

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: General Government Appropriations Committee

BILL: CS/CS/SB 1090

INTRODUCER: General Government Appropriations Committee, Environmental Preservation Committee, and Senator Baker

SUBJECT: Water Well Contracting

DATE: April 4, 2006

REVISED: _____

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

I. Summary:

This bill authorizes a licensed water well contractor to facilitate the performance of additional work that is incidental to the construction, repair, or abandonment of a water well by a licensed contractor. The incidental work is limited to the electrical connection of a pump, connecting a well to a residential dwelling, constructing a pump house or pump vault of 100 square feet or less, constructing a nonstructural well slab of 100 square feet or less, constructing fencing, and landscaping.

The bill allows water well contractors who are licensed in Florida and on active duty with the Florida National Guard and the Armed Forces of the United States to remain in active license status for up to 180 days after the service member returns to his or her Florida residence. No additional costs such as late fees or delinquency fees above the normal license fee can be assessed during the 180-day period. Spouses of active-duty members of the Florida National Guard and the Armed Forces are also included in the license renewal provision.

Finally, the bill authorizes the water management district to impose an administrative fine against certain unlicensed water well contractors. The fine may not exceed \$5,000.

The bill substantially amends the following sections of the Florida Statutes: 373.323, 373.324, and 373.333.

II. Present Situation:

Part III of ch. 373, F.S., governs water well contractors. Specifically, s. 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.
- 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 ss. (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 (department) 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 department to establish, by rule, the fees for the licensure application, licensure renewal, and the penalty fee for the renewal of a license that has been inactive for one 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 one 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; of gross negligence, incompetency, or misconduct in the performance of work; or of a crime in any jurisdiction that 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.
- 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 U.S. 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 authorize a licensed water well contractor to facilitate the performance of additional work that is incidental to the construction, repair, or abandonment of a water well by a licensed contractor. The incidental work is limited to the electrical connection of a pump, connecting a well to a residential dwelling, constructing a pump house or pump vault of

100 square feet or less, constructing a nonstructural well slab of 100 square feet or less, constructing fencing, and landscaping.

Section 2 amends s. 373.324, F.S., to provide that, notwithstanding the renewal requirements, any water well contractor who is serving on active duty as a member of the Florida National Guard and 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 the state, shall be kept in active license status and exempt from license renewal provisions for up to 180 days after the service member returns to his or her Florida residence. This license renewal provision also applies to spouses of active-duty members.

Section 3 amends s. 373.333, F.S., to increase the maximum administrative fine imposed for disciplinary actions from \$1,000 to \$5,000. The water management district may impose 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 bill increases the administrative fine from \$1,000 to up to \$5,000 for unlicensed offenses.

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.

The bill authorizes a licensed water well contractor to facilitate the performance of additional work that is incidental to the construction, repair, or abandonment of a water well by a licensed contractor. 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.

The bill 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 Florida National Guard or the Armed Forces would not be penalized for not paying license renewal fees for 180 days after returning from active service. Spouses of active-duty members are also included in this licensure renewal provision.

C. Government Sector Impact:

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.
