

# 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.)

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Prepared By: Environmental Preservation Committee

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BILL: CS/SB 1090

INTRODUCER: Environmental Preservation Committee and Senator Baker

SUBJECT: Water Well Contracting

DATE: February 7, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute would allow a licensed water well contractor to act as a prime contractor under certain circumstances. Provides for the Department of Environmental Protection to establish an administrative fee to cover costs related to administering the continuing education requirements. Allows water well contractors who are on active duty with the Armed Forces of the United States to be kept in active-license status and to be exempt from license renewal provisions under certain conditions. Allows the spouses of active-duty members of the Armed Forces to be exempt from licensure renewal provisions when the family must relocate out of state due to active-duty assignment. Increases the administrative fine for disciplinary actions. 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:

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.

### **III. Effect of Proposed Changes:**

**Section 1.** Section 373.323, F.S., is amended 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 which is part of the project contracted.

**Section 2.** Section 373.324, F.S., is amended 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 committee substitute 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 of the Armed Forces of the United States from licensure renewal provisions when the family must relocate out of state due to active-duty assignment.

**Section 3.** Section 373.333, F.S., is amended 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.** This act takes effect July 1, 2006.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This committee substitute does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

##### **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 fines 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 committee substitute 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. This may not be the intent of the bill, but would have that effect. However, the licensed water well contractor may subcontract to other contractors license to perform the remaining work which is part of the project contracted.

The committee substitute 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.

**C. Government Sector Impact:**

The committee substitute provides for an administrative fee to cover the costs associated with the continuing education requirements. The DEP is required to prescribe the administrative fee by rule.

The water management districts are responsible for imposing the 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.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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

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