

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2189

Introduced by

Senators Klein, Dotzenrod, Unruh

Representatives Laning, Zubke

1 A BILL for an Act to amend and reenact sections 43-35-05, 43-35-06, 43-35-07, 43-35-09,
2 43-35-14, and 43-35-22 of the North Dakota Century Code, relating to the board of water well
3 contractors; ~~and~~ to provide a penalty; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 43-35-05 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-35-05. Officers - Office.**

8 The members of the board shall meet annually ~~on the second Monday~~ in July at a time and
9 place designated by the ~~president~~, except that the first meeting must be held in the office of the
10 state engineer at ten a.m., to chairman. The board shall select from ~~their number~~ the board's
11 membership a ~~president, vice president~~ chairman, vice chairman, and a secretary-treasurer. ~~The~~
12 ~~secretary-treasurer need not be a member of the board.~~ Additional board meetings may be
13 provided for in the bylaws or rules ~~and regulations~~ adopted by the board.

14 **SECTION 2. AMENDMENT.** Section 43-35-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-35-06. Secretary-treasurer ~~bond~~- Bond - Executive officer.**

17 Promptly upon assuming the office, the secretary-treasurer shall furnish a bond satisfactory
18 to the board for the faithful performance and discharge of the secretary-treasurer's duties in an
19 amount determined by the board, the premium for which is to be paid from board funds. The
20 ~~secretary-treasurer shall~~ board shall appoint one of its members to serve as the executive officer
21 for the board.

22 **SECTION 3. AMENDMENT.** Section 43-35-07 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **43-35-07. Compensation and reimbursement of expenses.**

2 Each appointive member of the board is entitled to receive ~~sixty-two dollars and fifty-~~
3 ~~cents up to one hundred twenty-five dollars~~ compensation per day and ~~must be reimbursed is~~
4 ~~entitled to receive reimbursement~~ for expenses in the same amounts as provided for in sections
5 44-08-04 and 54-06-09 while attending board meetings or otherwise engaged in the official
6 business of the board. The board shall establish the compensation rate by rule.

7 **SECTION 4. AMENDMENT.** Section 43-35-09 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-35-09. Deposit of fees - Use and appropriation of funds.**

10 All fees received by the treasurer under this chapter must be deposited to the credit of the
11 board in the Bank of North Dakota and disbursed only on order of the ~~president~~chairman and
12 secretary-treasurer. Funds collected for certifying and inspections may be expended in such
13 manner as the board deems necessary to best carry out the provisions of this chapter. All funds
14 accruing to the credit of the state board of water well contractors are hereby permanently
15 appropriated to the board for the purpose of this chapter.

16 **SECTION 5. AMENDMENT.** Section 43-35-14 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-35-14. Bond required.**

19 Before receiving a certificate under this chapter, a qualified applicant shall execute and
20 deposit with the board a surety bond ~~in the amount of two thousand dollars~~ conditioned for the
21 faithful performance of all water well, monitoring well, pump and pitless unit, or geothermal
22 system installation contracts undertaken by the applicant and the strict compliance with this
23 chapter. The required amount of a surety bond is fifteen thousand dollars for a water well
24 contractor and is two thousand dollars for a monitoring well, pump and pitless unit, or
25 geothermal system installation contractor.

26 **SECTION 6. AMENDMENT.** Section 43-35-22 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-35-22. ~~Contracting without certification~~ Violation of chapter - Penalty.**

29 1. Any person contracting to drill a water well or monitoring well, ~~drill~~install a pump or
30 pitless unit, or drill a geothermal system for another without being certified in
31 accordance with this chapter, ~~or; any person that willfully violates an order of the~~

- 1 ~~board;~~ or otherwise violating any person that willfully violates a provision of this
2 chapter, is guilty of an infraction a class B misdemeanor.
- 3 2. In addition to criminal sanctions that may be imposed, the board or the district court
4 may assess the cost to repair any damage caused by the violation, any costs incurred
5 by the board in the action, and a civil penalty against a person that violates any
6 provision of this chapter or any rule adopted by the board~~under this chapter~~. The civil
7 penalty may not exceed five thousand dollars for each day the violation occurred and
8 continues to occur ten thousand dollars. The civil penalty may be adjudicated by the
9 district court or ~~by the executive officer on behalf of the board~~ through an
10 administrative hearing under chapter 28-32.
- 11 3. If a person against which a civil penalty was assessed ~~by the executive officer~~ after an
12 administrative hearing does not pay or appeal the civil penalty within thirty days of
13 receiving notice of the order, interest begins to accrue on the unpaid amount of the
14 civil penalty at the rate of twelve percent per annum and the board may pursue a
15 judgment from the district court. Notwithstanding section 57-20-22, a violator shall pay
16 to the board all interest and penalties. ~~Any civil penalty assessed under this section is~~
17 ~~in addition to any costs incurred by the board for enforcement of the order.~~ The
18 proceeds of any civil penalty or interest received by the board, after retention of any
19 costs incurred by the board in the action, must be transferred to the state treasurer for
20 deposit in the state general fund.

21 **SECTION 7. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure.