

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

637E0182

## HOUSE ENGROSSED NO. **HB 1134** - 02/06/2001

Introduced by: Representative Derby and Senator Hutmacher

1 FOR AN ACT ENTITLED, An Act to establish license requirements for well pump installers  
2 and well repairers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46-2A-1 be amended to read as follows:

5 46-2A-1. The provisions of this chapter apply to any application for:

- 6 (1) A permit to appropriate water;
- 7 (2) An amendment of an existing permit or license, including change in use of water or  
8 change in place of use or diversion point of water;
- 9 (3) A reservation for future use;
- 10 (4) A permit for flood control;
- 11 (5) A well driller license;
- 12 (5A) A well pump installer license;
- 13 (6) Reinstatement of a permit;
- 14 (7) A vested right claim; and
- 15 (8) Other cases as may be specified by statute.

1 Section 2. That § 46-2A-3 be amended to read as follows:

2 46-2A-3. In all cases except applications for a well driller license or a well pump installer  
3 license, chief engineer shall mail a copy of the recommendation to the applicant and, if the  
4 recommendation is to approve or defer the application, a copy of the newspaper notice to be  
5 published and the times when it is to be published. If the recommendation is to deny the  
6 application, the applicant within twenty days of the date the recommendation was mailed shall  
7 state in writing ~~if he~~ whether the applicant intends to oppose the recommendation at a hearing  
8 before the Water Management Board. Failure to submit a statement of intent to oppose a  
9 recommendation to deny to the chief engineer constitutes a withdrawal of the application. If the  
10 applicant chooses to oppose the recommendation, the chief engineer shall provide ~~him~~ the  
11 applicant notice of the hearing to be published pursuant to the provisions of § 46-2A-4. Any cost  
12 of publication shall be borne by the applicant.

13 Section 3. That § 46-2A-4 be amended to read as follows:

14 46-2A-4. Except in the case of an application for a well driller license or a well pump installer  
15 license, if a recommendation is to approve or defer an application or if an applicant has filed a  
16 petition to oppose a recommendation to deny an application, the applicant shall publish notice  
17 of the application and recommendation at least once a week for two successive weeks in one  
18 official newspaper in each county where the water will be diverted or used or project works will  
19 be located. The official newspaper shall be selected by the chief engineer and shall be a  
20 newspaper designated as an official newspaper pursuant to § 7-18-3. The second publication  
21 shall be at least twenty days before the first day of the Water Management Board meeting at  
22 which the matter is noticed to be heard. No application for a permit, license or amendment may  
23 be considered and approved by the board until proof of all required publications has been filed  
24 with the chief engineer. The notice, which shall be provided by the chief engineer to the

1 applicable newspapers, shall include the following, as applicable:

- 2 (1) The name and address of the applicant;
- 3 (2) A brief description of the project, including, where applicable, the proposed place or  
4 places of use of the water or facilities, including the point of diversion, the amount of  
5 water to be used and the purpose for which the water or facility is to be used;
- 6 (3) A brief statement describing the recommendation and the reasons for the  
7 recommendation;
- 8 (4) A statement that any interested person who intends to participate in the hearing shall  
9 file a petition to oppose or support the application and that the petition shall be filed  
10 with the chief engineer and applicant at least ten days before the published date for  
11 hearing;
- 12 (5) A statement that a petition to oppose or support an application may be informal, but  
13 shall be in writing and shall contain the following:
  - 14 (a) A statement describing the petitioner's interest in the application;
  - 15 (b) The reasons for the petitioner's opposition to or support for the application;
  - 16 and
  - 17 (c) The signature and mailing address of the petitioner or ~~his~~ the petitioner's legal  
18 counsel;
- 19 (6) A statement telling where copies of the recommendation, application or other  
20 information may be obtained;
- 21 (7) The time when and the place where the application will be considered by the board;
- 22 (8) A statement that the recommendation of the chief engineer is not final or binding upon  
23 the board and is subject to the approval of the board after it reaches a conclusion  
24 based on facts at the public hearing;

1 (9) A statement that the time of hearing will be automatically extended for at least twenty  
2 days upon written request of the applicant or any person who has filed a petition to  
3 oppose or support the application and a statement that any such request by the  
4 applicant or person filing a petition shall be made at least ten days before the  
5 published date for hearing; and

6 (10) A statement that if the applicant does not contest the recommendation of the chief  
7 engineer and no petition to oppose the application is received, the chief engineer shall  
8 act on the application pursuant to ~~his~~ the chief engineer's recommendation and no  
9 hearing may be held before the board, unless the chief engineer makes a finding that  
10 an application, even if uncontested, presents important issues of public policy or  
11 public interest that should be heard by the board.

12 Section 4. That § 46-2A-13 be amended to read as follows:

13 46-2A-13. In the case of an application for a well driller license or a well pump installer  
14 license, the chief engineer may issue the license. If ~~his~~ the chief engineer's recommendation is to  
15 deny the license or to defer ~~his~~ the decision on the license, ~~he~~ the chief engineer shall mail a copy  
16 of ~~his~~ the recommendation to the applicant with a statement of the reasons for ~~his~~ the  
17 recommendation and the time and place of the hearing before the Water Management Board on  
18 ~~his~~ the recommendation, in accordance with the provisions of chapter 1-26.

19 Section 5. That chapter 46-6 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 Any person who performs work for compensation in the repair of wells or as a well pump  
22 installer shall obtain a well driller's license issued pursuant to § 46-6-9 or a well pump installer's  
23 license issued pursuant to section 6 of this Act before conducting or contracting for such work.

24 Section 6. That chapter 46-6 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The Water Management Board shall issue a well pump installer license to any applicant who  
3 meets the requirements specified in this section. The fee for the license is fifty dollars, and fifty  
4 dollars shall be paid each calendar year for renewal of the license. The fee shall be paid to the  
5 Department of Environment and Natural Resources and deposited by the state treasurer in the  
6 state general fund. The license shall be issued pursuant to the procedures contained in chapter  
7 46-2A. No license may be issued unless the applicant is experienced and knowledgeable in well  
8 pump installation methods. The Water Management Board shall promulgate rules pursuant to  
9 chapter 1-26 establishing well pump installation qualifications.

10 Section 7. That § 46-6-9.1 be amended to read as follows:

11 46-6-9.1. The chief engineer may initiate an action before the Water Management Board to  
12 revoke the license of any well driller or well pump installer upon refusal by the driller to properly  
13 complete any well or well pump installation in accordance with rules governing well construction  
14 or well pump installation or upon violation of this title, or any rule, ~~regulation~~ or order  
15 promulgated ~~thereunder~~ pursuant to this title. Any action for the revocation of a well driller's or  
16 well pump installer's license shall comply with the provisions of § 1-26-19. A well driller or well  
17 pump installer whose license has been revoked may not apply for a new license sooner than six  
18 months after the effective date of the revocation.

19 Section 8. Any plumbing contractor licensed under chapter 36-25, any electrical contractor  
20 licensed under chapter 36-16, and any mechanical contractor licensed under municipal ordinances  
21 may be exempt from the well pump installer licensure requirements of this Act.

22 Section 9. No licensed well pump installer or well driller may perform any electrical,  
23 plumbing, or mechanical act regulated by state law unless licensed to do so. All applicable rules  
24 and regulations of state law and municipal ordinances shall apply regarding any permit and any

1 installation practice.