

CHAPTER 252

WATER AND IRRIGATION

SENATE BILL 03-045

BY SENATOR(S) Entz, Isgar, Phillips, Taylor, Chlouber, Hillman, Kester, and Tapia;
also REPRESENTATIVE(S) Miller, Hodge, Hoppe, Rippey, White, Jahn, Marshall, Stafford, Stengel, and Williams S.

AN ACT

CONCERNING THE INCREASED REGULATION OF WATER WELLS, AND, IN CONNECTION THEREWITH, REQUIRING CONTINUING EDUCATION OF WATER WELL CONSTRUCTION CONTRACTORS AND PUMP INSTALLERS AS A CONDITION OF LICENSURE, INCREASING WELL PERMIT FEES, CREATING A CASH FUND, SPECIFYING ADDITIONAL WELL CONSTRUCTION AND PUMP INSTALLATION ENFORCEMENT AUTHORITY, CREATING A WELL INSPECTION PROGRAM, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 37-91-101, Colorado Revised Statutes, is amended to read:

37-91-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) It has been established by scientific evidence that improperly constructed wells, improperly abandoned wells, and improperly installed pumping equipment can adversely affect GROUND WATER RESOURCES AND the public health, SAFETY, AND WELFARE; AND

(b) ~~Consistent with its duty to safeguard the public health of this state, the general assembly~~ Therefore, ~~declares that~~ the proper location, construction, repair, and abandonment of wells, ~~and~~ the proper installation and repair of pumping equipment, ~~as well as~~ the licensing and regulation of persons engaging in the business of contracting either for the construction of wells or for the installation of pumping equipment, AND THE PERIODIC INSPECTION OF WELL CONSTRUCTION AND PUMP INSTALLATION are essential for the protection of the public health AND THE PRESERVATION OF GROUND WATER RESOURCES.

SECTION 2. 37-91-102 (4.7), (8), (10), (12), (12.5), (13), (14), (15.5), and (16)

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a), Colorado Revised Statutes, are amended to read:

37-91-102. Definitions. As used in this article, unless the context otherwise requires:

(4.7) "Directly employed" means ~~under full-time~~ ENGAGED IN employment WHERE THE EMPLOYER IS RESPONSIBLE FOR AND DIRECTLY CONTROLS THE PERFORMANCE OF THE EMPLOYEE, and, where applicable, THE EMPLOYEE IS covered by workers' compensation and unemployment compensation. "DIRECTLY EMPLOYED" DOES NOT REFER TO INDEPENDENT CONTRACTORS OR SUBCONTRACTORS.

(8) "Installation of pumping equipment" means the selection, ~~of and procedure employed in the~~ placement, AND preparation for operation ~~repair, or modification of~~ pumping equipment, including all construction involved in ~~making entrance to~~ ENTERING the well and establishing well seals and safeguards to protect ground water from contamination.

(10) "License" means the document issued by the board to qualified persons making application therefor, pursuant to section 37-91-105, authorizing such persons to engage in ~~the business of undertaking~~ one or more methods of well construction or pump installation or any combination of such methods.

(12) "Private driller" means any ~~person who constructs a well entirely for his own use on property owned or controlled by him with equipment owned and operated by him~~ INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, POLITICAL SUBDIVISION, OR PUBLIC AGENCY THAT USES EQUIPMENT OWNED BY IT TO DIG, DRILL, REDRILL, CASE, RECASE, DEEPEN, OR EXCAVATE A WELL ENTIRELY FOR ITS OWN USE UPON PROPERTY OWNED BY IT.

(12.5) "Private pump installer" means any ~~person who 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~~ INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, POLITICAL SUBDIVISION, OR PUBLIC AGENCY THAT USES EQUIPMENT OWNED BY IT TO INSTALL PUMPING EQUIPMENT ON A WELL ENTIRELY FOR ITS OWN USE ON PROPERTY OWNED BY IT.

(13) "Pumping equipment" means any pump or ~~other device~~ RELATED EQUIPMENT used or intended for use in withdrawing or obtaining ground water, including, but not limited to, well seals, PITLESS ADAPTERS, and other safeguards to protect the ground water from contamination and any waterlines up to and including the pressure tank and any coupling appurtenant thereto.

(14) "Pump installation contractor" means any person ~~engaged in the business of installing~~ LICENSED TO INSTALL, REMOVE, MODIFY, OR REPAIR pumping equipment for compensation. ~~and licensed pursuant to this article.~~

(15.5) "Supervision" means personal and continuous on-the-site direction by a LICENSED well construction contractor or LICENSED pump installation contractor, unless the LICENSED contractor has applied for and received from the ~~state engineer~~ BOARD an exemption from continuous on-the-site direction for a specific task.

(16) (a) "Well" for the purpose of this article means any test hole or other excavation that is drilled, cored, bored, washed, fractured, driven, dug, jetted, or otherwise constructed ~~when the intended use of such excavation is for the PURPOSE~~ OF location, monitoring, dewatering, observation, diversion, artificial recharge, or acquisition of ground water FOR BENEFICIAL USE or for conducting pumping equipment or aquifer tests.

SECTION 3. 37-91-103 (2) and (3), Colorado Revised Statutes, are amended to read:

37-91-103. State board of examiners of water well construction and pump installation contractors. (2) ~~The governor shall make his first three appointments within thirty days after July 1, 1967, to serve the following terms: One for a term expiring June 30, 1969, one for a term expiring June 30, 1970, and one for a term expiring June 30, 1971. Thereafter~~ All members shall be appointed for four-year terms, but no member shall be reappointed to OR serve more than two consecutive four-year terms. ~~Each member shall hold office until the expiration of his term or until a successor is appointed.~~ Any vacancy occurring in the board membership of the governor's appointees, other than by expiration, shall be filled by the governor by appointment for the unexpired term. Members shall serve without compensation but shall be reimbursed for actual expenses necessarily incurred in their official business.

(3) ~~The board shall meet within sixty days after July 1, 1967, and not less than~~ AT LEAST once every three months ~~thereafter~~ and at such other times as it deems necessary or advisable. Special BOARD meetings ~~of the board~~ may be called at any time on order of the chairman or vice-chairman or any three members of the board. The BOARD SHALL DETERMINE the time and place of all meetings, ~~shall be determined by the board;~~ but AT LEAST one meeting ~~within~~ EVERY three months ~~after the first appointment of the board shall be held in Denver. at which time a chairman, a vice-chairman, and a secretary shall be selected.~~ Three members of the board shall constitute a quorum, and the affirmative vote of three members shall be required to pass any action or motion of the board. The board may adopt bylaws to govern its own procedure.

SECTION 4. 37-91-104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

37-91-104. Duties of the board. (1) The board shall:

(l) ASSURE PROTECTION OF GROUND WATER RESOURCES AND THE PUBLIC HEALTH BY ORDERING THE NONDESTRUCTIVE INVESTIGATION, ABANDONMENT, REPAIR, DRILLING, REDRILLING, CASING, RECASING, DEEPENING, OR EXCAVATION OF A WELL WHERE IT FINDS SUCH ACTION TO BE NECESSARY TO CORRECT VIOLATIONS OF THIS ARTICLE OR RULES PROMULGATED BY THE BOARD WITH RESPECT TO THIS ARTICLE OR TO PROTECT GROUND WATER RESOURCES AND THE PUBLIC HEALTH.

(m) EXISTING WELLS THAT WERE CONSTRUCTED IN COMPLIANCE WITH THE LAWS AND REGULATIONS IN EFFECT AT THE TIME OF THEIR CONSTRUCTION SHALL NOT BE REQUIRED TO BE REPAIRED, REDRILLED, OR OTHERWISE MODIFIED TO MEET THE CURRENT STANDARDS FOR WELL CONSTRUCTION CONTAINED IN THIS ARTICLE OR THE RULES ADOPTED BY THE BOARD. ANY SUCH WELLS THAT PRESENT AN IMMINENT

THREAT TO PUBLIC HEALTH OR GROUNDWATER CONTAMINATION MAY BE ORDERED TO BE REPAIRED OR ABANDONED. THE REMEDIAL ACTION REQUIRED BY THE BOARD FOR SUCH WELLS SHALL BE THE MINIMUM REPAIR NECESSARY TO REMOVE THE THREAT TO PUBLIC HEALTH OR OF GROUNDWATER POLLUTION. AN ORDER TO ABANDON A WELL THAT IS ISSUED UNDER THIS ARTICLE IS NOT A DETERMINATION OF INTENT TO ABANDON ANY WATER RIGHT ASSOCIATED WITH THE WELL.

SECTION 5. The introductory portion to 37-91-105 (2) and 37-91-105 (2) (c), (2) (d), and (6), Colorado Revised Statutes, are amended, and the said 37-91-105 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

37-91-105. Licensing - registration of rigs. (2) The board shall issue a license to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fees and bond as required by section 37-91-107, and who furnishes evidence satisfactory to the board that ~~he~~ THE APPLICANT:

(c) ~~Is of good moral character; in determining an applicant's character, the board shall be governed by the provisions of section 24-5-101, C.R.S.;~~

(d) Has had not less than two years' experience in the type of well construction work or pump installation work for which ~~he~~ THE APPLICANT is initially applying for a license; however:

(I) Once a person is licensed in one or more methods of well construction, ~~he~~ THE PERSON is eligible without further experience to take an examination to obtain a license for a different method of well construction;

(II) Once a person is licensed for installing one or more types of pumps, ~~he~~ THE PERSON is eligible without further experience to take an examination to obtain a license for a different type of pump installation; AND

(III) EDUCATION IN AN ACCREDITED PROGRAM APPROVED BY THE BOARD MAY SUBSTITUTE FOR WELL CONSTRUCTION OR PUMP INSTALLATION EXPERIENCE UPON APPLICATION TO AND ACCEPTANCE BY THE BOARD.

(6) ~~In the event that~~ IF an applicant fails to receive a passing grade on the examination, ~~he~~ THE APPLICANT may reapply for examination after ~~ninety~~ FORTY-FIVE days and shall pay a reexamination fee upon such reapplication.

(7) EACH LICENSEE SHALL COMPLETE EIGHT HOURS OF CONTINUING EDUCATION TRAINING AS APPROVED BY THE BOARD EVERY YEAR IN ORDER TO MAINTAIN OR RENEW A LICENSE.

SECTION 6. 37-91-106 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

37-91-106. Persons previously licensed - exemptions. (1) ~~Any person possessing the qualifications prescribed in section 37-91-105 (2) (a) to (2) (d) who has been licensed in the business of a well construction contractor immediately prior to July 1, 1985, shall, upon application made within one year of said date,~~

~~accompanied by satisfactory proof to the board that he was so licensed and accompanied by the payment of the required fee and the furnishing of the required bond, be granted a license as a well construction contractor without fulfilling the requirements that he pass the examination prescribed by section 37-91-105 (2) (c).~~

(3) ~~A Private driller or~~ DRILLERS AND PRIVATE pump installer ~~is~~ INSTALLERS ARE exempt from all license requirements under this article; except that ~~he~~ SUCH ENTITIES shall ~~be a resident of the state of Colorado~~ BE REQUIRED TO TAKE AND PASS AN EXAMINATION CONCERNING and shall comply with minimum construction standards as required by section 37-91-110 and the rules ~~and regulations~~ of the board.

(4) A license shall not be required of ~~an~~ A PROFESSIONAL engineer, PROFESSIONAL geologist, or PROFESSIONAL hydrologist or anyone directly employed by, or under the supervision of, ~~an~~ A PROFESSIONAL engineer, PROFESSIONAL geologist, or PROFESSIONAL hydrologist for the purpose of sampling, measuring, or test-pumping for scientific, engineering, or regulatory purposes. The board may promulgate rules ~~and regulations~~ governing such sampling, measuring, or test-pumping, and all such sampling, measuring, or test-pumping shall be done in compliance with such rules. ~~and regulations of the board.~~

SECTION 7. 37-91-107 (1), (4), (4.5), and (5), Colorado Revised Statutes, are amended, and the said 37-91-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

37-91-107. Fees and bonds - license renewal - continuing education. (1) All fees from applicants seeking a license under this article, and all renewal fees, shall be ~~credited to the general fund of the state~~ TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE WELL INSPECTION CASH FUND CREATED IN SECTION 37-80-111.5. No fees shall be refunded. A license shall be nontransferable and unassignable.

(4) Every licensed well construction contractor ~~or~~ AND licensed pump installation contractor in this state shall ~~annually~~ pay to the board during the month of January of each year, beginning in the year immediately subsequent to his OR HER initial licensing, a renewal fee of fifty dollars, ~~and~~ shall ~~annually~~ CONCURRENTLY file and maintain a new bond OR LETTER OF CREDIT if required PURSUANT TO THIS SECTION, and SHALL ANNUALLY FILE A CERTIFICATE OF COMPLETION OF CONTINUING EDUCATION AS REQUIRED PURSUANT TO SECTION 37-91-105 (7). The secretary shall thereupon issue a renewal license for one year. The license of any well construction contractor or pump installation contractor who fails to have his OR HER license renewed during the month of January in each year shall lapse. Any lapsed license may be renewed, without reexamination, within a period of one year after such lapse upon payment of all fees in arrears. LICENSEES MAY ELECT TO RENEW THEIR LICENSES AND FILE AND MAINTAIN A BOND OR LETTER OF CREDIT FOR A TERM OF UP TO THREE YEARS, PAYING FIFTY DOLLARS FOR EACH YEAR THE LICENSE WILL BE IN EFFECT.

(4.5) A licensee shall maintain the amount of financial responsibility required by subsections (2), (3), and (4) of this section for the life of the license for which the financial responsibility is required. The license of any well construction contractor or pump installation contractor who fails to maintain such financial responsibility

shall lapse. A license ~~which~~ THAT has so lapsed may be reinstated upon submission of current evidence of the required financial responsibility to the board and payment to the board of a ~~ten~~ ONE HUNDRED dollar reinstatement fee.

(5) The board shall charge an annual registration fee of ten dollars for each well drilling or pump installation rig to be operated ~~by a well construction contractor or pump installation contractor~~ IN THE STATE OF COLORADO.

(6) THE BOARD SHALL, NO LATER THAN JANUARY 7, 2007, DEVELOP A CONTINUING EDUCATION PROGRAM IN CONJUNCTION WITH THE COLORADO WATER WELL CONTRACTORS ASSOCIATION OR ANY ANALOGOUS OR SUCCESSOR ORGANIZATION.

SECTION 8. 37-91-108 (1) (h), Colorado Revised Statutes, is amended, and the said 37-91-108 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

37-91-108. Denial, revocation, or suspension of license. (1) The board, by an affirmative vote of three of its five members, may withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of this article, upon proof that the licensee or applicant:

(h) Has authorized a person, not directly employed OR DIRECTLY SUPERVISED by ~~him~~ THE LICENSEE, to construct wells or install pumping equipment under the authority of ~~his~~ THE LICENSEE'S license; OR

(i) HAS FAILED TO COMPLETE THE CONTINUING EDUCATION REQUIREMENT ESTABLISHED IN SECTION 37-91-107, WITHIN ONE YEAR AFTER THE ESTABLISHMENT OF SUCH REQUIREMENT.

SECTION 9. 37-91-108, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

37-91-108. Denial, revocation, or suspension of license. (4) THE BOARD MAY ORDER THE NONDESTRUCTIVE INVESTIGATION, ABANDONMENT, REPAIR, DRILLING, REDRILLING, CASING, RECASING, DEEPENING, OR EXCAVATION OF A WELL TO PROTECT GROUND WATER RESOURCES AND THE PUBLIC HEALTH IF THE BOARD FINDS SUCH ACTION TO BE NECESSARY TO CORRECT VIOLATIONS OF ARTICLE 90 OF THIS TITLE, THIS ARTICLE, OR THE RULES PROMULGATED BY THE BOARD PURSUANT TO THIS ARTICLE.

(5) THE BOARD MAY ASSESS FINES OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR VIOLATIONS OF ARTICLE 90 OF THIS TITLE, THIS ARTICLE, OR THE RULES PROMULGATED BY THE BOARD PURSUANT TO THIS ARTICLE FOR EACH SUCH VIOLATION. SUCH FINES SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE WELL INSPECTION CASH FUND CREATED IN SECTION 37-80-111.5.

SECTION 10. 37-91-109, Colorado Revised Statutes, is amended to read:

37-91-109. Further scope of article - orders - penalties. (1) In addition to the licensing of well construction contractors and pump installation contractors as required by this article, no well shall be located, constructed, repaired, or abandoned

and no pumping equipment shall be installed or repaired contrary to the provisions of this article and applicable rules of the board promulgated to effectuate the purposes of this article. THE BOARD MAY BY ORDER REQUIRE ANY LICENSEE, PRIVATE DRILLER, OR PRIVATE PUMP INSTALLER TO REMEDY ANY SUCH NONCOMPLIANT INSTALLATION, CONSTRUCTION, OR REPAIR AND MAY, PURSUANT TO RULES AND AFTER DUE NOTICE AND A HEARING, IMPOSE PENALTIES FOR SUCH NONCOMPLIANCE. The provisions of this article shall apply to any well or any pumping equipment not otherwise subject to regulation under the laws of this state and to any distribution, observation, monitoring, or dewatering of water therefrom; but this article shall not apply to any distribution of water beyond the point of discharge from the pressure tank or to any distribution of water beyond the point of discharge from the pumping equipment if no pressure tank or an overhead pressure tank is employed.

(2) ONLY A LICENSED PUMP INSTALLATION CONTRACTOR MAY INSTALL A CISTERN OR OTHER WATER STORAGE TANK BETWEEN THE WELLHEAD AND THE PRESSURE TANK OR DOWNSTREAM OF THE WELLHEAD IF NO PRESSURE TANK IS UTILIZED.

SECTION 11. 37-91-111 (3), Colorado Revised Statutes, is amended to read:

37-91-111. Violations and penalties. (3) Any person who violates any provision of subsection (1) of this section shall also be subject to a civil penalty assessed by the court of not less than one hundred dollars nor more than ~~one~~ FIVE thousand dollars for each such violation. All civil penalties collected under this subsection (3) shall be transmitted to the state treasurer, who shall credit the same to the ~~general~~ WELL INSPECTION CASH fund CREATED IN SECTION 37-80-111.5.

SECTION 12. Article 91 of title 37, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

37-91-113. Well inspection program. (1) THE STATE ENGINEER SHALL MONITOR COMPLIANCE WITH THIS ARTICLE, INCLUDING BY INSPECTING WATER WELL CONSTRUCTION AND PUMP INSTALLATION, AND MAY EMPLOY INSPECTORS FOR SUCH PURPOSE. THE COSTS OF SUCH MONITORING AND INSPECTION SHALL BE PAID FROM THE WELL INSPECTION CASH FUND CREATED BY SECTION 37-80-111.5.

(2) INSPECTORS SHALL HAVE THE FOLLOWING QUALIFICATIONS, BUT NEED NOT BE LICENSED PURSUANT TO THIS ARTICLE:

(a) KNOWLEDGE OF PROPER WELL CONSTRUCTION AND PUMP INSTALLATION TECHNIQUES AND PRACTICES;

(b) DRILL SITE EXPERIENCE;

(c) COMPUTER SKILLS;

(d) INTERPERSONAL SKILLS; AND

(e) KNOWLEDGE OF ALL APPLICABLE STATUTES AND RULES.

(3) INSPECTORS SHALL ANNUALLY SPEND A MAJORITY OF THEIR TIME CONDUCTING FIELD INSPECTIONS AND A MINORITY OF THEIR TIME PREPARING AND EVALUATING

REPORTS AND RELATED OFFICE WORK. DUTIES SHALL INCLUDE THE FOLLOWING:

- (a) WELL CONSTRUCTION AND PUMP INSTALLATION INSPECTION AND OBSERVATION;
- (b) COMPLAINT INVESTIGATION;
- (c) EDUCATION AND OUTREACH;
- (d) INSPECTION AND OBSERVATION OF GEOTECHNICAL WELLS, OBSERVATION AND MONITORING WELLS, DEWATERING WELLS, AND TEST HOLES;
- (e) FIELD INSPECTIONS OF EXISTING WELLS AND PUMPS;
- (f) FIELD INSPECTIONS OF WELL AND HOLE PLUGGING AND ABANDONMENT; AND
- (g) STAFF SUPPORT FOR THE STATE ENGINEER AND BOARD.

SECTION 13. 37-80-111.5 (1) (d), Colorado Revised Statutes, as amended by Senate Bill 03-181, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

37-80-111.5. Fees - water data bank cash fund - division of water resources publication cash fund - satellite monitoring system cash fund - ground water management cash fund - well inspection cash fund - created. (1) (d) The state engineer shall collect fees pursuant to sections 37-90-105 (3) (a), (3) (e), and (4), 37-90-107 (7) (c) (I) and (7) (d) (I), 37-90-108 (4) and (6), 37-90-116 (1) (a), (1) (c), (1) (h), and (1) (i), 37-90-137 (2), (3) (a), and (3) (c), 37-90.5-106, 37-92-602 (3) (a), (3) (d), and (5), and 37-92-308. All such fees shall be transmitted to the state treasurer, who shall credit the same to the division of water resources ground water management cash fund, which is hereby created; except that, of each fee collected pursuant to section 37-90-107 (7) (c) (I) and (7) (d) (I) and section 37-90-116 (1) (a), (1) (h), and (1) (i), thirty dollars shall be credited to the general fund; of each fee collected pursuant to section 37-90-137 (2), (3) (a) (I), and (3) (a) (II) and section 37-92-602 (3) (a) for wells applied for pursuant to section 37-92-602 (3) (b), twenty-five dollars shall be credited to the general fund; of each fee collected pursuant to section 37-90-116 (1) (c), ten dollars shall be credited to the general fund; ~~and~~ of each fee collected pursuant to section 37-90-105 (3) (a) and (4) (a) and section 37-92-602 (3) (a) for wells applied for pursuant to section 37-92-602 (3) (c) and (5), five dollars shall be credited to the general fund; AND EXCEPT THAT, OF EACH FEE COLLECTED PURSUANT TO SECTIONS 37-90-105 (3) (a) (I) AND (4) (a), 37-90-107 (7) (d) (I), 37-90-116 (1) (a), (1) (c), AND (1) (h), 37-90-137 (2) (a), AND 37-92-602 (3) (a) AND (5), FORTY DOLLARS SHALL BE CREDITED TO THE WELL INSPECTION CASH FUND, WHICH FUND IS HEREBY CREATED. MONEYS IN THE WELL INSPECTION CASH FUND SHALL BE APPROPRIATED TO AND EXPENDED BY THE STATE ENGINEER FOR THE PURPOSES ESTABLISHED IN SECTION 37-91-113. ANY MONEYS CREDITED TO THE WELL INSPECTION CASH FUND AND UNEXPENDED AT THE END OF ANY GIVEN FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF THIS FUND SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND. Moneys in the ground water management cash fund shall be expended by the state engineer for the purposes

of developing an automated well permit processing system that will expedite the issuance of well permits, creating and maintaining a ground water information management system, establishing a ground water data network, establishing ground water recharge programs, conducting ground water investigations, and for other ground water related activities that are deemed necessary by the state engineer in performing statutory duties, subject to appropriation by the general assembly. Data in the ground water data network shall be made available to the public by the office of the state engineer as expeditiously as possible.

SECTION 14. 37-90-105 (3) (a) (I) (A), (3) (a) (I) (C), (4) (a) (I) (A), and (4) (a) (II), Colorado Revised Statutes, as amended by Senate Bill 03-181, enacted at the First Regular Session of the Sixty-fourth General Assembly, are amended to read:

37-90-105. Small capacity wells - repeal. (3) (a) (I) (A) Wells of the type described in this section may be constructed only upon the issuance of a permit in accordance with the provisions of this section. A fee of four hundred ~~forty~~ EIGHTY dollars shall accompany any application for a new well permit under this section; except that, if the application is for a monitoring well filed pursuant to paragraph (d) of subsection (1) of this section, the fee shall be one hundred ~~fifty~~ NINETY dollars. A fee of two hundred FORTY dollars shall accompany any application for a replacement well of the type described in subsection (1) of this section.

(C) Effective July 1, 2006, wells of the type described in this section may be constructed only upon the issuance of a permit in accordance with the provisions of this section. A fee of ~~sixty~~ ONE HUNDRED dollars shall accompany any application for a new well permit under this section. A fee of ~~twenty~~ SIXTY dollars shall accompany any application for a replacement well of the type described in subsection (1) of this section.

(4) (a) (I) (A) Any wells of the type described by this section that were put to beneficial use prior to May 8, 1972, and any wells that were used exclusively for monitoring and observation purposes prior to August 1, 1988, not of record in the office of the state engineer, may be recorded in that office upon written application, payment of a processing fee of three hundred FORTY dollars, and permit approval. The record shall include the date the water is claimed to have been first put to beneficial use.

(II) Effective July 1, 2006, any wells of the type described by this section that were put to beneficial use prior to May 8, 1972, and any wells that were used exclusively for monitoring and observation purposes prior to August 1, 1988, not of record in the office of the state engineer, may be recorded in that office upon written application, payment of a processing fee of ~~sixty~~ ONE HUNDRED dollars, and permit approval. The record shall include the date the water is claimed to have been first put to beneficial use.

SECTION 15. 37-90-107 (7) (d) (I) (A) and (7) (d) (I) (C), Colorado Revised Statutes, as amended by Senate Bill 03-181, enacted at the First Regular Session of the Sixty-fourth General Assembly, are amended to read:

37-90-107. Application for use of ground water - publication of notice - conditional permit - hearing on objections - well permits - repeal.

(7) (d) (I) (A) Any person desiring a permit for a well to withdraw ground water for a beneficial use from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers shall make application to the commission on a form to be prescribed by the commission. A fee of four hundred ~~forty~~ EIGHTY dollars shall be submitted with the application, which sum shall not be refunded.

(C) Effective July 1, 2006, any person desiring a permit for a well to withdraw ground water for a beneficial use from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers shall make application to the commission on a form to be prescribed by the commission. A fee of ~~sixty~~ ONE HUNDRED dollars shall be submitted with the application, which sum shall not be refunded.

SECTION 16. 37-90-116 (1) (a) (I) (A), (1) (a) (II), (1) (c) (I) (A), (1) (c) (II), (1) (h) (I) (A), and (1) (h) (II), Colorado Revised Statutes, as amended by Senate Bill 03-181, enacted at the First Regular Session of the Sixty-fourth General Assembly, are amended to read:

37-90-116. Fees - ground water publication fund - repeal. (1) The state engineer or the commission shall collect the following fees:

(a) (I) (A) With an application for the use of ground water, four hundred ~~forty~~ EIGHTY dollars, which sum shall not be refunded;

(II) Effective July 1, 2006, with an application for the use of ground water, ~~sixty~~ ONE HUNDRED dollars, which sum shall not be refunded;

(c) (I) (A) For issuing a permit to modify or replace an existing well, two hundred FORTY dollars;

(II) Effective July 1, 2006, for issuing a permit to modify or replace an existing well, ~~sixty~~ ONE HUNDRED dollars;

(h) (I) (A) With an application for any change in a well permit, whether conditional or final, submitted pursuant to section 37-90-111 (1) (g), four hundred ~~forty~~ EIGHTY dollars, and with an application to correct a well location in a permit, one hundred ~~fifty~~ NINETY dollars; which sums shall not be refunded;

(II) Effective July 1, 2006, with an application for any change in a well permit, whether conditional or final, submitted pursuant to section 37-90-111 (1) (g), ~~sixty~~ ONE HUNDRED dollars, which sum shall not be refunded;

SECTION 17. 37-90-137 (2) (a) (I) (A) and (2) (a) (II), Colorado Revised Statutes, as amended by Senate Bill 03-181, enacted at the First Regular Session of the Sixty-fourth General Assembly, are amended to read:

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits - repeal. (2) (a) (I) (A) Upon receipt of an application for a replacement well or a new, increased, or additional supply of ground water from an area outside the boundaries of a designated ground water basin, accompanied by a filing fee of four hundred ~~forty~~ EIGHTY dollars, the state engineer shall make a determination as to

whether or not the exercise of the requested permit will materially injure the vested water rights of others; except that, if the application is for only a replacement well, the filing fee shall be two hundred FORTY dollars.

(II) Effective July 1, 2006, upon receipt of an application for a replacement well or a new, increased, or additional supply of ground water from an area outside the boundaries of a designated ground water basin, accompanied by a filing fee of ~~sixty~~ ONE HUNDRED dollars, the state engineer shall make a determination as to whether or not the exercise of the requested permit will materially injure the vested water rights of others.

SECTION 18. 37-92-602 (3) (a) (I) (A), (3) (a) (II), (5) (a) (I), and (5) (b), Colorado Revised Statutes, as amended by Senate Bill 03-181, enacted at the First Regular Session of the Sixty-fourth General Assembly, are amended to read:

37-92-602. Exemptions - presumptions - legislative declaration - repeal.

(3) (a) (I) (A) Wells of the type described in paragraphs (b) to (d) of subsection (1) of this section may be constructed only upon the issuance of a permit in accordance with the provisions of this subsection (3). A person desiring to use such a well shall submit an application for a permit accompanied by a fee of two hundred FORTY dollars for an application under paragraph (c) of this subsection (3) and a fee of four hundred ~~forty~~ EIGHTY dollars for an application under paragraph (b) of this subsection (3).

(II) Effective July 1, 2006, wells of the type described in paragraphs (b) to (d) of subsection (1) of this section may be constructed only upon the issuance of a permit in accordance with the provisions of this subsection (3). A person desiring to use such a well shall submit an application for a permit accompanied by a fee of ~~twenty~~ SIXTY dollars for an application under paragraph (c) of this subsection (3) and a fee of ~~sixty~~ ONE HUNDRED dollars for an application under paragraph (b) of this subsection (3).

(5) (a) (I) Any wells exempted by this section that were put to beneficial use prior to May 8, 1972, and any wells that were used exclusively for monitoring and observation purposes prior to August 1, 1988, not of record in the office of the state engineer may be recorded in that office upon written application, payment of a processing fee of three hundred FORTY dollars, and permit approval. The record shall include the date the water is claimed to have been appropriated or first put to beneficial use.

(b) Effective July 1, 2006, any wells exempted by this section that were put to beneficial use prior to May 8, 1972, and any wells that were used exclusively for monitoring and observation purposes prior to August 1, 1988, not of record in the office of the state engineer may be recorded in that office upon written application, payment of a processing fee of ~~sixty~~ ONE HUNDRED dollars, and permit approval. The record shall include the date the water is claimed to have been appropriated or first put to beneficial use.

SECTION 19. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the well inspection cash fund created pursuant to section 37-80-111.5, Colorado Revised Statutes, not otherwise

appropriated, to the department of natural resources, for the fiscal year beginning July 1, 2003, the sum of four hundred one thousand four hundred sixty dollars (\$401,460) and 8.0 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said sum, thirty-six thousand one hundred twelve dollars (\$36,112) shall be for the executive director's office and three hundred sixty-five thousand three hundred forty-eight dollars (\$365,348) and 8.0 FTE shall be for the division of water resources.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2003, the sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary, for the provision of legal services to the department of natural resources, division of water resources, related to the implementation of this act. Such sum shall be from cash funds exempt received from the department of natural resources out of the appropriation made in subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated to the department of personnel, central services, fleet management program and motor pool services, for the fiscal year beginning July 1, 2003, the sum of twenty-six thousand one hundred twelve dollars (\$26,112), or so much thereof as may be necessary for the implementation of this act. Said sum shall be from cash funds exempt received from the department of natural resources out of the appropriation made in subsection (1) of this section.

SECTION 20. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 14, 2003