

455B.281 Compensation for well interference.

If an investigation by the department, using information provided by the applicant or permittee and the complainant, discloses that a proposed or existing permitted use or combination of such uses is causing or will cause the delivery system to fail in a well which supplies water for a nonregulated use, the department may condition issuance or continuation of a permit upon payment by the permittee of compensation for all or a portion of the cost of a replacement water supply system or remedial measures necessitated by the interference. However, such condition may be imposed only after the parties demonstrate to the department that a good faith effort to negotiate a mutually agreeable compensation has been made and has failed.

Determination of the amount of compensation for the well interference shall be made a part of the determination of the department in accordance with section 455B.265 or 455B.271. The department may require the submission of itemized estimates of the cost of remedial repairs or a replacement water supply system. In determining appropriate compensation, the department shall consider the age and condition of the affected well or pumping system and its reasonableness as a method of obtaining groundwater in light of the history of development of groundwater in the surrounding area. When compensation is required for all or part of the cost of construction of a replacement water supply system or reconstruction of an affected well, the construction or reconstruction must comply with applicable well construction standards. A permittee is not required to pay compensation before having an opportunity to do test pumping authorized by the department and supervised by the department or designee.

The determination of the department shall be subject to administrative and judicial review and shall be the exclusive remedy for such interference.

85 Acts, ch 7, §11