

Senate Bill 139

By: Senators Lee of the 29<sup>th</sup>, Ragan of the 11<sup>th</sup>, Gillis of the 20<sup>th</sup> and Hooks of the 14<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 3 of Chapter 5 of Title 12 of the Official Code of Georgia  
2 Annotated, known as the "Water Well Standards Act of 1985," so as to change the provisions  
3 relating to meetings of the State Water Well Standards Advisory Council; to repeal certain  
4 provisions relating to licenses for water well contractor trainees; to require water well  
5 contractors to provide certain information to owners of water wells; to provide that nothing  
6 in this Act shall prohibit a person from drilling a well on his or her own property if such  
7 property is his or her primary residence; to provide that a person is prohibited from drilling  
8 a well or wells on property he or she owns and is developing for resale unless such person  
9 has a license as a water well contractor; to provide that a person licensed as a water well  
10 contractor is not required to be licensed under Chapter 14 of Title 43, when in the course of  
11 constructing a water well, he or she makes certain electrical or plumbing connections or  
12 performs other electrical or plumbing work incidental to the drilling and construction of the  
13 well; to change the provisions relating to violations under said part and evidence necessary  
14 for convictions under said part; to provide for civil penalties and procedures for imposing  
15 penalties; to provide for judicial review; to change the provisions relating to standards for  
16 wells and boreholes; to provide that the Director of the Environmental Protection Division  
17 of the Department of Natural Resources is authorized and directed to establish rules and  
18 regulations to provide for the certification of persons who install pumps on water wells  
19 regulated under the provisions of said Act; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Part 3 of Article 3 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, known  
23 as the "Water Well Standards Act of 1985," is amended by striking in its entirety  
24 subsection (d) of Code Section 12-5-123, relating to creation of the State Water Well  
25 Standards Advisory Council, and inserting in lieu thereof a new subsection (d) to read as  
26 follows:

1 "(d) The council shall meet at such times and at such designated places as it may determine  
 2 but shall hold at least ~~two~~ four regular meetings each year. An affirmative vote of a  
 3 majority of the members present shall be necessary to transact business. Four members  
 4 shall constitute a quorum."

5 **SECTION 2.**

6 Said part is further amended by striking in its entirety Code Section 12-5-127, relating to  
 7 licensing of water well contractors generally and application for trainee licenses, and  
 8 inserting in lieu thereof a new Code Section 12-5-127 to read as follows:

9 "12-5-127.

10 (a) Any person desiring to engage in the business of water well construction in this state  
 11 shall apply to the council for a license as a water well contractor. All such applications  
 12 shall be made on forms provided by the division and shall be accompanied by a fee to be  
 13 prescribed by the council.

14 (b) An applicant for a license as a water well contractor shall be required to have two  
 15 year's experience working in the water well construction business under a licensed water  
 16 well contractor and shall be required to pass an examination administered by the council.  
 17 The examination may be written, oral, or practical work, or any combination of the three.  
 18 The examination shall relate to the applicant's knowledge of basic ground water, basic  
 19 well construction, and the general contents of this part.

20 (c) Satisfactory proof of two years' experience in the water well construction business  
 21 shall be made by presenting certified affidavits from one or more licensed water well  
 22 contractors that the applicant has had at least two years of full-time water well construction  
 23 experience. If the required experience was obtained under two or more licensed water well  
 24 contractors, then a certified affidavit specifying exact dates of such experience shall be  
 25 required from each licensed contractor. In lieu of the method described above, an applicant  
 26 may present other proof satisfactory to the council of two years' experience constructing  
 27 water wells.

28 (d) Any person wishing to engage in the water well construction business shall designate  
 29 himself or at least one partner, officer, or full-time employee to fulfill the above  
 30 requirements. If the requirements are satisfactorily fulfilled, the person shall be granted  
 31 a license under this part, and such license shall cover water well construction activities for  
 32 which the person is responsible and so licensed. The partners, officers, and employees of  
 33 the person shall be allowed to engage in the activities covered by the license if the  
 34 individual who fulfilled the licensing requirements has performed or approved such  
 35 activities and such approval is posted at the site of the activity on forms to be provided by  
 36 the council for that purpose. Any such license shall be valid so long as the designated

1 partner, officer, or full-time employee is associated with the licensee or until it otherwise  
2 expires.

3 (e) The council, upon application, may issue an appropriate license to any person who  
4 holds a similar license in any state, territory, or possession of the United States, if the  
5 requirements for the license do not conflict with this part and are of a standard not less than  
6 that specified by this part and by rules and regulations promulgated under this part;  
7 provided, however, that such other state, territory, or possession grants similar reciprocity  
8 to license holders in this state.

9 (f) Nothing in this Code section shall be construed to require the registration of a person  
10 who constructs a well on his own or leased property intended for use only in a  
11 single-family house which is his permanent residence or intended for use only for farming  
12 purposes on his farm, which well produces less than 25,000 gallons per day, so long as the  
13 waters to be produced are not intended for use by the public or in any residence other than  
14 his own.

15 (g) The State of Georgia preempts the field of licensing water well contractors. Licenses  
16 issued by the council shall authorize bona fide holders thereof to engage in the business  
17 authorized by such licenses anywhere within the territorial limits of the state. No provision  
18 of this part shall be construed as prohibiting or preventing a municipality or county from  
19 fixing, charging, assessing, or collecting any business license fee, registration fee, tax, or  
20 gross receipt tax on any profession covered by this part or upon any related profession or  
21 anyone engaged in any related profession governed by this part.

22 ~~(h) Any person desiring to engage in the business of water well construction and not  
23 meeting the requirements for licensing as a water well contractor may apply to the council  
24 for a license as a water well contractor trainee. An applicant for a trainee license shall be  
25 required to pass an examination approved by the council. The examination may be written  
26 or oral and shall relate to the applicant's knowledge of basic ground water and basic well  
27 construction. Upon satisfactory completion of at least two years' experience under the  
28 direct supervision of a licensed water well contractor, the trainee may apply for a license  
29 as a water well contractor and shall be required to pass an examination approved by the  
30 council.~~

31 ~~(i)~~(h)(1) Beginning July 1, 1995, the council shall be authorized to require persons  
32 seeking renewal of licenses under this Code section to complete continuing education of  
33 not more than four hours annually. The council may provide courses and shall approve  
34 such courses offered by the division, institutions of higher learning, vocational-technical  
35 schools, and trade, technical, or professional organizations; provided, however, that  
36 continuing education courses or programs related to water well construction or standards  
37 provided or conducted by public utilities, equipment manufacturers, or institutions under

1 the State Board of Technical and Adult Education shall constitute acceptable continuing  
 2 professional education programs for the purposes of this subsection. Continuing  
 3 education courses or programs shall be in the areas of safety, environmental protection,  
 4 ground-water geology, technological advances, business management, or government  
 5 regulation. Continuing education courses shall be designed for water well contractors  
 6 having variable educational backgrounds. Courses or programs conducted by  
 7 manufacturers specifically to promote their products shall not be approved.

8 (2) All provisions of this subsection relating to continuing professional education shall  
 9 be administered by the council.

10 (3) The council shall be authorized to waive the continuing education requirements in  
 11 cases of hardship, disability, or illness or under such other circumstances as the council  
 12 deems appropriate.

13 (4) This Code section shall apply to each licensing and renewal cycle which begins after  
 14 the 1993-1994 renewal."

### 15 SECTION 3.

16 Said part is further amended by adding between Code Sections 12-5-131 and 12-5-132 a new  
 17 Code Section 12-5-131.1 to read as follows:

18 "12-5-131.1.

19 (a) After completion of any new well construction, the water well contractor shall provide  
 20 the owner of the well a written document which shall include, but not be limited to, the  
 21 following:

22 (1) Name of owner of the well;

23 (2) Location of the well;

24 (3) Date of completion of construction;

25 (4) Size of pump installed if pump is installed by the water well contractor;

26 (5) Estimated gallons of water per minute which the well is expected to produce. Such  
 27 estimate may under no circumstances be considered a guarantee of the quantity of water  
 28 to be produced by the well;

29 (6) Depth of the casing;

30 (7) Type of casing material;

31 (8) Name and address of water well contractor who constructed the well;

32 (9) State license number of the water well contractor;

33 (10) Name and address of pump installer if the water well contractor does not install  
 34 pump; and

35 (11) State certification number of pump installer if the water well contractor does not  
 36 install pump.

1 (b) Nothing in this part shall prohibit a person from drilling a well on his or her own  
 2 property if such property is his or her primary residence. A person is prohibited from  
 3 drilling a well or wells on property he or she owns and is developing for resale unless such  
 4 person has a license as a water well contractor.

5 (c) Notwithstanding any other provisions of law, a person licensed as a water well  
 6 contractor pursuant to Code Section 12-5-127 is not required to be licensed under  
 7 Chapter 14 of Title 43, when in the course of constructing a water well, he or she makes  
 8 certain electrical or plumbing connections or performs other electrical or plumbing work  
 9 incidental to the drilling and construction of the well."

#### 10 SECTION 4.

11 Said part is further amended by striking in its entirety Code Section 12-5-133, relating to  
 12 penalties for violation of said part and confiscation of equipment, and inserting in lieu thereof  
 13 a new Code Section 12-5-133 to read as follows:

14 "12-5-133.

15 (a) Any person who engages in or follows the business or occupation of, or advertises,  
 16 holds himself or herself out, or acts, temporarily or otherwise, as a water well contractor  
 17 without having first secured the required license or renewal thereof or any person who  
 18 otherwise violates any provisions of this part shall be guilty of a misdemeanor and, upon  
 19 conviction thereof, shall be fined not less than \$100.00 and not more than \$1,000.00. Each  
 20 day during which such violation exists or continues shall constitute a separate offense. In  
 21 addition to or in lieu of any fine imposed for acting without the required license, any  
 22 person violating any provision of this part may have his or her drilling rigs and  
 23 commercial vehicles confiscated in accordance with Code Section 12-5-137.

24 (b) On and after January 1, 2002, any person who installs a pump on a water well  
 25 regulated under the provisions of this part without having first secured the required  
 26 certification issued by the director as provided in Code Section 12-5-138 shall be guilty  
 27 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 and  
 28 not more than \$1,000.00.

29 (c) In order to prove a violation of this part, it shall not be necessary for a state or local  
 30 enforcement official to actually observe a well being drilled by a person who does not  
 31 possess a valid license as required by this part. Other evidence of a violation of this part  
 32 may be sufficient for a conviction.

#### 33 SECTION 5.

1 Said part is further amended by adding between Code Section 12-5-133 and 12-5-134 a new  
 2 Code Section 12-5-133.1 to read as follows:

3 "12-5-133.1.

4 (a) In addition to the provisions of Code Section 12-5-133, any person violating any  
 5 provision of this part or the rules or regulations effective under this part shall be liable for  
 6 a civil penalty not to exceed \$5,000.00 per day. Each day during which the violation or  
 7 failure or refusal to comply continues shall be a separate violation.

8 (b) Whenever the director has reason to believe that any person has violated any provision  
 9 of this part or any rule or regulation effective under this part, he or she may upon written  
 10 request cause a hearing to be conducted before a hearing officer appointed by the board.  
 11 Upon finding that such person has violated any provision of this part or any rule or  
 12 regulation effective under this part, the hearing officer shall issue his or her decision  
 13 imposing civil penalties as provided in this Code section. Such hearing and any  
 14 administrative or judicial review thereof shall be conducted in accordance with  
 15 subsection (c) of Code Section 12-2-2.

16 (c) In rendering a decision under this Code section imposing civil penalties, the hearing  
 17 officer shall consider all factors which are relevant, including, but not limited to, the  
 18 following:

19 (1) The amount of civil penalty necessary to ensure immediate and continued  
 20 compliance and the extent to which the violator may have profited by failing or  
 21 delaying to comply;

22 (2) The character and degree of impact of the violation or failure on the natural  
 23 resources of the state, especially any rare or unique natural phenomena;

24 (3) The conduct of the person incurring the civil penalty in promptly taking all feasible  
 25 steps or procedures necessary or appropriate to comply with this part or to correct the  
 26 violation or failure;

27 (4) Any prior violations of or failures by such person to comply with statutes, rules,  
 28 regulations, or orders administered, adopted, or issued by the director or the council;

29 (5) The character and degree of injury to or interference with public health or safety  
 30 which is caused or threatened to be caused by such violation or failure; and

31 (6) The character and degree of injury to or interference with reasonable use of  
 32 property which is caused or threatened to be caused by such violation or failure."

33 **SECTION 6.**

34 Said part is further amended by striking subparagraphs (P), (Q), and (R) of paragraph (1) of  
 35 Code Section 12-5-134, relating to standards for wells and boreholes, and inserting in lieu  
 36 thereof the following:

