any water well for compensation or otherwise as provided by this act;

(iv) "Water well pump installation contractor" means any person who is in the business of installing pumping equipment in water wells for compensation or otherwise as provided by this act;

(v) "Well" means any artificial opening in the ground for the production of groundwater or the disposal of water underground, including developed springs, test wells, monitoring wells, deep well ground beds (cathodic protection bores), geothermal or heat exchange wells, drive points and excavations for the purpose of artificial recharge to the groundwater bodies or disposal of wastes. The term "well" does not include excavations made for the dewatering of construction sites, mines or oil and gas wells, and the prospecting for and removal of mineral products, nor wells for the production of the media for secondary oil recovery;

(vi) "This act" means W.S. 33-42-101 through 33-42-111.

33-42-103. Certification.

It is unlawful for any person to use in connection with his name or to advertise any title or description tending to

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convey the impression that he is a certified water well drilling contractor or water well pump installation contractor unless he has been certified under this act.

33-42-104. Board of examining water well drilling contractors and water well pump installation contractors created; composition; appointment; terms; vacancies; qualification; compensation.

(a) The state board of examining water well drilling contractors and water well pump installation contractors is created to consist of the following seven (7) members:

(i) The state engineer or his authorized representative;

(ii) The director of the department of environmental quality or his authorized representative; and

(iii) Five (5) members appointed by the governor as follows:

(A) One (1) water well drilling contractor engaged in the practice of irrigation well contracting or a municipal or industrial well contractor;

(B) One (1) water well drilling contractor engaged in the practice of domestic and stock water well contracting;

(C) One (1) at large water well drilling contractor;

(D) One (1) water well pump installation contractor; and

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(E) One (1) member of the general public who owns an active water well.

(b) The members appointed by the governor shall serve for a term of four (4) years, except three (3) of the initial appointments shall be for a term of two (2) years. Each member shall hold office until his successor is appointed and has been qualified. The governor may remove any member of the board as provided by W.S. 9-1-202. A vacancy occurring in the board by death, resignation or otherwise, shall be filled by appointment by the governor upon recommendation of the remaining board members for the unexpired term.

(c) Each member of the board appointed by the governor shall have been a resident of this state for at least one (1) year at the time of his appointment. Each contractor board member shall have been engaged in the practice of his profession for at least five (5) years prior to his appointment. After the appointment of the initial board, any water well drilling contractor or water well pump installation contractor appointed to the board shall be certified within six (6) months after appointment.

(d) The members of the board shall serve without compensation other than per diem and mileage allowance as allowed to state employees for the performance of their duties.

33-42-105. Organization of board; meetings; quorum; disposition of funds.

(a) The state engineer or his representative shall be secretary of the board and shall have charge of the records and be responsible for budget preparation and general administrative duties.

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(b) The members of the board shall elect a chairman from their membership who shall hold office for a term of two (2) years. No member shall serve more than two (2) consecutive terms as chairman.

(c) Meetings of the board shall be called by the chairman or upon request of not less than four (4) members and held in an appropriate location. The board shall hold not less than two (2) meetings each year. Four (4) members shall constitute a quorum. No decision shall be made unless it receives the affirmative votes of at least four (4) members of the board.

(d) Fees collected by the board shall be paid into the state treasury and credited to an account which shall be used by the board to defray costs incurred in the administration of this act. The board shall not maintain unnecessary fund balances.

33-42-106. Powers of the board in general; enjoining unlawful acts.

(a) The board is entitled to the services of the attorney general in the conduct of its affairs and shall reimburse the attorney general for actual cost of legal services provided.

(b) Whenever any person has engaged or is about to engage in any acts or practices which constitute a violation of this act, the board, or the attorney general on its behalf, may make application to the appropriate court for an order enjoining those acts. Upon a showing by the board that the person has engaged or is about to engage in any illegal act, an injunction, restraining order or other appropriate order shall be granted by the court

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without bond, and without the necessity of a showing of actual damages by the board.

(c) The board may compel the attendance of witnesses, administer oaths and take testimony concerning all matters within its jurisdiction.

(d) The board may contract for services or employ persons deemed necessary for the implementation of the provisions of this act.

33-42-107. Duties of the board.

(a) The board shall:

(i) Supervise the general administration of this act;

(ii) Enforce the provisions of this act and any rules and regulations promulgated under it and take all action necessary to carry out the provisions of this act;

(iii) Examine the qualifications of anyone desiring to obtain a certification to engage in the business of water well drilling or the business of water well pump installing within the state;

(iv) Adopt rules and regulations necessary to carry out the provisions of this act;

(v) Conduct hearings upon complaints with respect to any person certified under this act in conformity with the Wyoming Administrative Procedure Act. The hearing shall be held in the county where the complaint originated; and

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(vi) Establish continuing education for persons certified to maintain knowledge of current industry standards. However, the board shall not impose continuing education requirements for any person which exceed eighteen (18) hours in any three (3) year period.

33-42-108. Certification in general; qualifications of applicant; operator's certificate.

(a) The board shall issue a certificate to an applicant who:

(i) Is eighteen (18) years of age or older;

(ii) Has demonstrated professional competence by passing an examination prescribed by the board;

(iii) Has paid the required fee; and

(iv) Has provided written documentation of financial responsibility, including proof of general liability insurance.

(b) In the case of hardship, the board may provide special arrangements for administering the examination required by this act.

(c) An applicant for a certificate to engage in the business of water well drilling or the business of water well pump installing who is currently licensed or certified in another state whose licensure or certification requirements meets or exceeds the requirements of this state, may receive a certificate by endorsement without examination in this state upon submitting an application to the board together with a certification from the board or licensing or certifying agency of the state in which the

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applicant is licensed or certified and payment of the required fee.

(d) Subsection (c) of this section shall apply only if the state in which the applicant is currently licensed or certified grants similar reciprocity to persons certified in Wyoming.

33-42-109. Fees; renewal of lapsed certificates.

(a) The board shall establish reasonable and necessary fees pursuant to W.S. 33-1-201 for:

(i) Examination and reexamination of certification applicants;

(ii) Certification fees shall not exceed two hundred dollars (\$200.00). Renewal fees shall not exceed two hundred dollars (\$200.00) for a three (3) year period thereafter.

33-42-110. Examination; notification; reexamination.

(a) An examination shall be given at least twice annually. The examination shall be given at a location designated by the board.

(b) The examination shall consist of a written or oral examination testing the applicant's knowledge of the basics of construction and state law, rules, regulations and local ordinances concerning the construction of water wells or installation of water well pumps and pumping equipment.

(c) Not less than thirty (30) days prior to examination the board shall notify each applicant that his

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application and evidence submitted for certification is satisfactory and accepted or unsatisfactory and rejected. If rejected, the reasons for rejection shall be given. The notice shall include the date and location of the examination.

(d) In the event an applicant fails to receive a passing grade on examination, he may reapply for examination within ninety (90) days.

33-42-111. Denial, revocation or suspension of certificate; hearing.

(a) The board may withhold, deny, revoke or suspend any certificate issued or applied for in accordance with the provisions of this act upon proof that the certificate holder or applicant:

(i) Has used fraud or deception in applying for a certificate or in the taking of the examination;

(ii) Has willfully or negligently violated any of the provisions of this act, the rules and regulations adopted pursuant to this act or the statutes or rules and regulations of the state pertaining to underground water; or

(iii) Has failed while engaging in the business of water well construction contracting or water well pump installation contracting to comply with the state water well minimum construction standards.

(b) No certificate may be suspended or revoked unless there has been a hearing in conformity with the provisions of the Wyoming Administrative Procedure Act.

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Section 2. Of the interfund loan monies authorized under W.S. 9-1-417, the state auditor shall borrow not to exceed fifty thousand dollars (\$50,000.00) to be deposited into the account created by W.S. 33-42-105(d). The account shall be used to fund the purposes specified in this act. Monies generated under this act shall first be used to repay any monies loaned to the account including interest on the loan which shall accrue at a rate equal to that received by the state treasurer on pooled investments during the twelve (12) months preceding the month in which the loan was made. After such time, the money shall be deposited pursuant to W.S. 33-42-105(d).

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Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____
DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk