

SECOND REGULAR SESSION

# SENATE BILL NO. 823

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

Read 1st time January 27, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2245.011

## AN ACT

To repeal sections 256.600, 256.603, 256.605, 256.606, 256.607, 256.611, 256.613, 256.614, 256.615, 256.617, 256.620, 256.623, 256.626, 256.628 and 256.630, RSMo 1994, and sections 256.616, 256.635, 256.637 and 256.640, RSMo Supp. 1997, relating to water wells, and to enact in lieu thereof twenty new sections relating to the same subject.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 256.600, 256.603, 256.605, 256.606, 256.607, 256.611, 256.613, 256.614, 256.615, 256.617, 256.620, 256.623, 256.626, 256.628 and 256.630, RSMo 1994, and sections 256.616, 256.635, 256.637 and 256.640, RSMo Supp. 1997, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 256.600, 256.603, 256.605, 256.606, 256.607, 256.611, 256.613, 256.614, 256.615, 256.616, 256.617, 256.620, 256.623, 256.626, 256.628, 256.630, 256.635, 256.637, 256.639 and 256.640, to read as follows:

256.600. Sections 256.600 to 256.640 shall be known and may be cited as "The **[Water]** Well Drillers' Act".

256.603. As used in sections 256.600 to 256.640, the following terms mean:

(1) **[**"Abandoned well", a well shall be deemed abandoned which is in such a state of disrepair that continued use for the purpose of thermal recovery or obtaining groundwater is impractical and which has not been in use for a period of two years or more. The term "abandoned well" includes a test hole or a monitoring well which was drilled in the exploration for minerals, or for geological, water quality or hydrologic data from the time that it is no longer used for

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

exploratory purposes and that has not been plugged in accordance with rules and regulations pursuant to sections 256.600 to 256.640;] **"Abandoned heat pump well", a well shall be deemed abandoned which has not been in use for a period of two years or more and has not been plugged or registered as temporarily abandoned in accordance with the rules and regulations adopted pursuant to sections 256.600 to 256.640;**

(2) **"Abandoned monitoring well", a well shall be deemed abandoned which has not been in use for a period of two years or more and has not been plugged or registered as temporarily abandoned in accordance with rules and regulations adopted pursuant to sections 256.600 to 256.640;**

(3) **"Abandoned water well", a well shall be deemed abandoned which has not been in use for a period of two years or more and has not been plugged or registered as temporarily abandoned in accordance with the rules and regulations adopted pursuant to sections 256.600 to 256.640, except that irrigation wells capable of producing greater than one hundred gallons per minute utilizing portable or permanent pumps may remain unused based on their periodic use due to weather conditions and crop rotation, for a period up to five years;**

[(2)] (4) **"Board", the body created in section 256.605;**

[(3)] (5) **"Certification report", a form to be sent to the division upon completion of any well which shows the well location information, [static water level, total depth, initial pumpage, hole size, casing size and length], well construction information, driller's log information and name and address of well owner;**

(6) **"Cistern", an artificial underground reservoir for holding water;**

(7) **"Director", the director of the department of natural resources;**

[(4)] (8) **"Division", the division of geology and land survey;**

[(5)] (9) **"Driller's log", a record accurately kept at the time of drilling showing the depth, thickness, character of the different strata penetrated, and location of water-bearing strata[, depth, size and character of casing installed, together with any other data or information required on the certification report forms];**

[(6)] (10) **"Examination", an assessment of professional competency administered to applicants;**

[(7)] (11) **"Heat pump installation contractor", any person, including owner, operator or drilling supervisor who engages for compensation in the drilling, boring, coring, [or] construction, or plugging of any well in the state for extracting thermal energy;**

(12) **"Heat pump well", an excavation greater than ten feet in depth that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use is for thermal exchange;**

(13) **"Major violation", includes willful repeated violations, as defined by rule, relative to improper well construction, pump installation, and well plugging which**

**causes or could potentially cause the pollution of groundwater, the willful obstruction or prevention of agents of the division in the performance of the duties imposed on them by sections 256.600 to 256.640, the repeated violation of nonsubmittal of well certification and/or registration reports and associated fees as defined by rule, or the hiring of a nonpermitted installation contractor to work without the supervision of a permitted contractor;**

**(14) "Monitoring well", an excavation greater than ten feet in depth that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use is to locate or monitor for any contaminant, to remediate contamination, or for hydrologic purposes. This includes groundwater monitoring wells, piezometers, gas monitoring wells, extraction wells, and geotechnical holes not exempted as part of construction foundation drilling. The original wells contained in the tank pit as a part of an underground storage tank leak detection system of a minimum depth are exempted, as determined by the board by rule;**

**[(8)] (15) "Monitoring well installation contractor", any person, including owner, operator, or drilling supervisor who engages for compensation in the drilling, boring, coring, [or] construction, or plugging of any well in this state which is drilled for geologic data, water quality, or hydrologic data;**

**(9) "Permitted well driller", any person who holds a permit issued pursuant to the provisions of sections 256.600 to 256.640;**

**(10) (16) "Person", any individual, whether or not connected with a firm, partnership, association, corporation, or any other group or combination acting as a unit;**

**(17) "Pump installation completion date", the date that the pump installation equipment is installed and operational;**

**[(11)] (18) "Pump installation contractor", any person, firm or corporation engaged in the business of installing or repairing pumps and pumping equipment or plugging of wells;**

**[(12)] (19) "Registration report", a form to be sent to the division upon completion of plugging of an abandoned well, raising casings, lining wells, deepening of wells, major repairs and alterations, and jetted wells;**

**(13) "Well", an excavation that is drilled, cored, bored, washed, driven, dug, jetted, trenched, or otherwise constructed when the intended use of such excavation is for the acquisition of groundwater supply, for monitoring, thermal exchange or for exploration for minerals or geologic or hydrologic data; but such term does not include a cistern, an excavation made for the purpose of obtaining or for prospecting for oil or natural gas, or for construction foundation data, dewatering of construction sites or dewatering of existing structures, observation wells used as a part of an underground storage tank leak detection system of a minimal depth, as determined by the board by rule, or for inserting media to repressure oil or natural-gas-bearing formations;]**

**(20) "Substandard conditions", features of existing well construction, pump installation, or well location which present a potential threat to groundwater;**

**(21) "Temporarily abandoned heat pump well", a well or heat pump system shall be deemed temporarily abandoned which has not been used for more than two years, is not a source of groundwater contamination and meets standards in accordance with rules and regulations adopted pursuant to sections 256.600 to 256.640;**

**(22) "Temporarily abandoned monitoring well", a well shall be deemed temporarily abandoned which has not been used for more than two years, is not a source of groundwater contamination and meets standards in accordance with rules and regulations adopted pursuant to sections 256.600 to 256.640;**

**(23) "Temporarily abandoned water well", a well shall be deemed temporarily abandoned which has not been used for more than two years, is not a source of groundwater contamination and meets standards in accordance with rules and regulations adopted pursuant to sections 256.600 to 256.640;**

**(24) "Test hole", an excavation that is greater than ten feet in depth that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of obtaining geologic information for mineral exploration and must be plugged within thirty days of completion. This includes, but is not limited to, seismic shot holes and industrial mineral exploration holes;**

**(25) "Test hole installation contractor", any person, including owner, operator, and drilling supervisor who engages for compensation in the drilling, boring, coring, construction, or plugging of any test hole in this state;**

**(26) "Water well", an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the acquisition of groundwater supply which includes certain dewatering wells as determined by the board by rule; but such term does not include a cistern;**

**[(14)] (27) "Water well installation contractor", any person, including owner, operator, and drilling supervisor who engages for compensation in the drilling, boring, coring, or construction of any **water** well in this state. The term, however, shall not include any person who drills, bores, cores, or constructs a water well on his own property for his own use or a person who assists in the construction of a water well under the direct supervision of a permitted well installation contractor and is not primarily responsible for drilling operations;**

**(28) "Well construction completion date", the date that the total depth is reached or the rig is removed or pulled off the bore hole or well;**

**[(15)] (29) "Well owner", any person or corporation who is the party responsible for having a well drilled and whose name appears on the well registration or certification form.**

256.605. 1. The "Well Installation Board" is hereby established which shall be composed of **[(nine)] eleven** members. Appointment to the board shall be made without regard to race, creed,

sex, religion, or national origin of the appointees. Each member shall be a resident of the state and be conversant in well drilling, completion, and plugging methods and techniques.

2. [Four] **Six** members of the board shall hold valid permits under sections 256.600 to 256.640. Two of these shall hold permits as **water** well installation contractors, **one shall be a holder of multiple permits with one of those permits being a water well installation contractor**, one shall hold a permit as a heat pump installation contractor [and as a well installation contractor], **one shall hold a permit as a pump installation contractor** and one shall hold a permit as a monitoring well installation contractor [and as a well installation contractor] **or a test hole installation contractor**. Four shall be public members, one of these shall be a public water supply district user and one shall be a private well user. The director of the department or his designee shall serve as a member of the board. Board members shall serve four-year terms except that two of the first appointed public members and two of the first appointed members holding valid permits shall be appointed to two-year terms. Members shall be appointed by the governor with the advice and consent of the senate and each shall serve until his successor is duly appointed and qualified. Vacancies shall be filled by appointment for the unexpired term. Any member who fails to attend at least seventy-five percent of the regular board meetings in any one year, at the discretion of the board, shall be deemed to have resigned. Members shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties while in attendance at board meetings out of appropriations made for that purpose.

3. A member shall not be employed by or own an interest in a company, firm, or business association which employs another member of the board or in which another member owns an interest, if the company, firm, or business association is engaged in any phase of the **water** well drilling, pump installation, heat pump, **test hole drilling** or monitoring well business.

4. Except for industry members, no member shall receive, or shall have received during the previous two years, income **or moneys** derived directly or indirectly from any permittee or applicant under sections 256.600 to 256.640.

5. The board shall meet on a quarterly basis, and special meetings may be called when deemed necessary by the division. A majority of the board is a quorum for conducting business. The board shall elect a [chairman] **chairperson** by a majority vote at the first meeting each year.

256.606. 1. The board shall adopt and amend rules and regulations pursuant to chapter 536, RSMo, which may be reasonably necessary to govern the regulation of the **water** well, [the] heat pump, monitoring well, **test hole** and pump installation industry in the state of Missouri.

2. The division with the approval of the board shall prepare examinations and pass upon qualifications of the applicants for permits. The division with the approval of the board may recognize, prepare, or carry out continuing education programs for permittees.

256.607. 1. No person may engage in business in this state as a **water** well installation contractor, **pump installation contractor, heat pump installation contractor, test hole installation contractor or monitoring well installation contractor** unless he has obtained from the division a permit to conduct such business or businesses.

2. Nothing in sections 256.600 to 256.640 shall prevent a person who has not obtained a permit pursuant to sections 256.600 to 256.640 from constructing a **water** well on his own or leased property intended for use only in a single-family house which is his permanent residence, or intended for use only for farming purposes on his farm, and where the waters to be produced are not intended for use by the public or in any residence other than his own. Such person shall comply with all rules and regulations as to construction of wells adopted under sections 256.600 to 256.640.

3. Any **water** well installation contractor, **heat pump installation contractor, monitoring well installation contractor, test hole installation contractor** or pump installation contractor acting as the primary contractor in the construction, [alteration, major repair] **rehabilitation, reconstruction, repair** or abandonment of any well shall be required to obtain a permit from the division and comply with all rules and regulations promulgated pursuant to sections 256.600 to 256.640.

[4. Any heat pump installation contractor or monitoring well installation contractor shall obtain a permit from the division and comply with all rules and regulations pursuant to sections 256.600 to 256.640.]

256.611. The division shall issue a permit as a **water** well installation contractor, heat pump installation contractor, monitoring well contractor, **test hole installation contractor** or pump installation contractor to any person properly making application therefor, who is not less than eighteen years of age, has a knowledge of rules and regulations adopted under sections 256.600 to 256.640, and has passed the appropriate examination and has supplied proof of adequate experience as specified by rule and regulation.

256.613. Written examinations shall be designed to test the applicants' knowledge of the principles of **water** well drilling and plugging, the methods of installation of pumping equipment and the rules and regulations promulgated under sections 256.600 to 256.640.

256.614. 1. The division shall be notified, on certification or registration forms to be provided by the division, of the activities specified in this section within sixty days **of completion. An information packet, supplied by the division, is recommended to be supplied to the potential water well customer by the permitted contractor at the time an estimate or bid is given on the well which will provide the potential water well customer important information about water wells and the protection of groundwater:**

- (1) Certification forms shall be used to report:
  - (a) New **water** well construction;

- (b) New pump installations;
- (c) [Drilling of monitoring wells] **Monitoring well construction;**
- (d) [Drilling of heat pump wells] **Heat pump well construction;**

**(e) Rehabilitation, reconstruction, or repair work performed on a water well drilled on or before November 1, 1987, because of a substandard condition;**

(2) Registration forms shall be used to report:

- (a) Plugging of wells;
- (b) [Raising of casing;
- (c) Lining of wells;
- (d) Deepening of wells;

**(e) Major repairs and alteration to wells] Rehabilitation, reconstruction, or repair work performed on a water well drilled on or after November 1, 1987, because of a substandard condition;**

(f) Jetted well construction;

(3) The certification form shall be accompanied by the certification fee and the registration form shall be accompanied by the registration fee, however, on new well construction and new pump installation, only one fee shall be required.

2. Any well [driller] **installation contractor** who encounters oil or gas during drilling operations or a well owner who converts a well from a water well to an oil or gas well shall notify the division and file for a permit from the Missouri oil and gas council, and the well shall be completed in accordance with the regulations of the council.

256.615. 1. [Wells] **Any well that has been deemed** abandoned [by the landowner after August 28, 1991,] shall be plugged [or caused to be plugged by the landowner] **by a permitted installation contractor** according to the regulations developed pursuant to sections 256.600 to 256.640. [If the department makes a finding that certain unusual conditions exist at a well, the department may require that the same be plugged by a permitted well driller.]

2. Any test hole which is drilled [for underground exploration] shall be plugged in accordance with rules and regulations developed pursuant to sections 256.600 to 256.640.

3. Any information obtained by the department which identifies a test hole [or a monitoring well] which was drilled in the exploration for minerals shall remain confidential and shall not be released by the division for a period of ten years following the receipt of the information which initially identified the test hole or monitoring well. The person submitting the report or the person for whom the well was drilled may request that such information remain confidential for an additional five years and the division shall grant such request. Any employee of the division who discloses confidential information shall be subject to disciplinary action by the division and is guilty of a class A misdemeanor.

256.616. A **water** well installation contractor, **heat pump installation contractor,**

**monitoring well installation contractor, test hole installation contractor** or pump installation contractor who has had a permit **suspended**, revoked, **or has committed a major violation** or a person found guilty of a class A misdemeanor in accordance with section 256.637 shall **be required to** provide to the division a [performance] **surety bond, certificate of deposit** or letter of credit **and must have satisfied all legal judgements assessed by any circuit court, associate circuit court or small claims court in this state related to work performance** in order to [obtain a permit] **be reinstated as an installation contractor, apply for a permit or continue in business as an installation contractor.**

(1) The bond, **certificate of deposit** or letter of credit required by this section shall be:

(a) Conditioned upon faithful compliance with the conditions and terms of sections 256.600 to 256.640; and

(b) In such amount as determined by the [division] **board by rule**, to ensure compliance with the procedures, rules and regulations, and standards established pursuant to sections 256.600 to 256.640, but shall not [exceed ten thousand dollars or] be less than one thousand dollars. When setting the amount, the [division] **board** shall consider the total number of wells drilled or pumps installed and the average cost of each well drilled or serviced by the applicant;

(2) Such [performance] **surety** bond, placed on file with the director, shall be in one of the following forms:

(a) A [performance] **surety** bond, payable to the director and issued by an institution authorized to issue such bonds in this state; or

(b) An irrevocable letter of credit **or certificate of deposit** issued in favor of and payable to the director from a commercial bank or savings and loan having offices in the state of Missouri;

(3) The requirement for a [performance] **surety** bond, **certificate of deposit** or a letter of credit by a **water well installation contractor, heat pump installation contractor, monitoring well installation contractor, test hole installation contractor** or pump installation contractor who has had a permit **suspended**, revoked, **or has committed a major violation** or a person who has been found guilty of a class A misdemeanor in accordance with section 256.637 shall cease after two consecutive years of well drilling or pump installation in accordance with the provisions of sections 256.600 to 256.640, and any rules or regulations promulgated pursuant to sections 256.600 to 256.640;

(4) Upon a determination by the division that a **water well installation contractor, heat pump installation contractor, monitoring well installation contractor, test hole installation contractor** or pump installation contractor has failed to meet standards as set out in sections 256.600 to 256.640 and the rules and regulations promulgated thereunder, the division shall notify the [well installation contractor or pump] installation contractor that the bond, **certificate of deposit** or letter of credit will be forfeited and the moneys placed in the groundwater protection fund for remedial action, if that person does not bring the well or borehole



up to the standards established pursuant to sections 256.600 to 256.640 within [sixty] **thirty** days after notification of such determination has been given;

(5) If a well is not brought up to the standards established pursuant to sections 256.600 to 256.640 within the [sixty] **thirty**-day notification period the division may, upon expiration of the notification period, expend whatever portion of the bond or letter of credit is necessary to hire another contractor to bring the well or borehole up to standards or to construct a new well.

256.617. All permitted [water well drillers] **installation contractors** shall see that all rigs used by them or their employees [in the water well drilling] are marked with legible identification numbers at all times. The identification number to be used on the rigs shall be the permit [license] number which appears on the [driller's] **installation contractor's** permit. The rules and regulations adopted by the division shall set out in detail the specific method and manner for marking the rigs. A separate permit shall be obtained for each rig operated by a permitted [water well driller] **installation contractor** during **the** permit year.

256.620. Except as provided in section 256.615, operational wells in existence on [September 28, 1985] **November 1, 1987**, shall not be required to conform to the provisions of sections 256.600 to 256.640, or any rules or regulations adopted pursuant thereto unless such wells or pump installations for such wells are determined to present a threat to groundwater **or such wells are to undergo rehabilitation, reconstruction, or repair because of a substandard condition. When a well is to undergo rehabilitation, reconstruction, or repair because of a substandard condition the needed work shall include those changes necessary to make the well conform to present rules as adopted pursuant to sections 256.600 to 256.640, except a well will not be required to be plugged and redrilled that is located too close to potential contamination sources if that well meets certain construction criteria as determined by rule by the board. When wells that were in operation on November 1, 1987, have been brought up to conform to the rules, certification reports and fees must be submitted to the division as stated in sections 256.614 and 256.623 and rules adopted pursuant thereto and certification may be issued.**

256.623. 1. The board shall by rules and regulations establish reasonable and necessary fees for:

- (1) Permits;
- (2) Renewal of permits;
- (3) Duplicate permits;
- (4) Rig permits;
- (5) Certification reports;
- (6) Registration reports;
- (7) Division publications (not to exceed the cost of publication and handling);
- (8) Logging of wells;

(9) Examinations; and

(10) Late document submittals, **which includes documents as required by sections 256.614 and 256.628.**

2. The fees shall be set at a level necessary to produce revenue which shall not substantially exceed the cost and expense of administering sections 256.600 to 256.640. The board shall also by rules and regulations set forth appeal processes for **installation** contractors subject to disciplinary action and shall set forth procedures by which any aggrieved party may bring a complaint to the division.

**3. Any permitted installation contractor who adheres to sections 256.600 to 256.640 and all rules and regulations pertaining to well construction and water supply system construction standards adopted pursuant thereto shall not guarantee the water quality or quantity that is produced.**

256.626. 1. The board shall adopt, amend, and promulgate in the manner provided by law, and enforce rules and regulations pertaining to the construction and abandonment of wells, and the permitting of [operators and] **installation** contractors under sections 256.600 to 256.640.

2. The board shall specify by rule and regulation the types of materials which may be used as a coolant in a heat pump well. Preference shall be given to those coolants which would present the least threat to groundwater if released into the environment. The board shall also specify by rule and regulation those coolants which shall not be used in heat pump wells due to their potentially harmful effects if released into the environment.

256.628. 1. A public water supplier subject to the provisions of chapter 640, RSMo, which connects to any structure or location previously served by any **water** well which is not that of another public water supplier shall notify the well owner of his obligation to plug any **type of** abandoned well pursuant to the requirements of sections 256.600 to 256.640. The public water supplier shall not connect any person to the public water system until the person submits information which identifies the location of wells and attests that:

(1) Known abandoned wells on the property have been plugged; or

(2) [There are no known abandoned wells on the property; or

(3)] Existing **water** wells will remain in use and will be properly plugged when no longer used; or

[(4)] **(3)** Any abandoned wells will be plugged within ninety days.

2. The public water supplier shall submit a copy of information so received to the division on forms provided by the division, along with sufficient information to enable the division to locate existing and abandoned wells. The division shall, within a reasonable time, inspect any well identified in subdivision [(4)] **(3)** of subsection 1 of this section. If the division determines that [an] **any** abandoned well has not been plugged, it shall order the owner to have it plugged by a permitted [water well] installation contractor within thirty days. The division shall immediately

seek injunctive relief through the office of the prosecuting attorney of the county wherein the alleged violation occurred to enforce its order and shall notify the appropriate public water supplier who shall terminate water service to the property thirty days after receipt of notice if the well has not been plugged. Any person who fails to plug an abandoned well pursuant to the provisions of this subsection shall, upon conviction, be subject to the penalties specified in section 256.637.

256.630. 1. If the division determines that the holder of any permit issued pursuant to sections 256.600 to 256.640 has violated any provision of sections 256.600 to 256.640, or any rule or regulation adopted pursuant thereto, the division shall reprimand, suspend, place any such permittee on probation or revoke a permit.

2. The division shall cause to have issued and served upon the permittee a written notice of the order or revocation issued under section [256.619] **256.615** or this section, which notice shall include a copy of the order, shall specify the provision of sections 256.600 to 256.640, or the standard, rule or regulation, order or permit term or condition of which the permittee is alleged to be in violation and a statement of the manner in which the person is alleged to violate sections 256.600 to 256.640, or the standard, rule or regulation, order or permit term or condition. Service may be made upon any person within or without the state by registered or certified mail, return receipt requested. Any person against whom the division issues an order may appeal it by filing a petition with the board within thirty days. The appeal shall stay the enforcement of the order until a final determination is made.

3. After due consideration of the record, or upon default in appearance of the petitioner at any hearing of which he has been given notice by registered or certified mail, the board shall issue and enter such final order, or make such final determination as it deems appropriate under the circumstances. The board may sustain, reverse or modify the division's order or may make such other orders as it deems appropriate under the circumstances. It shall notify the petitioner or respondent thereof in writing by certified or registered mail.

4. Any affected person aggrieved by an action of the division may appeal to the board. At any public hearing all testimony taken before the board, or a hearing officer appointed by the board, shall be under oath and recorded stenographically. The transcript so recorded shall be made available to any person upon payment of a fee equal to the cost of reproduction. All final orders and determinations of the board or the division made pursuant to the provisions of sections 256.600 to 256.640 are subject to judicial review pursuant to the provisions of section 536.100, RSMo. Any person who has exhausted all administrative remedies provided by chapter 536, RSMo, and who is aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, shall be entitled to judicial review in the form of a trial de novo in the circuit court of the county wherein the alleged impropriety occurred.

256.635. 1. The state auditor shall audit the financial transactions of the division in

connection with the administration of sections 256.600 to 256.640.

2. All money collected by the division under the provisions of sections 256.600 to 256.640 shall be deposited in the state treasury to the credit of a special fund hereby established to be known as the "Groundwater Protection Fund". Moneys in the fund shall be expended only for the purposes of administering sections 256.600 to 256.640. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the fund at the end of an appropriation period shall not be transferred to general revenue[, except that should there be a balance remaining in the fund at the end of an appropriation period exceeding one-half of the next year's projected operating budget for administration of sections 256.600 to 256.640, the amount exceeding one-half of the next year's projected budget shall be transferred to the general revenue fund].

3. Any balance in the water well drillers' fund on August 28, 1997, shall be transferred to the groundwater protection fund on that date, and following such transfer, the water well drillers' fund shall be abolished.

**4. Permitted and nonpermitted installation contractors must retain all certification and registration records for a period of not less than three years.**

256.637. 1. Any person who willfully violates any of the provisions of sections 256.600 to 256.640 is guilty of a class A misdemeanor.

2. In the event of a continuing violation, each day that the violation continues shall constitute a separate and distinct offense.

3. Any person who willfully obstructs[, hinders] or prevents agents of the division in the performance of the duties imposed on them by sections 256.600 to 256.640 is guilty of a class A misdemeanor.

4. Any well owner who knowingly causes or permits a hazardous or potentially hazardous condition to exist which could cause deterioration of groundwater quality in the system, even in a local area, shall forfeit his right to an approved, certified well. He shall also be liable to legal action by the state and any neighboring well owners should the condition endanger the groundwater in surrounding areas. If the division finds that such **substandard** conditions exist, it shall order the well owner to [plug the well.] **remedy the problem. If the division requires the well to be repaired or plugged, the work must be done by a permitted contractor according to the provisions of sections 256.600 to 256.640.**

5. Upon receipt of a complaint filed with the division alleging that any provision of sections 256.600 to 256.640, or any standard, rule or regulation promulgated thereto was violated, the division may institute a civil action in the jurisdiction where the well is located for injunctive relief through the office of the prosecuting attorney of the county wherein the alleged violation occurred to prevent such violation or further violation, or for the assessment of a civil penalty not to exceed five hundred dollars per day for each day, or part thereof, the violation occurred and continued to occur, or both, as the court deems proper. For the purpose of this section, the filing of a well

registration or certification form containing false information shall constitute a violation for each day after notification that such form is on file with the division. Any moneys paid in civil penalties shall be deposited in the groundwater protection fund.

**6. Any permitted installation contractor who knowingly employs a person who has unresolved violations which have resulted in permit suspension or revocation, shall be guilty of a class A misdemeanor.**

**256.639. The fund shall be called the "Well Plugging Fund" and moneys placed in this fund shall be expended only for the purpose of plugging wells, well construction and repair and for protection of Missouri's groundwater. Moneys derived from any source, except moneys collected by the division under the provisions of sections 256.600 to 256.640 may be deposited in this fund.**

256.640. [No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 256.600 to 256.640 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to the effective date of this section is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to the effective date of this section if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.**

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