

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1318

Short Title: Well/Pump Contractors License Act.

(Public)

Sponsors: Representatives Fussell; Brown, Flaherty, Gottovi, Greenwood, and Jordan.

Referred to: Economic Expansion.

May 26, 1992

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT WELL CONTRACTORS AND PUMP CONTRACTORS BE LICENSED AND TO ESTABLISH A WELL AND PUMP CONTRACTORS EXAMINERS BOARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 87 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 9.

"WELL AND PUMP CONTRACTORS.

"§ 87-120. Short title.

(a) This Article may be cited as the 'Well and Pump Contractors Licensing Act.'

(b) Purpose and Policy. – The General Assembly has determined that underground water is a precious resource belonging to all the people of the State. The use of underground water is a proper subject for statutory control for the protection of present and future generations of the population. The State's environment, its commercial and industrial development, and the health and welfare of its citizens are directly related to and dependent upon the quality and quantity of its aquifers. The protection of underground waters from pollution and abuse requires that all persons engaged in the business of drilling and pump contracting so as to afford access to underground water supplies be required to exhibit special experience and expertise as evidenced by a uniform statewide license.

"§ 87-121. Definitions.

The following definitions apply in this Article:

- 1 (1) Board. – The Board of Well and Pump Contractors created by this
2 Article.
- 3 (2) Department. – The Department of Environment, Health, and Natural
4 Resources.
- 5 (3) Drill. – All acts necessary to the construction of a well with power
6 equipment.
- 7 (4) Groundwater. – The water of underground streams, channels, artesian
8 basins, reservoirs, lakes, and other water under the surface of the
9 ground, whether percolating or otherwise.
- 10 (5) Person. – Any natural person, partnership, association, trust, and
11 public or private corporation.
- 12 (6) Pump. – Any powered device for extracting water, oil, gas, or
13 reclamation fluids from any well.
- 14 (7) Pump Contractor. – Any person who contracts or engages in the
15 business of installation, replacement, or repair of any pump or well
16 seal which results in breaking or opening the well seal of a water
17 supply well excluding environmental monitoring wells and recovery
18 wells, or any pump related activity that has the potential to
19 contaminate the water source.
- 20 (8) Well. – A hole in the ground used for any of the following: (i) to
21 explore for, obtain, or monitor groundwater, (ii) to inject or withdraw
22 water into or from any underground formation from which water may
23 be produced, or (iii) to transfer heat to or from the ground or
24 groundwater. The term also includes a remedial well.
- 25 (9) Well contractor. – Any person who contracts to machine drill, alter, or
26 repair any well.
- 27 (10) Well drilling rig or equipment. – The power machinery used in drilling
28 a well. This includes any equipment that has the potential to
29 contaminate groundwater and is used to obtain groundwater.
- 30 (11) Well seal. – An approved arrangement or device used to cap a well or
31 to establish and maintain a junction between the casing or curbing of a
32 well and the piping or equipment installed therein, the purpose or
33 function of which is to prevent pollutants from entering the well at the
34 upper terminal.

35 **§ 87-122. Persons exempted from Article.**

36 This Article shall not apply to a person who performs labor or services for a licensed
37 well contractor in connection with the drilling of a well or who repairs or installs pumps
38 at the direction and under the personal supervision of a licensed well or pump
39 contractor.

40 **§ 87-123. Licensure required for well and pump contractors.**

41 After January 1, 1993, no person shall engage in any of the following activities,
42 unless that person has a valid license as provided by this Article: (i) drill a well, or (ii)
43 install or service water-well pumps, water pumps, well-pumping units, pressure tanks,
44 and systems open to underground water.

1 **"§ 87-124. Board of Well Contractor Examiners; creation; composition;**
2 **appointment and terms of members; vacancies.**

3 (a) There is created a State Board of Well and Pump Contractor Examiners. The
4 Board shall consist of seven members appointed by the Governor as follows:

5 (1) Four registered well or pump contractors who drill in consolidated or
6 unconsolidated formations, recommended by the North Carolina
7 Groundwater Association to the Governor. One of these members
8 shall be a pump contractor and one of these members shall drill
9 monitoring wells.

10 (2) Two members of the Department. One member shall represent the
11 Groundwater Section of the Department and one member shall
12 represent the Environmental Health Division of the Department.

13 (3) One representative of the public at large, who shall not be a well or
14 pump contractor, or an employee of any State department.

15 (b) After the establishment of the initial Board, those persons who are well or
16 pump contractors appointed to the Board shall be licensed under the provisions of this
17 Article.

18 (c) Except as provided in subsection (d), each member shall be appointed to a
19 four-year term to begin on February 1 and end on January 31. There shall be no
20 successive terms. A former member of the Board shall wait for a period of four years
21 before being eligible for reappointment to the Board.

22 (d) Of the members initially appointed, one of the well or pump contractors shall
23 serve a term of one year. The public member and the second well or pump contractor
24 shall serve a term of two years. The representative from the Groundwater Section of the
25 Department and the third well or pump contractor shall serve a term of three years. The
26 representative from the Environmental Health Division of the Department and the
27 fourth well or pump contractor shall serve a term of four years.

28 (e) Any vacancy shall be filled in the same manner as the original appointment.
29 An appointee shall serve the remainder of the unexpired term and until his or her
30 successor has been appointed and qualified.

31 (f) Each member of the Board shall be a resident of the State.

32 **"§ 87-125. Compensation and expenses of Board members; employment and**
33 **compensation of personnel; expenses of administration not to exceed**
34 **income; no liability of State.**

35 (a) A Board member shall receive compensation for the performance of duties
36 required by this Article and reasonable travel expenses as provided by G.S. 93B-5.

37 (b) The Board may employ necessary personnel for the performance of its
38 functions, and may fix the compensation of that personnel within the limits of funds
39 available to the Board.

40 (c) The total expense of the administration of this Article shall not exceed the
41 total income from fees collected pursuant to this Article. No salary, expense, or other
42 obligations of the Board shall be charged against the General Fund of the State. Neither
43 the Board nor any officer or employee of the Board shall have any power or authority to

1 make or incur any expense, debt, or other financial obligation binding upon the State of
2 North Carolina.

3 **"§ 87-126. Organization and meetings of the Board; quorum; rules and**
4 **regulations; seal; administration of oaths; membership by public**
5 **employees.**

6 (a) The Board shall annually elect a chair from among its membership. The
7 Board shall meet annually in the City of Raleigh, at a time set by the Board. The Board
8 may hold additional meetings and conduct business at any place in the State.

9 (b) Five members of the Board shall constitute a quorum to transact business.
10 The Board may designate any member to conduct any proceeding, hearing, or
11 investigation necessary to its purpose, but any final action shall require a quorum of the
12 Board.

13 (c) The Board may adopt rules to implement this Article, provided that no rule
14 shall change, modify, or supersede any rules adopted under Article 7 of Chapter 87 of
15 the General Statutes.

16 (d) The Board shall have an official seal. Any member may administer an oath
17 in the taking of testimony upon any matter pertaining to the functions of the Board.
18 Membership on the Board by a public employee shall not constitute dual office holding.

19 **"§ 87-127. Issuance of licenses; qualifications of applicants; examinations; failure**
20 **to pass examination.**

21 (a) Any person who desires to be licensed as a well or pump contractor pursuant
22 to this Chapter shall:

23 (1) Submit an application on a form approved by the Board.

24 (2) Be a resident of North Carolina.

25 (3) Be 21 years of age or older.

26 (4) Pass an examination given by the Board.

27 (b) The examination required by subsection (a) of this section shall be in the
28 manner and form as the Board in the exercise of its discretion may determine, including
29 examinations prepared and graded under contracts. Appropriately different
30 examinations shall be given for well contractors and pump contractors. Examinations
31 shall be written unless the Board determines that there are extraordinary circumstances
32 that in the interest of fairness make an oral examination appropriate. The examination
33 for applicants shall be offered at least twice annually at a time and place to be
34 determined by the Board.

35 (c) When the Board has determined that an applicant has met all the
36 qualifications for licensure, and has submitted the required fee, the Board shall issue a
37 license to the applicant.

38 **"§ 87-128. Licensing of contractor working on January 1, 1993.**

39 Within three months after January 1, 1993, a resident of North Carolina who has
40 actively and continuously performed the functions of a well or pump contractor for a
41 five-year period prior to January 1, 1993, may submit an application under oath to the
42 Board, with an application fee, requesting that they be licensed as a well or pump
43 contractor without an examination. The purpose of this section is to permit
44 'grandfathering' only of those applicants who are residents of North Carolina and who

1 have performed the functions and acquired the experience over a period of five full
2 years prior to January 1, 1993, deemed satisfactory by the Board. The Board may
3 request the documentation it deems necessary in evaluating such requests.

4 **"§ 87-129. Expiration of licenses; renewal without examination.**

5 A license issued under this Article shall be an annual license and shall expire on
6 January 31. A license may be renewed for an ensuing license year without examination
7 by submitting a renewal application to the Board and paying the prescribed fee at least
8 30 days prior to the expiration date of the current license. The renewal application shall
9 extend the period of validity of the current license until a new license is issued or denied
10 under the provisions of this Article.

11 **"§ 87-130. Fees.**

12 Fees shall be determined by the Board, but shall not exceed the amounts specified in
13 this section. A fee shall be paid to the Board at the time an application is made:

14 For original license	\$125.00
15 For renewal license, annually	125.00
16 For examination under this Article	75.00.

17 Fees shall not be prorated for licenses issued after January 1 of any year. Licensees
18 shall be penalized twenty-five dollars (\$25.00) for renewals postmarked after December
19 31.

20 **"§ 87-131. Display of license.**

21 The licensee shall conspicuously display his or her license at the licensee's principal
22 place of business.

23 **"§ 87-132. Grounds for refusal, suspension, or revocation of license.**

24 The Board may refuse to issue or renew, or may suspend or revoke, a license on any
25 one or more of the following grounds:

- 26 (1) Material misstatement in the application for license;
- 27 (2) Willful disregard or violation of this Article or of any rule or
28 regulation promulgated by the Board pursuant thereto; or of any law of the State of
29 North Carolina relating to wells;
- 30 (3) Conviction of any crime, an essential element of which is misstatement
31 of fact, fraud or dishonesty, or conviction of any felony.

32 **"§ 87-133. Procedure when Board refuses to examine applicant or revokes or**
33 **suspends license.**

34 The procedure to be followed by the Board when it contemplates refusing to allow
35 an applicant to take an examination, or to revoke or suspend a license issued under the
36 provisions of this Article, shall be in accordance with the provisions of Chapter 150B of
37 the General Statutes.

38 **"§ 87-134. Violation a misdemeanor; injunction to prevent violation.**

39 Any violation of this Article shall be a misdemeanor. The Board may apply to any
40 judge of the superior court for an injunction to prevent any violation or threatened
41 violation of the provisions of this Article."

42 Sec. 2. This act is effective upon ratification.