

(2) The senatorial district adopted under this Act which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the odd-numbered senatorial district in which the senator resides on March 13, 1992, or is contiguous to such odd-numbered senatorial district. Areas which meet only at the points of adjoining corners are not contiguous.

b. Each odd-numbered senatorial district to which paragraph "a" of this subsection is not applicable shall elect a senator in 1992 for a two-year term commencing in January 1993.

Sec. 5. For purposes of this Act, each reference to a specific city or township means the city or township as its boundary existed on January 1, 1990, the official date for establishing such boundaries under the 1990 United States decennial census. Also, for purposes of this Act, each reference to a street or other boundary means the boundaries as they are delineated on the official Public Law 94-171 census maps.

Sec. 6. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved May 30, 1991

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## CHAPTER 224

### CERTIFICATION OF WELL CONTRACTORS

*H.F. 325*

**AN ACT** relating to the establishment of a well contractor certification program, establishing fees, and making penalties applicable.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. GOALS. The goals of the well contractor certification program are the following:

1. To protect the groundwater of the state against contamination caused by improper water well construction or maintenance, faulty pump installation and repair, and inadequate well abandonment.

2. To protect the health and well-being of Iowans through the provision of safe drinking water supplies through proper water well construction and maintenance.

Sec. 2. NEW SECTION. 455B.190A WELL CONTRACTOR CERTIFICATION PROGRAM.

1. As used in this section:

a. "Groundwater" means groundwater as defined in section 455E.2.

b. "Water well" or "well" means water well as defined in section 455B.171.

c. "Well contractor" means contractor as defined pursuant to section 455B.171, subsection 25.

d. "Well contractors' council" means the council established in subsection 3.

e. "Well services" means new well construction, well reconstruction, installation of pitless equipment, or well plugging.

f. "Examination" means an examination for well contractors which includes, but is not limited to, relevant aspects of Iowa groundwater law, well construction, well maintenance, and well abandonment practices which protect groundwater and water supplies.

2. The department shall establish a well contractor certification program which shall include all of the following provisions:

a. Specification of certification requirements, including minimum work experience levels, successful completion of an examination, and continuing education requirements.

b. A certified well contractor shall be present at the well site and in direct charge of the services whenever well services are provided.

c. A person shall not act as a well contractor on or after July 1, 1993, unless the person is certified by the department pursuant to this section.

d. Violation of the rules regarding well construction, maintenance, or plugging are grounds for suspension or revocation of certification.

e. Provisional certification may be obtained by an applicant in instances of shortages of certified personnel if all of the following conditions are met:

(1) The applicant provides documentation of at least one year of work experience in well services performed under the direct supervision of a certified well contractor.

(2) The applicant successfully completes the examination.

(3) A certified well contractor who employs an applicant for well contractor certification cosigns the application for provisional certification. An employer who cosigns an application for provisional certification is jointly liable for a violation of the rules regarding well construction, maintenance, or plugging by the provisionally certified well contractor and the violation is grounds for the suspension or revocation of certification of the certified well contractor and the provisionally certified well contractor.

f. The department shall develop continuing education requirements for certification of a well contractor in consultation with the well contractors' council.

g. The examination shall be developed by the department in consultation with the well contractors' council. The examination shall be updated as necessary to reflect current groundwater law and well construction, maintenance, and abandonment practices.

h. The department may provide for multiyear certification of well contractors.

3. A well contractors' council is established.

a. The council shall consist of the following members:

(1) One well drilling contractor appointed by the governor and subject to confirmation by the senate.

(2) One pump installation contractor appointed by the governor and subject to confirmation by the senate.

(3) One citizen member of the Iowa groundwater association or its successor, appointed by the governor and subject to confirmation by the senate.

(4) One citizen member of the Iowa environmental health association or its successor, appointed by the governor and subject to confirmation by the senate.

(5) The director of the Iowa department of public health or the director's designee.

(6) The state geologist or the state geologist's designee.

(7) The director of the state hygienic laboratory or the director's designee.

b. Citizen members of the council shall serve two-year terms beginning and ending as provided in section 69.19. A citizen member of the council shall not serve more than two consecutive terms. The council shall be gender balanced, to the extent possible, pursuant to section 69.16A.

c. The well contractors' council shall be dissolved six months after completion of all of the following:

(1) Publication of the consumer information pamphlet.

(2) Adoption of rules by the commission.

(3) Administration of the second certification examination.

4. The department shall develop, in consultation with the well contractors' council, a consumer information pamphlet regarding well construction, well maintenance, well plugging, and Iowa groundwater laws. The department and the council shall review and revise the consumer information pamphlet as necessary. The consumer information pamphlet shall be supplied to well contractors, at cost, and well contractors shall supply one copy at no cost to potential customers prior to initiation of well services.

5. The department shall establish by rule and collect, in consultation with the well contractors' council, the following fees to be used to implement and administer the provisions of this section:

a. An annual certification fee to be paid by certified well contractors. The initial annual certification fee is one hundred fifty dollars. The fee may be increased by rule, as necessary, to reflect the costs of administration of the program. The department may establish a fee for multiyear certification.

b. The department may also charge and collect fees for testing, the provision of continuing education, and other fees related to and based on the actual costs of the well contractor certification program.

6. Rules adopted by the commission shall be developed in consultation with the council. If a majority of the council does not endorse the rules adopted by the commission, notice shall be sent to the administrative rules review committee indicating the council's position.

Sec. 3. Section 455B.171, subsections 25 and 27, Code 1991, are amended to read as follows:

25. "Contractor" means a person engaged in the business of well construction or reconstruction or other well services.

27. "Water well" means an excavation that is drilled, cored, bored, augered, washed, driven, dug, jetted or otherwise constructed for ~~accessing groundwater~~ the purpose of exploring for groundwater, monitoring groundwater, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. "Water well" does not include an open ditch or drain tiles or an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried.

Sec. 4. Section 455B.172, subsection 7, Code 1991, is amended to read as follows:

7. The department is the state agency to regulate the registration or certification of water well contractors pursuant to section 455B.187 or section 455B.190A.

Sec. 5. Section 455B.173, subsection 9, Code 1991, is amended to read as follows:

9. Adopt, modify or repeal rules relating to the construction and reconstruction of water wells, the proper abandonment of wells, and the registration or certification of water well contractors. The rules shall include those necessary to protect the public health and welfare, and to protect the waters of the state. The rules may include, but are not limited to, establishing fees for registration or certification of water well contractors, requiring the submission of well driller's logs, formation samples or well cuttings, water samples, information on test pumping and requiring inspections. Fees shall be based upon the reasonable cost of conducting the water well contractor registration or certification program.

Sec. 6. Section 455B.187, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A contractor shall not engage in well construction or reconstruction without first registering or being certified as required in department rules. If a well contractor is registered prior to July 1, 1991, the well contractor shall meet the requirements of certification by July 1, 1993. Following adoption of the rules establishing a well contractor certification program, a person seeking initial well contractor status shall meet the requirements established for certification. Beginning July 1, 1993, the department shall replace the registration program with the well certification program. Water wells shall not be constructed, reconstructed, or abandoned by a person except as provided in this part or rules adopted pursuant to this part. Within thirty days after construction or reconstruction of a well, a contractor shall provide well information required by rule to the department and the Iowa geological survey.

Sec. 7. Section 455B.190, subsection 6, Code 1991, is amended to read as follows:

6. A person who fails to properly plug a well on property the person owns, in accordance with the program established by the department, or as reported by a designated agent or a registered or certified well driller contractor, is subject to a civil penalty of up to one hundred dollars per every five calendar days that the well remains unplugged or improperly plugged. However, the total civil penalty shall not exceed one thousand dollars. The penalty shall only be assessed after the one thousand dollar limit is reached. If the owner plugs the well in compliance with this section, including applicable departmental rules, before the date that the one thousand dollar limit is reached, the civil penalty shall not be assessed. The penalty

shall not be imposed upon a person for improperly plugging a well until the department notifies the person of the improper plugging. The moneys collected shall be deposited in the financial incentive portion of the agriculture management account. The department of agriculture and land stewardship may provide by rule for financial incentive moneys, through expenditure of the moneys allocated to the financial-incentive-program portion of the agriculture management account, to reduce a person's cost in properly plugging wells abandoned prior to July 1, 1987.

Approved May 30, 1991

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## CHAPTER 225

### HEALTH CARE FACILITIES AND CERTIFICATE OF NEED PROGRAM

*H.F. 668*

**AN ACT** relating to the certificate of need program and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 135.61, Code 1991, is amended to read as follows:

135.61 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Affected persons" means, with respect to an application for a certificate of need:

a. The person submitting the application.

b. Consumers who would be served by the new institutional health service proposed in the application.

c. Each institutional health facility or health maintenance organization which is located in the geographic area which would appropriately be served by the new institutional health service proposed in the application. The appropriate geographic service area of each institutional health facility or health maintenance organization shall be determined on a uniform basis in accordance with criteria established in rules promulgated adopted by the department in consultation with the appropriate health systems agency.

d. The designated health systems agencies for the health systems agency area in which the new institutional health service proposed in the application is to be located and for each of the health systems agency areas contiguous thereto, including those in other states.

e. Each institutional health facility or health maintenance organization which, prior to receipt of the application by the department, has formally indicated to the department pursuant to this division an intent to furnish in the future institutional health services similar to the new institutional health service proposed in the application.

f. Any other person designated as an affected person by rules of the department.

f. Any payer or third-party payer for health services.

2. "Birth center" means birth center as defined in section 135G.2.

3. "Director" means the director of public health, or the director's designee.

4. "Consumer" means any individual whose occupation is other than health services, who has no fiduciary obligation to an institutional health facility, health maintenance organization or other facility primarily engaged in delivery of services provided by persons in health service occupations, and who has no material financial interest in the providing of any health services.

5. "Council" means the state health facilities council established by this division.

6. "Department" means the Iowa department of public health.