

Water well drilling contractors licenses.

Sponsored by: Representative(s) Hageman and Senator(s) Meier

A BILL

For

AN ACT relating to professions and occupations; providing for the licensure 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 licensing procedures; providing for fees; providing for examinations and continuing education; providing initial exemption of active contractors; providing for landowner exemptions as specified; providing for revocation or suspension of licenses; granting rulemaking authority; providing penalties; providing an appropriation; providing for personnel; and providing for an effective date.

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

Section 1. W.S. 33-42-101 through 33-42-114 are created to read:

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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;

(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 33-42-114.

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33-42-103. License required.

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It is unlawful for any person to engage in the business of water well construction, drilling or water well pump installing in this state or to use in connection with his name or to advertise any title or description tending to convey the impression that he is a licensed water well drilling contractor or water well pump installation contractor unless he has been licensed under this act. Any person licensed pursuant to this act shall not be required to obtain any additional license to carry on the activities described in this act. This act shall not apply to any person who drills his own well or installs pumping equipment on a well entirely for his own use on property owned or controlled by him with equipment owned or operated by him.

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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

(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 licensed.

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(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, general administrative duties and the employment and supervision of any personnel employed under this act.

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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.

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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 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.

33-42-107. Duties of the board.

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for services or employ persons deemed
necessary for the implementation of the
provisions of this act.

(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 license to engage in the business of water well drilling or the business of water well pump installing within the state;

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

(v) Conduct hearings upon complaints with respect to any licensee 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 licensees 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.

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33-42-108. Licensing in general; qualifications of applicant; operator's license; temporary license.

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(a) Any person desiring to engage in the business of contracting for the construction of water wells or for the installation of pumps or pumping equipment in water wells shall obtain a license from the board before commencing business.

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

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(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.

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liability insurance.

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

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(d) The state engineer may, if the applicant meets all other requirements, issue a temporary license until the next examination by the board. The temporary license shall not be renewed more than once for any applicant.

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(e) An applicant for a license to engage in the business of water well drilling or the business of water well pump installing who is currently licensed in another state whose licensure requirements are similar to this state, may receive a license by endorsement without examination in this state upon submitting an application to the board together with a certification from the board or licensing agency of the state in which the applicant is licensed and payment of the required fee.

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

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

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

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(i) Examination and reexamination of license applicants;

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(ii) License fees and annual license renewals, neither of which shall exceed two hundred dollars (\$200.00) per year.

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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 application and evidence submitted for licensing 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.

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(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. Initial exemption of active drillers and installers; exemptions; operator's license.

Any person otherwise qualified who has been actively engaged in the business of a water well drilling contractor or water well pump installer for a period of five (5) years prior to the effective date of this act as documented by evidence satisfactory to the board which may include three (3) written affidavits from three (3) individuals competent to attest to the applicant's professional work experience shall have not to exceed two (2) years from the effective date of this act to comply with the provisions of this act.

33-4-112. Denial, revocation or suspension of license; hearing.

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

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

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(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 license 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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33-42-113. Exclusions.

Nothing in this act shall be construed to require licensing of any person operating drilling equipment or conducting other drilling operations for oil or other minerals, regardless of whether the well produces water.

33-42-114. Violation and penalties.

After two (2) years from the effective date of this act, violation of any of the provisions of this act is a misdemeanor punishable by a fine of not to exceed seven hundred fifty dollars (\$750.00), a sentence of not to exceed six (6) months in jail, or both.

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).

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.

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