

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 1090

INTRODUCER: Environmental Preservation Committee and Senator Baker

SUBJECT: Water Well Contracting

DATE: February 24, 2006 REVISED: 03/06/06 _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Branning	Kiger	EP	Favorable/CS
2. Herrin	Yeatman	CA	Favorable
3.		GA	
4.			
5.			
6.			

I. Summary:

This committee substitute (CS) would allow a licensed water well contractor to act as a prime contractor under certain circumstances. It requires the Department of Environmental Protection to establish an administrative fee to cover costs related to administering the continuing education requirements for these contractors. It allows water well contractors who are on active duty with the Armed Forces of the United States to remain in active-license status and exempts them from license renewal provisions under certain conditions. Also, the CS exempts the spouses of active-duty members of the Armed Forces from licensure renewal provisions when the family must relocate out of state due to active-duty assignment. It increases the administrative fine for certain disciplinary actions taken by a water management district. Finally, it allows the water management district to impose administrative fines against certain unlicensed water well contractors.

This committee substitute substantially amends the following sections of the Florida Statutes: 373.323, 373.324, and 373.333.

II. Present Situation:

Part III of chapter 373, F.S., governs water well contractors. Specifically, section 373.323, F.S., provides that any person who wishes to engage in business as a water well contractor shall obtain a license to conduct such business from the water management district. The person desiring to be licensed as a water well contractor must take a licensure examination. The applicant must apply to take the examination to the water management district in which the applicant resides or in

which his or her principal place of business is located. An applicant also must meet the following requirements:

- Must be at least 18 years of age;
- Must have at least 2 years of experience in constructing, repairing, or abandoning wells; and
- Must complete the application form and remit a nonrefundable application fee.

The water management district shall issue a water well contracting license to any applicant who receives a passing grade on the examination, has paid the initial application fee, takes and completes a minimum of 12 hours of approved coursework, and otherwise meets the requirements of s. 373.323, F.S.

Pursuant to subsection (10) of s. 373.323, F.S., licensed water well contractors may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 612—Wells, pumps and tanks used for private potable water systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water well systems.

The Department of Environmental Protection (DEP) prepares the licensure exam and allows the water management districts and representatives of the water well contracting industry to participate in the development of the exam.

Section 373.329, F.S., requires the DEP to establish, by rule, the fees for the licensure application, licensure renewal, and the penalty fee for the renewal of a license which has been inactive for 1 year or less. The fees are based on the water management districts actual costs incurred to license water well contractors but cannot exceed the following:

- \$150 for application for initial licensure.
- \$50 biennial license renewal.
- \$75 penalty for renewal of a license which has been inactive for 1 year or less.

Currently, on most residential and smaller scale installations of water wells, the water well contractor will perform all of the work himself. On large projects, the water well contractor may subcontract with other contractors for certain aspects of the job such as complicated electrical connections or plumbing connections. Recently, the authority for the water well contractor to subcontract this type of work has been challenged.

Section 373.333, F.S., allows a water management district to take disciplinary action for:

- Attempting to obtain, obtaining, or renewing a license under this part by bribery or fraudulent misrepresentation.
- Being convicted or found guilty, regardless of adjudication, of fraud or deceit; or of gross negligence, incompetency, or misconduct in the performance of work; or of a crime in any jurisdiction which directly relates to the practice of water well contracting or the ability to practice water well contracting.
- Allowing any other person to use the license.
- Violating or refusing to comply with any provision of this part or a rule adopted by the department or water management district, or any order of the water management district previously entered in a disciplinary hearing.
- Constructing, repairing, or abandoning a water well without first obtaining all applicable permits.
- Having had administrative or disciplinary action relating to water well construction, repair, or abandonment taken by any municipality or county or by any state agency, which action shall be reviewed by the water management district before the water management district takes any disciplinary action of its own.
- Practicing with a revoked, suspended, or inactive license.

The water management district may enter an order imposing one or more of the following disciplinary actions:

- Denial of an application for licensure or for renewal of a license;
- Revocation or suspension of a license;
- Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense;
- Placement of the water well contractor on probation for a period of time subject to such conditions as the water management district may specify; and
- Restriction of the licensee's authorized scope of practice.

Expiration of Professional Licenses for Members of the U.S. Armed Forces Reserves and the National Guard

In 2005, the Legislature enacted s. 250.4815, F.S., to provide that a professional license issued in the state to activated members of the Florida National Guard and US Armed Forces Reserves remains active until, and is extended for up to, 90 days after his or her return from federal active duty. If the license is up for renewal during the 90-day period after returning from active duty, the member is only responsible for normal fees and activities and may not be charged additional fees, such as a late fee or delinquency fee.

III. Effect of Proposed Changes:

Section 1 amends s. 373.323, F.S., to allow a water well contractor to act as a prime contractor if the majority of work to be performed under the contract is within the scope of his or her license. The licensed water well contractor may subcontract to other contractors licensed to perform the remaining work that is part of the project contracted.

Section 2 amends s. 373.324, F.S., to provide that the continuing education requirements are waived if a water well contractor has received his or her first license within 180 days before the end of the biennium renewal of licenses. The DEP shall establish an administrative fee based on the actual costs incurred in administering the responsibilities related to the continuing education requirements.

The CS further provides that notwithstanding the renewal requirements, any water well contractor who is serving on active duty as a member of the Armed Forces of the United States who, at the time of becoming an active-duty member, had an active water well contractor license and was entitled to practice or engage in water well contracting in this state shall be kept in active-license status and exempt from license renewal provisions, as long as he or she is an active-duty member of the Armed Forces of the United States and for a period of 6 months after discharge from active-duty status, provided he or she is not engaged in water well contracting in the private sector for profit. Additionally, in adopting rules exempting such active-duty members of the Armed Forces of the United States, the DEP is required to adopt rules exempting the spouses of active-duty members from licensure renewal provisions when the family must relocate out of state due to active-duty assignment.

Section 3 amends s. 373.333, F.S., to increase the maximum administrative fine imposed for disciplinary actions from \$1,000 to \$5,000. Also, the water management district may impose through an order an administrative fine not to exceed \$5,000 against an unlicensed person when it determines that the unlicensed person has engaged in the practice of water well contracting, for which a license is required.

Section 4 provides the act takes effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This committee substitute provides for an administrative fee to cover the costs associated with the continuing education requirements. The amount of the fee is not specified.

B. Private Sector Impact:

The administrative fine for disciplinary actions is significantly increased from \$1,000 to \$5,000 for each count or separate offense. The water management district is the entity that would find the person guilty of any of the specified offenses in s. 373.333, F.S., and would be responsible for imposing the administrative fine.

This CS gives the water well contractor the authority to act as a prime contractor if the majority of the work to be performed is within the scope of his or her license. This would theoretically enable the water well contractor to oversee up to 49 percent of the work that is outside of his or her license and expertise. However, the licensed water well contractor may subcontract to other contractors licensed to perform the remaining work which is part of the project contracted.

The CS allows the water management district to impose through an order an administrative fine not to exceed \$5,000 against an unlicensed person when it has determined that the unlicensed person has engaged in the practice of water well contracting, for which a license is required.

Those licensed well drillers that have been called to active duty in the Armed Forces would not be penalized for not paying license renewal fees or complying with the continuing education requirements for that period during which they were on active duty. Also, the spouses of active-duty members are exempt from licensure renewal provisions while the family is relocated out of state due to active-duty assignment.

C. Government Sector Impact:

The CS requires DEP to establish by rule an administrative fee to cover the costs associated with the continuing education requirements.

The water management districts are responsible for imposing an administrative fine against unlicensed persons who are engaged in the practice of water well contracting for which a license is required. That fine may not exceed \$5,000. Also, fines for other violations of s. 373.33, F.S., are increased from \$1,000 to \$5,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
