

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

BILL 7

LLS NO. 17-0124.01 Jason Gelender x4330

COMMITTEE BILL

Water Resources Review Committee

A BILL FOR AN ACT

101 **CONCERNING THE RESTRUCTURING OF THE WATER WELL**
102 **CONSTRUCTION AND INSPECTION PROGRAM IN THE DIVISION OF**
103 **WATER RESOURCES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill changes the name of the state board of examiners of water well construction and pump installation contractors to the enterprise of the state board of examiners of water well construction and pump installation contractors (enterprise) and declares the enterprise to be an enterprise for purposes of the Taxpayer's Bill of Rights (TABOR) as long

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

as it meets the TABOR requirements for enterprise status of operating as a government-owned business, receiving less than 10% of its revenue from all state and local governments combined, and being authorized to issue revenue bonds. Such enterprise status allows revenue generated by the enterprise to be excluded from state fiscal year spending for purposes of TABOR.

The enterprise is authorized to issue revenue bonds, is required to be self-sufficient and financially self-sustaining, and is authorized to impose fees and charges, including well inspection fees for each well to be developed and license fees for the issuance of licenses to perform authorized well construction or pump installation services, to fund the services that it provides and support its activities. Subject to a cap of \$10,000 for resident licensees and \$20,000 for nonresident licensees, the enterprise is authorized to set by rule the amount of proof of financial responsibility required for its licensees, which is currently set at \$10,000 by law.

If requested by the legislative audit committee, the state auditor is required to conduct or cause to be conducted a performance and fiscal audit of the enterprise. The enterprise must annually report on its activities to specified legislative committees.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 37-91-101 as
3 follows:

4 **37-91-101. Legislative declaration.** (1) The general assembly
5 hereby finds ~~determines~~, and declares that:

6 (a) It has been established by scientific evidence that improperly
7 constructed wells, improperly abandoned wells, and improperly installed
8 pumping equipment can adversely affect groundwater resources and the
9 public health, safety, and welfare; ~~and~~

10 (b) ~~Therefore~~, The proper location, construction, repair, and
11 abandonment of wells, the proper installation and repair of pumping
12 equipment, the licensing and regulation of persons engaging in the
13 business of contracting either for the construction of wells or for the
14 installation of pumping equipment, and the periodic inspection of well

1 construction and pump installation are essential for the protection of the
2 public health and the preservation of groundwater resources;

3 (c) THE COLORADO CONSTITUTION, STATE STATUTES, AND
4 NUMEROUS JUDICIAL DECISIONS ESTABLISH THAT THE GROUNDWATER OF
5 THE STATE BELONGS TO THE PEOPLE OF THE STATE, AND THE STATE HAS A
6 DUTY TO PROTECT THE GROUNDWATER OF THE STATE TO ENSURE THAT
7 THE GROUNDWATER IS DEVELOPED FOR THE MAXIMUM BENEFIT OF THE
8 PEOPLE OF THE STATE NOW AND IN THE FUTURE;

9 (d) IN ORDER TO PROPERLY ADMINISTER THE GROUNDWATER OF
10 THE STATE, ONLY THE STATE MAY ISSUE A PERMIT TO A PERSON FOR THE
11 DEVELOPMENT AND USE OF THE GROUNDWATER OF THE STATE OR A
12 LICENSE TO A PERSON TO CONSTRUCT WELLS OR TO INSTALL PUMPING
13 EQUIPMENT IN A WELL;

14 (e) ONLY THE STATE MAY PROVIDE THE SERVICES SET FORTH IN
15 THIS ARTICLE 91 TO PERSONS WHO SECURE A PERMIT FROM THE STATE TO
16 DEVELOP AND USE THE GROUNDWATER OF THE STATE OR A LICENSE TO
17 CONSTRUCT WELLS OR INSTALL PUMPING EQUIPMENT IN A WELL;

18 (f) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
19 THE STATE TO RECOGNIZE THAT THOSE WHO BENEFIT FROM THE ISSUANCE
20 OF A PERMIT TO DEVELOP AND USE THE GROUNDWATER OF THE STATE AS
21 REQUIRED BY THIS ARTICLE 91 AND ARTICLE 90 OF THIS TITLE 37 OR A
22 LICENSE TO CONSTRUCT A WELL OR TO INSTALL PUMPING EQUIPMENT IN A
23 WELL RECEIVE AND BENEFIT FROM THE SERVICES PROVIDED BY THE STATE
24 TO ADMINISTER AND PROTECT THE GROUNDWATER OF THIS STATE, THAT
25 THE PROVISION OF SUCH SERVICES IS AN ACTIVITY CONDUCTED IN THE
26 PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD, AND THAT THE STATE
27 THEREFORE OPERATES AS A BUSINESS IN PROVIDING SUCH SERVICES;

1 (g) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
2 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
3 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
4 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
5 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
6 ASSEMBLY THAT ANY FEE CHARGED AND COLLECTED BY THE ENTERPRISE
7 OF THE STATE BOARD OF EXAMINERS OF WATER WELL CONSTRUCTION AND
8 PUMP INSTALLATION CONTRACTORS CREATED BY THIS ARTICLE 91 IS A FEE
9 AND IS NOT A TAX BECAUSE IT IS IMPOSED IN AN AMOUNT REASONABLY
10 CALCULATED TO ALLOW AND FOR THE SPECIFIC PURPOSE OF ALLOWING THE
11 ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS SERVICES
12 SET FORTH IN THIS ARTICLE 91 TO THOSE PERSONS WHO SEEK AND RECEIVE
13 A PERMIT TO DEVELOP AND USE THE GROUNDWATER OF THIS STATE; AND

14 (h) AS LONG AS THE ENTERPRISE OF THE STATE BOARD OF
15 EXAMINERS OF WATER WELL CONSTRUCTION AND PUMP INSTALLATION
16 CONTRACTORS QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20
17 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUES FROM FEES
18 IMPOSED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE 91 ARE
19 NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102, OR
20 STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DO NOT
21 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED
22 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS
23 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(B).

24 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

25 (a) THE ENTERPRISE OF THE STATE BOARD OF EXAMINERS OF
26 WATER WELL CONSTRUCTION AND PUMP INSTALLATION CONTRACTORS IS
27 REQUIRED TO BE SELF-SUFFICIENT AND FINANCIALLY SELF-SUSTAINING

1 AND SHALL SUPPORT ITSELF BY IMPOSING FEES OR OTHER CHARGES
2 NECESSARY TO GENERATE THE REVENUE REQUIRED TO CONDUCT ITS
3 AFFAIRS AND MEET ITS RESPONSIBILITIES AND DUTIES UNDER THIS ARTICLE
4 91;

5 (b) THE ENTERPRISE OF THE STATE BOARD OF EXAMINERS OF
6 WATER WELL CONSTRUCTION AND PUMP INSTALLATION CONTRACTORS IS
7 AN ENTERPRISE FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE
8 STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE
9 REVENUE BONDS IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE
10 91 AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL
11 REVENUE IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL
12 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED AND SO LONG AS
13 ANY FEE OR OTHER CHARGE IMPOSED BY THE BOARD IN ACCORDANCE WITH
14 THIS ARTICLE 91 IS REASONABLY RELATED TO THE PURPOSES FOR WHICH
15 IT IS IMPOSED; AND

16 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN MEETING THE
17 REQUIREMENTS SET FORTH IN THIS SUBSECTION (2) THAT APPROPRIATE
18 ACCOUNTING PROTOCOLS BE ESTABLISHED TO DISTINGUISH FEES SET BY
19 THE BOARD FROM ANY FEES OTHERWISE IMPOSED AND COLLECTED BY THE
20 DIVISION OF WATER RESOURCES SO THAT THE PURPOSE OF EVERY FEE IS
21 CLEAR TO THE PERSON PAYING THE FEE.

22 **SECTION 2.** In Colorado Revised Statutes, 37-91-102, **amend**
23 introductory portion and (3) as follows:

24 **37-91-102. Definitions.** As used in this ~~article~~ ARTICLE 91, unless
25 the context otherwise requires:

26 (3) "Board" means the ENTERPRISE OF THE state board of
27 examiners of water well construction and pump installation contractors

1 created by section 37-91-103.

2 **SECTION 3.** In Colorado Revised Statutes, 37-91-103, **amend**
3 (1) and (2); and **add** (4) as follows:

4 **37-91-103. The enterprise of the state board of examiners of**
5 **water well construction and pump installation contractors.** (1) There
6 is created, under the division of water resources in the department of
7 natural resources, ~~a~~ THE ENTERPRISE OF THE state board of examiners of
8 water well construction and pump installation contractors, consisting of
9 five members and comprised of the following persons: The state engineer
10 or a representative designated by ~~him~~ THE STATE ENGINEER; a
11 representative of the department of ~~health~~ PUBLIC HEALTH AND
12 ENVIRONMENT designated by the executive director of the department;
13 and three members appointed by the governor, two of whom ~~shall~~ MUST
14 be well construction contractors or pump installation contractors, each
15 with a minimum of ten years' experience in the well construction or pump
16 installation business preceding his OR HER appointment, and one of whom
17 ~~shall~~ MUST be an engineer or geologist with a minimum of ten years'
18 experience in water supply and well construction preceding his OR HER
19 appointment.

20 (2) All members ~~shall be~~ OF THE BOARD ARE appointed for
21 four-year terms, but ~~no~~ A member shall NOT be reappointed to or serve
22 more than two consecutive four-year terms. THE GOVERNOR SHALL FILL
23 any vacancy occurring in the board membership of the governor's
24 appointees, other than by expiration, ~~shall be filled by the governor~~ by
25 appointment for the unexpired term. MEMBERS APPOINTED BY THE
26 GOVERNOR MAY BE REMOVED FOR CAUSE BY THE GOVERNOR. Members
27 ~~shall~~ serve without compensation but shall be reimbursed for actual

1 expenses necessarily incurred in their official business.

2 (4) (a) THE BOARD CONSTITUTES AN ENTERPRISE AND OPERATES
3 AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DIVISION OF WATER
4 RESOURCES FOR THE PURPOSE OF PROVIDING THE SERVICES SET FORTH IN
5 THIS ARTICLE 91. THE BOARD SHALL EXERCISE ITS POWERS AND PERFORM
6 ITS DUTIES AS IF THE SAME WERE TRANSFERRED TO THE DIVISION OF
7 WATER RESOURCES BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION
8 24-1-105.

9 (b) THE BOARD IS AUTHORIZED TO IMPOSE AND COLLECT A WELL
10 INSPECTION FEE FOR EACH WELL TO BE DEVELOPED AND A LICENSE FEE FOR
11 THE ISSUANCE OF A LICENSE TO PERFORM SERVICES AUTHORIZED IN
12 ACCORDANCE WITH THIS ARTICLE 91. BOTH FEES ARE IMPOSED TO DEFRAY
13 THE COSTS INCURRED BY THE BOARD IN THE EXERCISE OF ITS DUTIES
14 UNDER THIS ARTICLE 91, FOR THE LEVERAGING OF ANY MONEYS OR
15 GRANTS MADE AVAILABLE BY THE FEDERAL GOVERNMENT FOR THE
16 PURPOSES OF THIS ARTICLE 91, FOR SERVICING ANY DEBT INCURRED BY
17 THE ISSUANCE OF ANY REVENUE BONDS, OR FOR ANY OTHER SERVICES OR
18 PURPOSES REQUIRED FOR THE IMPLEMENTATION OF THIS ARTICLE 91.

19 **SECTION 4.** In Colorado Revised Statutes, 37-91-104, **amend**
20 (1)(d) and (2) as follows:

21 **37-91-104. Duties of the board.** (1) The board shall:

22 (d) Employ, within funds available, personnel necessary for the
23 proper performance of its work under this ~~article~~ ARTICLE 91, INCLUDING,
24 BUT NOT LIMITED TO, CONTRACTING WITH THE STATE ENGINEER FOR THE
25 PROVISION AND SUPERVISION OF EMPLOYEES TO PERFORM ANY ACTIVITIES
26 AND TASKS REQUIRED OR AUTHORIZED BY THIS ARTICLE 91;

27 (2) (a) The board may delegate to the state engineer the authority

1 to perform any of the duties of the board as set forth in this article, except
2 those duties authorized in paragraphs (c), (e), (j), and (k) of subsection (1)
3 of this section.

4 (b) THE BOARD SHALL COLLABORATE WITH THE STATE ENGINEER
5 AND MAY DELEGATE ANY OF THE FUNCTIONS OR DUTIES SET FORTH IN THIS
6 SECTION TO THE STATE ENGINEER THROUGH ANY TYPE OF AGREEMENT,
7 INCLUDING, BUT NOT LIMITED TO, CONTRACTING THAT IS APPROPRIATE FOR
8 THE PROPER ADMINISTRATION AND IMPLEMENTATION OF THE PROVISIONS
9 OF THIS ARTICLE 91. ANY CONFLICT BETWEEN THE POWERS AND DUTIES OF
10 THE BOARD AND THOSE OF THE STATE ENGINEER MUST BE RESOLVED IN
11 FAVOR OF THE STATE ENGINEER.

12 **SECTION 5.** In Colorado Revised Statutes, **amend** 37-91-107 as
13 follows:

14 **37-91-107. Fees and bonds - license renewal - continuing**
15 **education.** (1) All fees from applicants seeking a license under this
16 ~~article~~ ARTICLE 91, and all renewal fees, shall be transmitted to the state
17 treasurer, who shall credit ~~the same~~ THEM to the well inspection cash fund
18 created in section 37-80-111.5. ~~No fees shall~~ FEES SHALL NOT be
19 refunded. A license ~~shall be~~ IS nontransferable and unassignable.

20 (2) ~~The board shall charge an application fee of twenty dollars to~~
21 ~~accompany each application from a resident of the state of Colorado and~~
22 ~~a further fee of fifty dollars upon successful completion of examination~~
23 ~~before issuance of a license. In addition, each successful resident~~
24 ~~applicant shall file and maintain with the board evidence of financial~~
25 ~~responsibility, in the form of a savings account, deposit, or certificate of~~
26 ~~deposit, in the amount of ten thousand dollars, meeting the requirements~~
27 ~~of section 11-35-101, C.R.S., or an irrevocable letter of credit for the~~

1 ~~amount of ten thousand dollars, meeting the requirements of section~~
2 ~~11-35-101.5, C.R.S., or shall file and maintain with the board an~~
3 ~~approved compliance bond with a corporate surety authorized to do~~
4 ~~business in the state of Colorado, in the amount of ten thousand dollars,~~
5 ~~for the use and benefit of any person or the state of Colorado suffering~~
6 ~~loss or damage, conditioned that such licensee will comply with the laws~~
7 ~~of the state of Colorado in engaging in the business for which he receives~~
8 ~~a license and the rules of the board promulgated in the regulation of such~~
9 ~~business.~~ IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE
10 ENTERPRISE OF THE STATE BOARD OF EXAMINERS OF WATER WELL
11 CONSTRUCTION AND PUMP INSTALLATION CONTRACTORS BE
12 SELF-SUFFICIENT AND FINANCIALLY SELF-SUSTAINING AND THAT IT
13 SUPPORT ITSELF BY IMPOSING FEES OR OTHER CHARGES AS NECESSARY TO
14 GENERATE THE REVENUE REQUIRED TO CONDUCT THE AFFAIRS OF THE
15 ENTERPRISE OF THE STATE BOARD OF EXAMINERS OF WATER WELL
16 CONSTRUCTION AND PUMP INSTALLATION CONTRACTORS AND MEET THE
17 RESPONSIBILITIES SET FORTH IN THIS ARTICLE 91. THE ENTERPRISE OF THE
18 STATE BOARD OF EXAMINERS OF WATER WELL CONSTRUCTION AND PUMP
19 INSTALLATION CONTRACTORS SHALL SET ANY AND ALL FEES AUTHORIZED
20 BY THIS ARTICLE 91 BY RULE AND SHALL SET FORTH THE PURPOSE FOR THE
21 FEE AND THE AMOUNT OF THE FEE AS WELL AS ANY CONDITIONS OR
22 REQUIREMENTS ASSOCIATED WITH THE FEE. ANY RULE THAT SETS A FEE
23 SHALL BE PROMULGATED IN ACCORDANCE WITH THE PROVISIONS OF
24 ARTICLE 4 OF TITLE 24. THE ENTERPRISE OF THE STATE BOARD OF
25 EXAMINERS OF WATER WELL CONSTRUCTION AND PUMP INSTALLATION
26 CONTRACTORS SHALL PUBLISH AND MAINTAIN THE MOST CURRENT
27 SCHEDULE OF FEES ON ITS OWN INTERNET WEBSITE OR THAT OF THE

1 DIVISION OF WATER RESOURCES OR BOTH. ALL FEES ARE PROSPECTIVE IN
2 NATURE AND SHALL NOT BE APPLIED RETROSPECTIVELY. THE EFFECTIVE
3 DATE OF THE FEE MUST BE DISPLAYED IN THE SCHEDULE BUT A FEE SHALL
4 NOT BE IMPOSED OR BECOME EFFECTIVE SOONER THAN NINETY DAYS
5 FOLLOWING ITS ADOPTION BY THE ENTERPRISE OF THE STATE BOARD OF
6 EXAMINERS OF WATER WELL CONSTRUCTION AND PUMP INSTALLATION
7 CONTRACTORS.

8 (3) ~~The board shall charge an application fee of fifty dollars to~~
9 ~~accompany each application from a nonresident of the state of Colorado~~
10 ~~and a further nonresident fee of four hundred dollars upon successful~~
11 ~~completion of examination before issuance of a license. In addition, each~~
12 ~~successful nonresident applicant shall file and maintain with the board~~
13 ~~evidence of financial responsibility, in the form of a savings account,~~
14 ~~deposit, or certificate of deposit in the amount of twenty thousand dollars,~~
15 ~~meeting the requirements of section 11-35-101, C.R.S., or shall file and~~
16 ~~maintain with the board an approved compliance bond in the amount of~~
17 ~~twenty thousand dollars with a corporate surety authorized to do business~~
18 ~~in the state of Colorado for the use and benefit of any person or the state~~
19 ~~of Colorado suffering loss or damage, conditioned that such licensee will~~
20 ~~comply with the laws of the state in engaging in the business for which~~
21 ~~he receives a license and the rules of the board promulgated in~~
22 ~~compliance therewith. THE BOARD IS AUTHORIZED TO IMPOSE FEES OR~~
23 ~~OTHER CHARGES FOR THE SERVICES PROVIDED UNDER THIS ARTICLE 91 OR~~
24 ~~FOR OTHER SERVICES OR ACTIVITIES REASONABLY RELATED TO THOSE~~
25 ~~SERVICES. THE FEES OR OTHER CHARGES SET BY THE BOARD NEED NOT BE~~
26 ~~UNIFORM AND MAY BE DIFFERENTIATED TO ACCOMPLISH THE PURPOSES OF~~
27 ~~THIS ARTICLE 91. ANY FEE OR CHARGE THAT IS SET BY THE BOARD MUST~~

1 BE REASONABLY RELATED TO THE DIRECT AND INDIRECT COSTS OR
2 EXPENSES OF THE BOARD IN ADMINISTERING THIS ARTICLE 91. DIRECT AND
3 INDIRECT COSTS INCLUDE CUSTOMARY GENERAL EXPENSES AND DEBT
4 SERVICE ON ANY REVENUE BONDS ISSUED PURSUANT TO THIS ARTICLE 91.

5 ~~(3.5) The board shall not set the application and license fees in~~
6 ~~subsections (2) and (3) of this section at amounts greater than becomes~~
7 ~~necessary to further the purposes of this article. Such amounts shall not~~
8 ~~exceed the direct and indirect costs of the board in administering the~~
9 ~~provisions of this article.~~

10 ~~(3.7) The board is authorized to set the bond amounts in~~
11 ~~subsections (2) and (3) of this section at higher amounts if such an~~
12 ~~increase becomes necessary to further the purposes of this article.~~

13 (4) Every licensed well construction contractor and licensed pump
14 installation contractor in this state shall pay to the board during the month
15 of January of each year, beginning in the year immediately subsequent to
16 his or her initial licensing, a renewal fee of fifty dollars, shall
17 concurrently file and maintain a new bond or letter of credit if required
18 pursuant to this section, and shall annually file a certificate of completion
19 of continuing education as required pursuant to section 37-91-105 (7).
20 The secretary shall thereupon issue a renewal license for one year. The
21 license of any well construction contractor or pump installation contractor
22 who fails to have his or her license renewed during the month of January
23 in each year shall lapse. Any lapsed license may be renewed, without
24 reexamination, within a period of one year after such lapse upon payment
25 of all fees in arrears. Licensees may elect to renew their licenses and file
26 and maintain a bond or letter of credit for a term of up to three years,
27 paying fifty dollars for each year the license will be in effect. WITHOUT

1 LIMITATION, THE BOARD IS AUTHORIZED TO CHARGE FEES FOR SERVICES
2 PROVIDED INCLUDING PROCESSING OF APPLICATIONS FOR LICENSURE,
3 INSPECTION OF THE CONSTRUCTION OF WELLS, ADMINISTRATION OF
4 LICENSING EXAMINATIONS, REGISTRATION OF WELL DRILLING RIGS,
5 REGISTRATION OF PUMP INSTALLATION RIGS, RENEWALS OF LICENSES OR
6 REGISTRATIONS, REINSTATEMENT OF LICENSES OR REGISTRATIONS,
7 INSPECTIONS OR REINSPECTIONS OF WELLS, CHECKING OF PLANS OR
8 RELATED INFORMATION FOR PROPOSED WELLS, RECORDS RESEARCH,
9 MILEAGE FOR TRAVEL ASSOCIATED WITH THE PERFORMANCE OF DUTIES
10 REQUIRED BY THIS ARTICLE 91 IN THE AMOUNT ALLOWED FOR STATE
11 OFFICERS AND EMPLOYEES PURSUANT TO SECTION 24-9-104, CONTINUING
12 EDUCATION OF LICENSEES, MODIFICATION OR REPLACEMENT OF A WELL,
13 COPIES OR CERTIFICATIONS OF DOCUMENTS OR FILES, EXPENSES
14 ASSOCIATED WITH PUBLICATION OF NOTICES OR OTHER ITEMS OF PUBLIC
15 INTEREST, OR ANY OTHER SERVICE PROVIDED IN FURTHERANCE OF THIS
16 ARTICLE 91.

17 ~~(4.5) A licensee shall maintain the amount of financial~~
18 ~~responsibility required by subsections (2), (3), and (4) of this section for~~
19 ~~the life of the license for which the financial responsibility is required.~~
20 ~~The license of any well construction contractor or pump installation~~
21 ~~contractor who fails to maintain such financial responsibility shall lapse.~~
22 ~~A license that has so lapsed may be reinstated upon submission of current~~
23 ~~evidence of the required financial responsibility to the board and payment~~
24 ~~to the board of a one-hundred-dollar reinstatement fee.~~

25 (5) The board shall charge an annual registration fee of ten dollars
26 for each well drilling or pump installation rig to be operated in the state
27 of Colorado. ALL MONEY FROM FEES FROM APPLICANTS SEEKING A

1 LICENSE UNDER THIS ARTICLE 91, FROM ALL RENEWAL FEES AND FROM
2 ANY OTHER FEE, FINE, FORFEITURE, GRANT, GIFT, DONATION, OR OTHER
3 MONEY RECEIVED BY THE BOARD SHALL BE TRANSMITTED TO THE STATE
4 TREASURER WHO SHALL CREDIT IT TO THE WATER WELL INSPECTION CASH
5 FUND CREATED IN SECTION 37-80-111.5. FEES SHALL NOT BE REFUNDED.
6 A LICENSE IS NONTRANSFERABLE AND UNASSIGNABLE.

7 (6) (a) ~~The board shall, no later than January 7, 2007, develop a~~
8 ~~continuing education program in conjunction with the Colorado water~~
9 ~~well contractors association or any analogous or successor organization.~~

10 EACH LICENSEE SHALL, AS A CONDITION OF LICENSURE, FILE AND
11 MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY WITH THE BOARD AS
12 REQUIRED BY THIS SUBSECTION (6). THE REQUIREMENT FOR FINANCIAL
13 RESPONSIBILITY IS TO PROVIDE A REMEDY TO ANY PERSON OR THE STATE
14 OF COLORADO SUFFERING LOSS OR DAMAGE FROM ANY ACT OF
15 NEGLIGENCE BY THE LICENSEE. THE EVIDENCE OF FINANCIAL
16 RESPONSIBILITY MAY BE IN THE FORM OF A SAVINGS ACCOUNT OR SIMILAR
17 INSTRUMENT, DEPOSIT, OR CERTIFICATE OF DEPOSIT, AN IRREVOCABLE
18 LETTER OF CREDIT, A COMPLIANCE BOND WITH A CORPORATE SURETY
19 AUTHORIZED TO DO BUSINESS IN THE STATE OF COLORADO, OR ANY OTHER
20 EVIDENCE OR INSTRUMENT THAT IS APPROVED BY THE COMMISSIONER OF
21 INSURANCE AND ACCEPTABLE TO THE BOARD. THE BOARD SHALL
22 PROMULGATE RULES AND REGULATIONS, IN ACCORDANCE WITH ARTICLE
23 4 OF TITLE 24, DEFINING THE METHOD OF ASSIGNMENT, REQUIRED PERIOD
24 OF LIABILITY, AND SUCH OTHER PROCEDURES AS MAY BE NECESSARY FOR
25 SUCH BONDS, SAVINGS ACCOUNTS, DEPOSITS, OR CERTIFICATES OF
26 DEPOSIT. ANY SUCH INSTRUMENT MUST, AT A MINIMUM, MEET THE
27 STANDARDS SET FORTH IN SECTION 11-35-101. IN ADDITION, WITH

1 RESPECT TO AN IRREVOCABLE LETTER OF CREDIT, THE BOARD SHALL
2 PROMULGATE RULES AND REGULATIONS DEFINING THE METHOD OF
3 TRANSFERABILITY, THE REQUIRED PERIOD OF LIABILITY, AND SUCH OTHER
4 PROCEDURES AS MAY BE NECESSARY. ANY SUCH IRREVOCABLE LETTER OF
5 CREDIT MUST MEET THE STANDARDS SET FORTH IN SECTION 11-35-101.5.

6 (b) THE BOARD SHALL SET THE AMOUNT OF THE REQUIRED
7 FINANCIAL RESPONSIBILITY BY RULE IN AN AMOUNT THAT IS NOT LESS
8 THAN TEN THOUSAND DOLLARS FOR A RESIDENT LICENSE AND NOT LESS
9 THAN TWENTY THOUSAND DOLLARS FOR A NONRESIDENT LICENSE. IF THE
10 BOARD RECEIVES TWO OR MORE COMPLAINTS AGAINST A LICENSEE WITHIN
11 A TWELVE MONTH PERIOD, THE COMPLAINTS ARE VERIFIED, AND
12 DISCIPLINARY ACTION IS TAKEN AGAINST THE LICENSEE, THE MINIMUM
13 AMOUNTS REQUIRED TO ESTABLISH FINANCIAL RESPONSIBILITY ARE TWICE
14 THE AMOUNT OTHERWISE SET IN ACCORDANCE WITH THIS SUBSECTION
15 (6)(b). THE BOARD IN ITS DISCRETION MAY, AFTER RECEIVING SUFFICIENT
16 EVIDENCE THAT THE LICENSEE HAS NOT ENGAGED IN ANY ACTIVITY OR
17 ACTION RESULTING IN A DISCIPLINARY ACTION AGAINST THE LICENSEE
18 DURING THE SUBSEQUENT TWO-YEAR PERIOD, REDUCE THE REQUIRED
19 PROOF OF FINANCIAL RESPONSIBILITY.

20 (7) THE BOARD IS AUTHORIZED TO SET THE BOND AMOUNTS SET
21 FORTH IN THIS SECTION AT HIGHER AMOUNTS IF SUCH AN INCREASE
22 BECOMES NECESSARY TO FURTHER THE PURPOSES OF THIS ARTICLE 91.

23 (8) EVERY LICENSED WELL CONSTRUCTION CONTRACTOR AND
24 LICENSED PUMP INSTALLATION CONTRACTOR IN THE STATE SHALL PAY ALL
25 REQUIRED LICENSING FEES TO THE BOARD DURING THE MONTH OF
26 JANUARY OF EACH YEAR, BEGINNING IN THE YEAR IMMEDIATELY
27 SUBSEQUENT TO HIS OR HER INITIAL LICENSING, SHALL CONCURRENTLY

1 FILE AND MAINTAIN A NEW BOND OR LETTER OF CREDIT IF REQUIRED
2 PURSUANT TO THIS SECTION, AND SHALL ANNUALLY FILE A CERTIFICATE
3 OF COMPLETION OF CONTINUING EDUCATION AS REQUIRED PURSUANT TO
4 SECTION 37-91-105 (7). THE SECRETARY SHALL THEREUPON ISSUE A
5 RENEWAL LICENSE FOR ONE YEAR. THE LICENSE OF ANY WELL
6 CONSTRUCTION CONTRACTOR OR PUMP INSTALLATION CONTRACTOR WHO
7 FAILS TO HAVE HIS OR HER LICENSE RENEWED DURING THE MONTH OF
8 JANUARY IN EACH YEAR LAPSES. ANY LAPSED LICENSE MAY BE RENEWED,
9 WITHOUT REEXAMINATION, WITHIN A PERIOD OF ONE YEAR AFTER THE
10 LAPSE UPON PAYMENT OF ALL FEES IN ARREARS. LICENSEES MAY ELECT TO
11 RENEW THEIR LICENSES AND FILE AND MAINTAIN A BOND OR LETTER OF
12 CREDIT FOR A TERM OF UP TO THREE YEARS, PAYING ANY REQUIRED FEES
13 FOR EACH YEAR THE LICENSE WILL BE IN EFFECT.

14 (9) A LICENSEE SHALL MAINTAIN THE AMOUNT OF FINANCIAL
15 RESPONSIBILITY REQUIRED BY THIS SECTION FOR THE LIFE OF THE LICENSE
16 FOR WHICH FINANCIAL RESPONSIBILITY IS REQUIRED. THE LICENSE OF ANY
17 WELL CONSTRUCTION CONTRACTOR OR PUMP INSTALLATION CONTRACTOR
18 WHO FAILS TO MAINTAIN FINANCIAL RESPONSIBILITY LAPSES. A LICENSE
19 THAT HAS LAPSED MAY BE REINSTATED UPON SUBMISSION OF CURRENT
20 EVIDENCE OF REQUIRED FINANCIAL RESPONSIBILITY TO THE BOARD AND
21 PAYMENT TO THE BOARD OF A REINSTATEMENT FEE AS SET BY THE BOARD
22 BY RULE.

23 (10) THE BOARD SHALL DEVELOP A CONTINUING EDUCATION
24 PROGRAM IN CONJUNCTION WITH THE COLORADO WATER WELL
25 CONTRACTORS ASSOCIATION OR ANY ANALOGOUS OR SUCCESSOR
26 ORGANIZATION.

27 **SECTION 6.** In Colorado Revised Statutes, 37-91-109, **amend**

1 (1) as follows:

2 **37-91-109. Further scope of article - orders - penalties.** (1) In
3 addition to the licensing of well construction contractors, ~~and~~ pump
4 installation contractors, AND THE REGISTRATION OF RIGS as required by
5 this ~~article~~ ARTICLE 91, no well shall be located, constructed, repaired, or
6 abandoned, ~~and~~ no pumping equipment shall be installed or repaired, AND
7 NO RIG SHALL BE OPERATED contrary to the provisions of this ~~article~~
8 ARTICLE 91 and applicable rules of the board promulgated to effectuate
9 the purposes of this ~~article~~ ARTICLE 91. The board may by order require
10 any licensee, private driller, ~~or~~ private pump installer, OR RIG OPERATOR
11 to remedy any ~~such~~ noncompliant installation, construction, or repair and
12 may, pursuant to rules and after due notice and a hearing, impose
13 penalties for such noncompliance. The provisions of this ~~article~~ ~~shall~~
14 ARTICLE 91 apply to any well or any pumping equipment not otherwise
15 subject to regulation under the laws of this state and to any distribution,
16 observation, monitoring, or dewatering of water ~~therefrom~~ FROM SUCH A
17 WELL OR PUMPING EQUIPMENT, but this ~~article~~ ARTICLE 91 shall not apply
18 to any distribution of water beyond the point of discharge from the
19 pressure tank or to any distribution of water beyond the point of discharge
20 from the pumping equipment if no pressure tank or an overhead pressure
21 tank is employed.

22 **SECTION 7.** In Colorado Revised Statutes, **add** 37-91-114,
23 37-91-115, and 37-91-116 as follows:

24 **37-91-114. Revenue bonds.** (1) THE BOARD IS AUTHORIZED TO
25 ISSUE REVENUE BONDS FOR THE EXPENSES AND CAPITAL NEEDS OF THE
26 BOARD AND THE ACTIVITIES UNDER THE JURISDICTIONAL AUTHORITY OF
27 THE BOARD. REVENUE BONDS MAY BE ISSUED ONLY AFTER APPROVAL BY

1 BOTH HOUSES OF THE GENERAL ASSEMBLY, ACTING EITHER BY BILL OR BY
2 JOINT RESOLUTION, AND AFTER APPROVAL OF THE GOVERNOR IN
3 ACCORDANCE WITH SECTION 39 OF ARTICLE V OF THE STATE
4 CONSTITUTION. BONDS ARE PAYABLE ONLY FROM MONEYS COLLECTED BY
5 THE BOARD FROM FEES, LICENSES, FINES, OR FORFEITURE, OR FROM GIFTS,
6 GRANTS, AND DONATIONS OR BEQUESTS MADE TO THE BOARD.

7 (2) NO HOLDER OF ANY BOND OR BONDS MAY COMPEL THE STATE
8 OR ANY SUBDIVISION OF THE STATE TO EXERCISE ITS APPROPRIATION OR
9 TAXING POWER.

10 (3) BONDS ISSUED UNDER THIS SECTION ARE NOT A DEBT OR
11 FINANCIAL OBLIGATION OF THE STATE AND ARE PAYABLE ONLY FROM THE
12 REVENUES COLLECTED BY THE BOARD.

13 (4) BONDS ISSUED PURSUANT TO THIS SECTION MAY BE SOLD AT
14 PUBLIC OR PRIVATE SALE. IF BONDS ARE SOLD AT PUBLIC SALE, THE BOARD
15 SHALL ADVERTISE THE SALE IN ANY MANNER THE BOARD DEEMS
16 APPROPRIATE. ALL BONDS ISSUED PURSUANT TO THIS SECTION SHALL BE
17 SOLD AT A PRICE NOT LESS THAN THE PAR VALUE THEREOF, TOGETHER
18 WITH ACCRUED INTEREST TO THE DATE OF DELIVERY.

19 (5) ALL BONDS ISSUED PURSUANT TO THIS SECTION ARE
20 NEGOTIABLE.

21 **37-91-115. Audit.** AT THE DISCRETION OF THE LEGISLATIVE AUDIT
22 COMMITTEE, THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE
23 CONDUCTED A PERFORMANCE AND FISCAL AUDIT OF THE BOARD AND ITS
24 ACTIVITIES AND ANY AND ALL FEES AND OTHER CHARGES IMPOSED AND
25 COLLECTED BY THE BOARD.

26 **37-9-116. Annual report.** THE BOARD SHALL REPORT ON ITS
27 ACTIVITIES TO THE SENATE AGRICULTURE, NATURAL RESOURCES, AND

1 ENERGY COMMITTEE, THE HOUSE AGRICULTURE, LIVESTOCK, AND
2 NATURAL RESOURCES COMMITTEE, AND THE WATER RESOURCES REVIEW
3 COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, BY AUGUST 15 OF EACH
4 CALENDAR YEAR.

5 **SECTION 8. Effective date.** This act takes effect July 1, 2017.

6 **SECTION 9. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.