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House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

# HOUSE BILL 2088

AN ACT

AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 133, SECTION 4; AMENDING SECTION 45-599, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-606; RELATING TO WELLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-596, Arizona Revised Statutes, as amended by  
3 Laws 2002, chapter 133, section 4, is amended to read:

4 45-596. Notice of intention to drill; fee

5 A. In an area not subject to active management, a person may not drill  
6 or cause to be drilled any well or deepen an existing well without first  
7 filing notice of intention to drill pursuant to subsection C of this section  
8 or obtaining a permit pursuant to section 45-834.01. **ONLY ONE NOTICE OF**  
9 **INTENTION TO DRILL IS REQUIRED FOR ALL WELLS THAT ARE DRILLED BY OR FOR THE**  
10 **SAME PERSON TO OBTAIN GEOPHYSICAL, MINERALOGICAL OR GEOTECHNICAL DATA WITHIN**  
11 **A SINGLE SECTION OF LAND.**

12 B. In an active management area, a person may not drill or cause to be  
13 drilled an exempt well, a replacement well in approximately the same location  
14 or any other well for which a permit is not required under this article,  
15 article 7 of this chapter or section 45-834.01 or deepen an existing well  
16 without first filing a notice of intention to drill pursuant to subsection C  
17 of this section. **ONLY ONE NOTICE OF INTENTION TO DRILL IS REQUIRED FOR ALL**  
18 **WELLS THAT ARE DRILLED BY OR FOR THE SAME PERSON TO OBTAIN GEOPHYSICAL,**  
19 **MINERALOGICAL OR GEOTECHNICAL DATA WITHIN A SINGLE SECTION OF LAND.**

20 C. A notice of intention to drill shall be filed with the director on  
21 a form which is prescribed and furnished by the director and which shall  
22 include:

- 23 1. The name and mailing address of the person filing the notice.
- 24 2. The legal description of the land upon which the well is proposed  
25 to be drilled and the name and mailing address of the owner of the land.
- 26 3. The legal description of the location of the well on the land.
- 27 4. The depth, diameter and type of casing of the proposed well.
- 28 5. Such legal description of the land upon which the groundwater is  
29 proposed to be used as may be required by the director to administer this  
30 chapter.
- 31 6. When construction is to begin.
- 32 7. The proposed uses to which the groundwater will be applied.
- 33 8. The name and well driller's license number of the well driller who  
34 is to construct the well.
- 35 9. The design pumping capacity of the well.
- 36 10. If for a replacement well, the maximum capacity of the original  
37 well and the distance of the replacement well from the original well.
- 38 11. Proof that the director determines to be satisfactory that the  
39 person proposing to construct the well holds a valid license issued by the  
40 registrar of contractors pursuant to title 32, chapter 10 and that the  
41 license is of the type necessary to construct the well described in the  
42 notice of intention to drill. If the proposed well driller does not hold a  
43 valid license, the director may accept proof that the proposed well driller  
44 is exempt from licensing as prescribed by section 32-1121.

1           12. If any water from the proposed well will be used for domestic  
2 purposes as defined in section 45-454, evidence of compliance with the  
3 requirements of subsection F of this section.

4           13. If for a second exempt well at the same location for the same use  
5 pursuant to section 45-454, subsection E, proof that the requirements of that  
6 subsection are met.

7           14. IF FOR A WELL TO OBTAIN GEOPHYSICAL, MINERALOGICAL OR GEOTECHNICAL  
8 DATA WITHIN A SINGLE SECTION OF LAND, THE INFORMATION PRESCRIBED BY THIS  
9 SUBSECTION FOR EACH WELL THAT WILL BE INCLUDED IN THAT SECTION OF LAND BEFORE  
10 EACH WELL IS DRILLED.

11           ~~14.~~ 15. Such other information as the director may require.

12           D. Upon receiving a notice of intention to drill AND THE FEE REQUIRED  
13 BY SUBSECTION I OF THIS SECTION, the director shall endorse on the notice the  
14 date of its receipt. The director shall THEN determine whether all  
15 information that is required has been submitted and whether the requirements  
16 of subsection C, paragraphs 11 and 12 of this section have been met. If so,  
17 within fifteen days of receipt of the notice, the director shall record the  
18 notice, mail a drilling card that authorizes the drilling of the well to the  
19 well driller identified in the notice and mail written notice of the issuance  
20 of the drilling card to the person filing the notice of intention to drill at  
21 the address stated in the notice. Upon receipt of the drilling card, the  
22 well driller may proceed to drill or deepen the well as described in the  
23 notice of intention to drill. If the director determines that the required  
24 information has not been submitted or that the requirements of subsection C,  
25 paragraphs 11 and 12 of this section have not been met, the director shall  
26 mail a statement of the determination to the person giving the notice to the  
27 address stated in the notice, and the person giving the notice may not  
28 proceed to drill or deepen the well.

29           E. The well shall be completed within one year after the date of the  
30 notice. If the well is not completed within one year, the person shall file  
31 a new notice before proceeding with further construction.

32           F. If any water from a proposed well will be used for domestic  
33 purposes as defined in section 45-454 on a parcel of land of five or fewer  
34 acres, the applicant shall submit a well site plan of the property with the  
35 notice of intention to drill. The site plan shall:

36           1. Include the county assessor's parcel identification number.

37           2. Show the proposed well location and the location of any septic tank  
38 or sewer system that is either located on the property or within one hundred  
39 feet of the proposed well site.

40           3. Show written approval by the county health authority that controls  
41 the installation of septic tanks or sewer systems in the county, or by the  
42 local health authority in areas where the authority to control installation  
43 of septic tanks or sewer systems has been delegated to a local authority. In  
44 areas where there is no local or county authority that controls the

1 installation of septic tanks or sewer systems, the applicant shall apply for  
2 approval directly to the department of water resources.

3 G. Before approving a well site plan submitted pursuant to subsection  
4 F of this section, the county or local health authority or the department of  
5 water resources, as applicable, pursuant to subsection F of this section,  
6 shall review the well site plan and determine whether the proposed well  
7 location complies with applicable local laws, ordinances and regulations and  
8 any laws or rules adopted under this title and title 49 regarding the  
9 placement of wells and the proximity of wells to septic tanks or sewer  
10 systems. If the health authority or the department of water resources, as  
11 applicable, pursuant to subsection F of this section, finds that the proposed  
12 well location complies with this title and title 49 and with local  
13 requirements, it shall endorse the site plan and the proposed well placement  
14 in a manner indicating approval. On endorsement, the director of water  
15 resources shall approve the construction of the well, if all remaining  
16 requirements have been met. If the health authority is unable to determine  
17 whether the proposed well location complies with this title and title 49 and  
18 local requirements, it shall indicate this on the site plan and the decision  
19 to approve or reject the proposed construction rests with the director of  
20 water resources. If parcel size, geology or location of improvements on the  
21 property prevents the well from being drilled in accordance with this title  
22 and title 49 or local requirements, the property owner may apply for a  
23 variance. The property owner shall make the request for a variance to the  
24 county or local authority if a county or local law, ordinance or regulation  
25 prevents the proposed construction. If a law or rule adopted under this  
26 title or title 49 prevents the proposed construction, the property owner  
27 shall make the request for a variance directly to the department of water  
28 resources. The request for a variance shall be in the form and shall contain  
29 the information that the department of water resources, county or local  
30 authority may require. The department of water resources, or the county or  
31 local authority whose law, ordinance or regulation prevents the proposed  
32 construction, may expressly require that a particular variance shall include  
33 certification by a registered professional engineer or geologist that the  
34 location of the well will not pose a health hazard to the applicant or  
35 surrounding property or inhabitants. If all necessary variances are  
36 obtained, the director of water resources shall approve the construction of  
37 the well if all remaining requirements have been met.

38 H. If a well that was originally drilled as an exploration well, a  
39 monitor well or a piezometer well or for any use other than domestic use is  
40 later proposed to be converted to use for domestic purposes as defined in  
41 section 45-454, the well owner shall file a notice of intention to drill and  
42 shall comply with this section before the well is converted and any water  
43 from that well is used for domestic purposes.

44 I. A NOTICE OF INTENTION TO DRILL FILED UNDER THIS SECTION SHALL BE  
45 ACCOMPANIED BY A FILING FEE OF FIFTY DOLLARS. THE DIRECTOR SHALL DEPOSIT,

1 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES COLLECTED PURSUANT TO THIS  
2 SUBSECTION IN THE WELL ADMINISTRATION AND ENFORCEMENT FUND ESTABLISHED BY  
3 SECTION 45-606.

4 Sec. 2. Section 45-599, Arizona Revised Statutes, is amended to read:  
5 45-599. Permit application; contents; correction of defective  
6 application; issuance of permit; fee

7 A. An application for a permit to construct a new well or replacement  
8 well in a new location shall be made on a form THAT IS prescribed and  
9 furnished by the director ~~which shall include~~ AND THAT INCLUDES:

10 1. The name and mailing address of the applicant.

11 2. The legal description of the land upon which the new well is  
12 proposed to be constructed and the name and mailing address of the owner of  
13 the land.

14 3. The legal description of the proposed location of the new well on  
15 the land.

16 4. If for a replacement well, the legal description of the land upon  
17 which the original well is located, the name and mailing address of the owner  
18 of the land, the legal description of the location of the original well on  
19 the land, the depth and diameter of the original well and evidence of proper  
20 abandonment.

21 5. The depth, diameter and type of casing of the new well.

22 6. Such legal description of the land upon which the groundwater is  
23 proposed to be used as may be required by the director to administer this  
24 chapter.

25 7. When construction is to begin.

26 8. The proposed use of the groundwater to be withdrawn.

27 9. The design pumping capacity of the new well.

28 10. The name and well driller's license number of the well driller who  
29 is to construct the well.

30 11. The estimated time required to complete the well, if more than one  
31 year from the date of receipt of the permit.

32 12. Such other information including any maps, drawings and data as the  
33 director may require.

34 B. Upon receipt of a permit application AND THE FEE REQUIRED BY  
35 SUBSECTION J OF THIS SECTION, the director shall endorse on the application  
36 the date of its receipt. If the application is incorrect or incomplete, the  
37 director may request additional information from the applicant. The director  
38 may conduct independent investigations as may be necessary to determine  
39 whether the application should be approved or rejected.

40 C. The director shall approve an application for a permit for a new  
41 well or a replacement well in a new location if the proposed well complies  
42 with the rules adopted pursuant to section 45-598, subsection A and, if the  
43 proposed well is in the Santa Cruz active management area, if the location of  
44 the proposed well is consistent with the management plan for the active  
45 management area.

1 D. Except as provided in subsection E of this section, within sixty  
2 days of receipt of a complete and correct application AND THE FEE REQUIRED BY  
3 SUBSECTION J OF THIS SECTION, the director shall approve or reject the  
4 application and mail notice of the action to the applicant.

5 E. If the director determines that an administrative hearing should be  
6 held before approving or rejecting an application, the director shall notify  
7 the applicant of the date of the hearing within sixty days of receipt of the  
8 complete and correct application AND THE FEE REQUIRED BY SUBSECTION J OF THIS  
9 SECTION.

10 F. If at the request of the applicant the director determines that an  
11 emergency exists, the director shall expedite all decisions under this  
12 section.

13 G. If the application is approved, the director shall issue a permit  
14 and the applicant may proceed to construct the well. If the application is  
15 rejected, the applicant shall not proceed with construction of the well. The  
16 well shall be completed within one year of receipt of the permit, unless the  
17 director in granting the permit approves a longer period to complete the  
18 well. If the well is not completed within one year or the longer period  
19 approved by the director, the applicant shall file a new application before  
20 proceeding with construction.

21 H. The permit shall state the following:

22 1. The legal description of the land upon which the well may be  
23 constructed.

24 2. The legal description of the location of the new well on the land.

25 3. The depth and diameter of the well and type of casing.

26 4. The maximum pumping capacity of the well.

27 5. The legal description of the land upon which the groundwater will  
28 be used.

29 6. The use of the groundwater to be withdrawn.

30 7. The latest date for completing the well.

31 I. Section 45-114, subsections A and B govern administrative  
32 proceedings, rehearing or review and judicial review of final decisions of  
33 the director under this section. If an administrative hearing is held, it  
34 shall be conducted in the active management area in which the use is located.

35 J. AN APPLICATION FOR A PERMIT FILED UNDER THIS SECTION SHALL BE  
36 ACCOMPANIED BY A FILING FEE OF FIFTY DOLLARS. THE DIRECTOR SHALL DEPOSIT,  
37 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES COLLECTED PURSUANT TO THIS  
38 SUBSECTION IN THE WELL ADMINISTRATION AND ENFORCEMENT FUND ESTABLISHED BY  
39 SECTION 45-606.

40 Sec. 3. Title 45, chapter 2, article 10, Arizona Revised Statutes, is  
41 amended by adding section 45-606, to read:

42 45-606. Well administration and enforcement fund; purpose

43 A. THE WELL ADMINISTRATION AND ENFORCEMENT FUND IS ESTABLISHED  
44 CONSISTING OF FEES PAID TO THE DEPARTMENT PURSUANT TO SECTION 45-596,  
45 SUBSECTION I AND SECTION 45-599, SUBSECTION J. THE DEPARTMENT SHALL

1 ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND  
2 SHALL BE USED BY THE DIRECTOR FOR THE FOLLOWING PURPOSES:

3 1. FOR THE REASONABLE AND NECESSARY COSTS OF THE DEPARTMENT TO  
4 IMPLEMENT THIS ARTICLE.

5 2. FOR COMPLIANCE MONITORING, INVESTIGATION AND ENFORCEMENT ACTIVITIES  
6 OF THE DEPARTMENT PERTAINING TO THE CONSTRUCTION, REPLACEMENT, DEEPENING AND  
7 ABANDONMENT OF WELLS AND CAPPING OF OPEN WELLS UNDER THIS ARTICLE.

8 B. THE FUND SHALL BE A SEPARATE ACCOUNT ON THE BOOKS OF THE  
9 DEPARTMENT. MONIES REMAINING IN THE FUND AT THE END OF THE FISCAL YEAR  
10 REMAIN IN THE FUND AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190  
11 RELATING TO THE LAPSING OF APPROPRIATIONS. ON NOTICE FROM THE DIRECTOR, THE  
12 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY  
13 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE  
14 FUND.

15 Sec. 4. Requirements for enactment; two-thirds vote

16 Pursuant to article IX, section 22, Constitution of Arizona, this act  
17 is effective only on the affirmative vote of at least two-thirds of the  
18 members of each house of the legislature and is effective immediately on the  
19 signature of the governor or, if the governor vetoes this act, on the  
20 subsequent affirmative vote of at least three-fourths of the members of each  
21 house of the legislature.