

HOUSE BILL NO. 59

INTRODUCED BY M. VINTON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO WATER WELL CONTRACTORS; REVISING WHO MAY CONTRACT ON BEHALF OF A LICENSED WATER WELL CONTRACTOR; CLARIFYING LICENSURE REQUIREMENTS FOR THE ABANDONMENT OR DECOMMISSIONING OF WELLS; INCREASING THE BOND AMOUNT REQUIRED FOR WATER WELL CONTRACTOR LICENSURE; REVISING COMPLAINT AND INVESTIGATION PROCEDURES; AND AMENDING SECTIONS 37-43-301, 37-43-302, 37-43-306, AND 37-43-309, MCA."

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

**Section 1.** Section 37-43-301, MCA, is amended to read:

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

~~(2) — The licensed water well contractor must be the individual who contracts on behalf of the firm, corporation, or partnership.~~

~~(3)~~(2) A licensed water well driller, pursuant to 37-43-305, must be employed by a licensed water well contractor."

**Section 2.** Section 37-43-302, MCA, is amended to read:

**"37-43-302. License required.** (1) The drilling, making, or construction of water wells and monitoring wells is declared to be a business and activity affecting the public interest and requiring reasonable standards of competence. Except as provided in subsection (2), it is unlawful for any water well contractor, water well driller, or monitoring well constructor to construct, drill, alter, abandon, decommission, or rehabilitate a water well or a monitoring well without first having obtained a valid license ~~therefor~~ for the activity as provided for in

1 this chapter. An individual who is licensed as a water well contractor is not required to have a separate water  
2 well driller's license to perform the actual construction work on the well or a separate license to install  
3 monitoring wells.

4 (2) A license is not required for:

5 (a) a person who constructs, drills, alters, abandons, decommissions, or rehabilitates a water or  
6 monitoring well on land that is owned or leased by the person if:

7 (i) the land is used by the person for farming, ranching, or agricultural purposes or as the person's  
8 residence;

9 (ii) the person obtains a permit from the board; and

10 (iii) the construction of the well conforms to the minimum construction standards for water or  
11 monitoring wells set by board rule; or

12 (b) an apprentice water well driller who performs labor or services for a licensed water well  
13 contractor or driller in connection with the drilling of a water well at the direction and under the personal  
14 supervision of a licensed water well contractor or driller.

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

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

20 (i) the well is located on land that the applicant owns or leases and that the applicant uses for  
21 farming, ranching, or agricultural purposes or as the applicant's residence; and

22 (ii) the construction or installation method to be used meets the minimum standards for water wells  
23 or monitoring wells set by board rule."

24

25 **Section 3.** Section 37-43-306, MCA, is amended to read:

26 **"37-43-306. Bond to be required.** (1) The department, on issuance of a water well contractor's or  
27 monitoring well constructor's license under this chapter, shall require, before the person commences operations  
28 in this state, a good and sufficient surety bond or its equivalent in a certificate of deposit, cashier's check, bank

1 draft, or certified check, to be approved by the board, in the sum of ~~\$4,000~~ \$25,000, conditioned that the  
2 licensee will comply with the rules of the board.

3 (2) A person who is licensed in more than one category need supply only one surety bond or its  
4 equivalent in a certificate of deposit, cashier's check, bank draft, or certified check, to be approved by the  
5 board, for ~~\$4,000~~ \$25,000.

6 (3) A state or federal employee who is bonded by the state or federal government is not required  
7 to supply a bond during the course of employment with the state or federal government. A bond is required if  
8 the person ceases government employment.

9 (4) In lieu of the requirements of subsections (1) through (3), a firm, corporation, or partnership  
10 having more than two licensed water well contractors or monitoring well constructors may submit one bond in  
11 the amount of ~~\$10,000~~ \$25,000 for the entire firm, corporation, or partnership."  
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13 **Section 4.** Section 37-43-309, MCA, is amended to read:

14 **"37-43-309. Complaints and investigations.** The board may investigate complaints against  
15 licensees to determine compliance with the laws and rules of this chapter. ~~Licensees must be given an~~  
16 ~~opportunity to respond to complaints and demonstrate or achieve legal compliance prior to disciplinary action.~~  
17 LICENSEES MUST BE GIVEN AN OPPORTUNITY TO RESPOND TO A COMPLAINT, AFTER WHICH THE BOARD MAY BEGIN  
18 DISCIPLINARY ACTION UNDER 37-43-310. The board may require complainants and licensees to appear before the  
19 board to discuss complaints and to attempt to settle differences."  
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